



REEF
CASINO TRUST

26 May 2023

Market Announcements

Australian Securities Exchange
PO Box H224
AUSTRALIA SQUARE NSW 1215

Trust Deed of Reef Casino Trust

Please find attached a copy of the Trust Deed for Reef Casino Trust as amended by a special resolution of unitholders at today's unitholder meeting.

Authorised by the Company Secretary

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Consolidated Amended Trust Deed of Reef Casino Trust

ARSN 093 156 293

DATED 2 July 1993

Incorporating amendments made pursuant to supplemental deeds dated 30 November 1993, 31 May 2000, 8 August 2001, 14 April 2004 and 29 June 2005 and as made by special resolution of unitholders on 27 May 2022 and as made by special resolution of unitholders on 26 May 2023.

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	10
1.1	Definitions	10
1.2	Interpretation	15
2.	COMPLIANCE	16
2.1	General compliance clause	16
2.2	No conflict	16
2.3	Compliance with Listing Rules	17
3.	THE TRUST	17
3.1	[clause deleted]	17
3.2	Establishment of the Trust Fund	17
3.3	Vesting of the Trust Fund	17
3.4	Name of Trust	18
4.	UNITS	18
4.1	Nature of Unit	18
4.2	Interest in the Trust Fund	18
4.3	[clause deleted]	18
4.4	Creation of additional Units	18
4.5	Issue of Units otherwise than for Cash	18
4.6	Offers of additional Units	18
4.6A	Consolidation and Division	19
4.7	Offers to Overseas Unitholders	19
4.8	Underwriting	19
4.9	Private Placements	19
4.10	[clause deleted]	20
4.11	[clause deleted]	20
4.12	Issue of a Unit	20
4.13	Address for service	20
4.14	Selling Price	20
4.15	Partly Paid Units	22
4.16	Creation of additional Partly Paid Units	22
4.17	Forfeiture of Partly Paid Units	22
4.18	Joint holders of Partly Paid Units	24
4.19	Early payment of instalments	24
4.20	Clause deleted	24
4.21	Exercise of Power of Sale	24
4.22	Clause deleted	24
5.	ASX LISTING	24
6.	MANAGEMENT OF THE TRUST	24
6.1	Operator's Powers	24
6.2	[clause deleted]	27
6.3	[clause deleted]	27
6.4	Non-recourse Borrowing	27
6.5	[clause deleted – except paragraphs (c) and (e), which have been moved to clause 6.1(u) and resuming words]	27
6.6	Specific powers of the Operator	27
6.7	[clause deleted]	27
6.8	[clause deleted]	27
6.9	Delegation by Operator	27

6.10	Insurance	28
6.11	Depreciation	28
6.12	[clause deleted]	28
6.13	[clause deleted]	28
7.	NO INTERFERENCE BY UNITHOLDER	28
8.	PERIOD OF TRUST	29
8.1	[clause deleted]	29
8.2	[clause deleted]	29
8.3	Circumstances in which the Trust may be wound up	29
8.4	Winding Up	29
8.5	Extraordinary Resolution of Unitholders	30
8.6	Voting procedures for the purposes of clause 8.5	30
8.7	Audit of Final Accounts	31
9.	CAPITAL OF THE TRUST FUND	31
9.1	Capital Reserve Account	31
9.2	Distributions from Capital Reserve Account or Capital	31
9.3	Bonus Units	32
10.	INVESTMENT OF THE TRUST FUND	33
10.1	Investment of the Trust fund	33
10.2	Authorised Investments	33
10.3	[clause deleted]	34
10.4	Clause deleted	34
10.5	[clause deleted]	34
10.6	[clause deleted]	34
10.7	[clause deleted]	34
10.8	[clause deleted]	34
10.9	[clause deleted]	34
10.10	[clause deleted]	34
10.11	[clause deleted]	34
10.12	[clause deleted]	34
10.13	[clause deleted]	34
10.14	Hotel-Casino Complex Investment	34
10.15	Variation of Hotel-Casino Agreements	34
10.16	[clause deleted]	35
10.17	[clause deleted]	35
10.18	Further assurances by the Trustee	35
10.19	Enforcement by Operator	36
10.20	Disposal of main undertaking	36
10.21	Repair and maintenance	36
11.	VALUATION ROLL AND CURRENT UNIT VALUE	36
11.1	Valuations of real property	36
11.2	Valuation reports on real property	38
11.3	No more than two valuations	38
11.4	Valuation Roll	38
11.5	Current Unit Value of a Fully Paid Unit	39
11.6	Current Unit Value of a Partly Paid Unit	39
11.7	Total Tangible Assets	39
11.8	Total Liabilities	40
11.9	Current Value of the Trust Fund	40
11.10	Valuation of Assets	40

	11.11 Costs and expenses of Authorised Investments	40
12.	INCOME OF THE TRUST	41
	12.1 Income period	41
	12.2 Operator to receive money	41
	12.3 Ranking of Fully Paid Units	41
	12.4 Ranking of Partly Paid Units	41
	12.5 Distribution account	41
	12.6 Entitlements to income after transfer	42
	12.7 Distributions of income	42
	12.8 Not practicable	42
	12.9 Determination of income	42
	12.10 Auditor to determine disputes	46
	12.11 Undistributed income account	46
	12.12 Costs of replacing depreciating assets	46
	12.13 No deductions	47
	12.14 Distributions on Partly Paid Units liable for forfeiture	47
	12.15 Taxable income exceeds Accounting income	47
	12.16 No entitlement to distributions where Escrow Agreement breached	47
13.	REMUNERATION OF OPERATOR	47
	13.1 Period to 30 June 2000	47
	13.2 Half yearly fee	48
	13.3 Calculation and payment of half yearly fee	48
	13.4 Last Half Yearly Period	48
	13.5 [clause deleted]	49
	13.6 [clause deleted]	49
	13.7 [clause deleted]	49
14.	REIMBURSEMENT OF OPERATOR'S EXPENSES	49
	14.1 [clause deleted]	49
	14.2 [clause deleted]	49
	14.3 [clause deleted]	49
15.	[clause deleted]	49
16.	[clause deleted]	49
	16.1 [clause deleted]	49
	16.2 [clause deleted]	49
	16.3 [clause deleted]	49
	16.4 [clause deleted]	49
	16.5 [clause deleted]	49
	16.6 [clause deleted]	49
	16.7 [clause deleted]	49
	16.8 [clause deleted]	49
	16.9 [clause deleted]	49
17.	DUTIES OF OPERATOR	49
18.	[clause deleted]	50
	18.1 [clause deleted]	50
	18.2 [clause deleted]	50
	18.3 [clause deleted]	50
	18.4 [clause deleted]	50
	18.5 [clause deleted]	50

19.	OPERATOR'S RESPONSIBILITIES AND INDEMNITIES	50
19.1	Limitation	50
19.2	Indemnity of Operator	50
19.3	[clause deleted]	50
19.4	No liability where prohibited by law	50
19.5	No liability to account	50
19.6	Operator may act on advice	51
19.7	[clause deleted]	51
19.8	[clause deleted]	51
19.9	[clause deleted]	51
19.10	No responsibility of Operator for advisers	51
19.11	[clause deleted]	51
19.12	Operator's discretion	51
19.13	No conflict of Operator	51
19.14	No benefit for Operator	52
19.15	Operator may contract	52
19.16	No payment by Operator	52
19.17	Operator's discretion on sale and purchase	52
19.18	No liability on liquidation	52
19.19	[clause deleted]	53
19.20	[clause deleted]	53
19.21	Security deposits	53
19.22	Operator's election not to comply	53
19.23	[clause deleted]	53
19.24	[clause deleted]	53
19.25	No greater liability of the Operator	53
19.26	No separate accounts	53
19.27	Operator's indemnity for liabilities on Authorised Investments	53
19.28	Operator's indemnity for liabilities from borrowings	53
19.29	Duties and charges	54
19.30	Indemnity for stamp duty	54
19.31	Limitation on Rights of Unitholders	54
19.32	No Limitation on Operator's Duties	54
19.33	[clause deleted]	54
20.	ACCOUNTS AND AUDIT	54
20.1	Records to be kept	54
20.2	Location of Books and Records	55
20.3	Yearly and Half-Yearly Accounts	55
20.4	[clause deleted]	55
20.5	Audit	55
20.6	Distribution Statement	55
20.7	Clause deleted	55
20.8	Report by Operator	55
20.9	Report to the ASX	55
20.10	[clause deleted]	56
21.	AUDITOR	56
21.1	Appointment	56
21.2	Removal of Auditor	56
21.3	Restrictions on Appointment	56

22.	APPLICATIONS FOR UNITS	56
22.1	Form and procedure for application	56
22.2	Entitlement and acceptance form	56
22.3	Operator's Discretion	57
22.4	[clause deleted]	57
22.5	Application Money	57
22.6	[clause deleted]	57
22.7	[clause deleted]	57
23.	CERTIFICATES	57
23.1	Issue of Certificates	57
23.2	Form of Certificates	57
23.3	Cessation of officer	57
23.4	Certificates without charge	58
23.5	Form of Certificates	58
23.6	Certificates for Partly Paid Units	58
23.7	Replacement Certificates	58
23.8	Multiple Certificates	58
23.9	Uncertificated Holdings	58
24.	REGISTER OF UNIT HOLDERS	59
24.1	Contents of Register	59
24.2	Audit of Register	59
24.3	Operator's reliance on Register	59
24.4	Changes of name or address	59
24.5	Inspection	59
24.6	No Trust on Register	60
24.7	Closure of Register	60
25.	STATE REGISTERS	60
25.1	Separate Registers	60
25.2	Designation of Register	60
25.3	References to the Register	61
25.4	Removal from one Register to another	61
26.	TRANSFER OF UNITS	61
26.1	Right of transfer	61
26.2	Method of transfer	61
26.3	Transfer to be stamped	61
26.4	Transferor remains holder	61
26.5	Refusal to Register	62
26.6	Operator's decision absolute	62
26.7	Transfers left at Registered Office	62
26.8	Transfers to be retained	62
26.9	Closure of Register	63
26.10	Transfers in accordance with Prescribed CS Facility Rules	63
26.11	CHESS	63
27.	TRANSMISSION OF UNITS	63
27.1	Title to Units of deceased Unitholder	63
27.2	Registration on death or bankruptcy	63
27.3	Notice of election	63
27.4	Entitlement to notices	64

28.	VOTING RIGHTS ON INVESTMENTS	64
28.1	Voting Rights of Operator	64
28.2	[clause deleted]	64
29.	MEETING OF UNIT HOLDERS	64
29.1	Requisition for Meetings	64
29.2	Requirements of Meeting	64
29.3	Notice of Meeting	65
29.4	Quorum	65
29.5	Quorum at adjourned meeting	65
29.6	Chairman	66
29.7	Voting	66
29.8	Casting Vote	66
29.9	Votes	66
29.10	Joint Holders	66
29.11	Corporations	67
29.12	Unsound mind	67
29.13	No objection	67
29.14	Proxies	67
29.15	Appointment of Proxy	67
29.16	Deposit of Proxy	67
29.17	Form of Proxy	67
29.18	Vote valid	68
29.19	Declaration by chairman of the result	68
29.20	Presence at meeting	68
29.21	Manner of Poll	68
29.22	Adjournment	68
29.23	Effect or Resolution	69
29.24	Minutes	69
29.25	Electronic or Virtual Meetings	69
29.26	[clause deleted]	70
29.27	Place of Meeting	70
29.28	Annual Meeting	70
29.29	Restrictions on voting	70
29.30	Vote not taken into account	70
29.31	Right to attend	70
29.32	Appointment and Removal of Directors of Operator by Unitholders	71
30.	RESTRICTIONS ON HOLDINGS	73
30.1	Definitions for clause 30:	73
30.2	Restriction on entitlement	74
30.3	Restriction on entitlements of foreign persons	75
30.4	Exception to restriction	75
30.5	Transferee of Units to which foreign person entitled	75
30.6	Foreign person becomes entitled	75
30.7	Requirements of Operator	75
30.8	Operator not to issue Units or register transfers	75
30.9	Notice from Operator	76
30.10	Notice from Minister	76
30.11	Failure to comply with notice	76
30.12	Change in the persons entitled to Restricted Units	77

	30.13 Proceeds of Sale	78
31.	NOTICES	78
	31.1 Notices to Unitholders	78
	31.2 [clause deleted]	78
32.	PAYMENTS BY CHEQUE	79
32A.	TRUST DEED	79
33.	ALTERATIONS TO TRUST	79
	33.1 Permissible alterations	79
	33.2 Amendments to satisfy legal requirements	79
	33.3 Meeting of Unitholders	79
34.	DOCUMENTS TO BE RETAINED BY OPERATOR	79
35.	UNITHOLDERS BOUND BY DEED	80
36.	CLAUSE DELETED	80
	36.1 [clause deleted]	80
	36.2 [clause deleted]	80
	36.3 [clause deleted]	80
36A.	COMPLAINTS	80
	36A.1 Unitholder complaints	80
	36A.2 Unitholder complaints – Wholesale clients	80
37.	COPIES OF DEED	81
38.	LIMITATION OF LIABILITY	81
	38.1 No liability on holder of Fully Paid Units	81
	38.2 Limitation on liability of Partly Paid Units	81
	38.3 No personal liability	81
	38.4 No agency	81
	38.5 No right of recourse	81
	38.6 Liability on a deficiency	82
39.	GOVERNING LAW	82
40.	ACKNOWLEDGMENT BY UNITHOLDERS	82
41.	DUTIES AND LIABILITIES OF OPERATOR	82
	41.1 [clause deleted]	82
	41.2 Control Act	82
	41.3 The Act	82
42.	WITHDRAWAL FROM THE TRUST	82
	42.1 Redemption of Units	82
	42.2 Non-application of clause 42.1	83
	42.3 Redemption of Units when Trust is Liquid	83
	42.4 Application to be in approved form	83
	42.5 Redemption of part of holding	83
	42.6 Applications and certificates to be lodged with Operator	84
	42.7 Price	84
	42.8 Redemption period	84
	42.9 Extension of redemption period	84
	42.10 [clause deleted]	84
	42.11 [clause deleted]	84
	42.12 [clause deleted]	84
	42.13 Cancellation of redeemed Units	84
	42.14 Cancellation of Certificate	85
	42.15 [clause deleted]	85

42.16	Revaluation after ceasing to be quoted on the ASX	85
42.17	Valuation to establish current value	85
42.18	[clause deleted]	85
42.19	[clause deleted]	85
42.20	[clause deleted]	85
42.21	[clause deleted]	85
42.22	Withdrawal when the Trust is not Liquid	85
43.	INDEMNITY	86
43.1	Indemnity for Compliance Committee Members	86
43.2	Limitations on indemnity and provision of insurance	86
	FIRST SCHEDULE	87
	SECOND SCHEDULE	90

ANNEXURE A

1. **DEFINITIONS AND INTERPRETATION**

1.1 Definitions

In this Deed and the Schedules and in all documents issued under this Deed, unless the context indicates a contrary intention, the following words or expressions have the meanings set out opposite them:

"Act" means the Corporations Act 2001 and where the context permits or requires, the Corporations Regulations.

"Approved Development" has the meaning assigned to that term in the Cairns Casino Agreement.

"Approved Valuer" means a valuer, or if that valuer is a company or firm, a person employed in the valuation by the company or firm, who has been appointed by the Operator to value any asset for the purposes of this Deed and:

- (a) is duly qualified, independent and authorised under the law of the State to practise as a valuer; and
- (b) is appointed and instructed in writing by the Operator; and
- (c) has at least 5 years of continuous experience in valuation; and
- (d) does not have a pecuniary interest that could conflict with the proper valuation of the asset in question.

"ASIC" means the Australian Securities and Investments Commission.

"Associate" means a person who is an associate within Division 2 of Part 1.2 of the Act excluding section 12.

"ASX" means Australian Stock Exchange Limited.

"Auditor" means the auditor for the time being of the Trust appointed pursuant to clause 21.1.

"Authorised Investments" means the investments described in clause 10.2 and any of them.

"Bonus Unit" means a Unit issued pursuant to clause 9.3.

"Books Closing Date" in relation to a meeting means a date determined by the Operator which subject to the Listing Rules, is no earlier than 3 Business Days prior to the date of the meeting.

"Business Day" has the meaning assigned to that term in the Listing Rules.

"Cairns Casino Agreement" means the agreement in the agreed terms between the Former Trustee, the Former Manager and the State entered into for the purposes of the Casino Agreement Act.

"Capital Reserve Account" means the account established and maintained in accordance with clause 9.1.

"Cash" includes cheque and bank cheque.

"Casino" means the casino forming part of the Hotel-Casino Complex.

"Casino Agreement Act" means the enactment of the Parliament of the State entitled "Cairns Casino Agreement Act 1993".

"Casino Licence" means the casino licence to be granted pursuant to the Control Act and referred to in the Cairns Casino Agreement.

"Certificates" means the certificates to be issued pursuant to clause 23.1.

"Chairman" means the chairman of the board of directors of the Operator.

"Changeover Date" means the date on which the Trust is registered as a managed investment scheme under section 601EB of the Act.

"Compliance Committee" means the compliance committee for the Trust if and as required by Chapter 5C of the Act.

"Compliance Plan" means the compliance plan for the Trust as required by chapter 5C of the Act.

"Consumer Price Index" in relation to a calendar year, means the Consumer Price Index (all groups) weighted average eight capital cities for the September quarter in that calendar year published by the Australian Bureau of Statistics and if that index is not published in a calendar year or if there is a substantial change in the basis of calculation such other index as may be stipulated in its place by the Auditor but calculated or recalculated in a manner so that continuity with the Consumer Price Index is maintained.

"Control Act" means the Casino Control Act 1982 of the State.

"Current Unit Value of a Fully Paid Unit" means the value of a Fully Paid Unit at any time computed in accordance with clause 11.5.

"Current Unit Value of a Partly Paid Unit" means the value of a Partly Paid Unit at any time computed in accordance with clause 11.6.

"Current Value of the Trust Fund" means the value of the Trust Fund as computed in accordance with clause 11.9.

"this Deed" means this deed and any other deed expressed to be supplemental to this Deed and all amendments to any such document.

"Distribution Account" means the ledger account maintained by the Operator pursuant to clause 12.5.

"Distribution Statement" means the statement prepared in accordance with clause 20.6.

"Election Year" means a period of twelve months occurring at three-yearly intervals with the first Election Year commencing on 1 January 1994.

"Extraordinary Resolution" means a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of this Deed by a majority consisting of not less than three-fourths of the persons voting on a show of hands and if a poll is held then by a majority consisting of not less than three-fourths of the votes exercised.

"Financial Year" means the period of 12 months ending on 31 December in any year provided that the period between 30 June 2000 and 31 December 2000 and the period commencing on 1 January immediately preceding the date of termination of the Trust and ending on the date of termination of the Trust will each be deemed to be a Financial Year for the purposes of this Deed.

"Forfeiture Notice" means a notice given by the Manager to a Unitholder pursuant to clause 4.17(a).

"Former Manager" means the Operator in its capacity as manager of the Trust, prior to the Changeover Date .

"Former Trustee" means Perpetual Trustee Company Limited ACN 000 001 007.

"Foundation Agreement" means the agreement between the Former Trustee, the Former Manager and the Founders as referred to in the Cairns Casino Agreement.

"Founders" means Casinos Austria International GmbH, Australian Olympic Committee Inc., Touraust Management Pty Limited and Perpetual Trustee Company Limited as trustee of the Country Comfort Trust No. 1 and any other person who at any time holds a Restricted Unit.

"Fully Paid Unit" means a Unit on which the Selling Price has been paid in full.

"Gross Value of Fund" in relation to a date means the amount computed in accordance with the following formula:

$$X + Y$$

where

X = Total Tangible Assets on that date

Y = the aggregate fair value of all intangible assets of the Trust Fund on that date.

"Half-Yearly Period" means a period commencing on 1 January and ending on 30 June and a period commencing on 1 July and ending on 31 December.

"Half-Yearly Service Charge" means the amount payable out of the Trust Fund to the Operator by way of remuneration pursuant to clause 13.1.

"Hotel" means the hotel forming part of the Hotel-Casino Complex.

"Hotel-Casino Complex" means the Hotel-Casino Complex at Cairns constructed in accordance with the Schematic Design Drawings defined in the Cairns Casino Agreement and if the Cairns Casino Agreement also provides for the construction and development (whether or not on the Site) of a convention centre and/or any other building or development any reference to the "Hotel-Casino Complex" will be deemed to include a reference to those additional buildings or developments.

"Interest Rate" means the rate of interest payable under the agreement for the provision of debt finance referred to in clause 10.15(a)(viii) plus 3 percent.

"Liquid" has the same meaning as in Chapter 5C of the Act.

"Listing Rules" means the ASX Official Listing Rules as amended from time to time as they apply to the Trust.

"Minimum Holding" means 500 Units or such other number as the Operator in its discretion determines from time to time.

"Minister" means the Treasurer or other Minister of the Crown for the time being charged with the administration of the Control Act and the term includes any Minister of the Crown who is temporarily performing the duties of the Minister.

"month" means calendar month.

"Operator" means Reef Corporate Services Limited and any subsequent responsible entity of the Trust within the meaning of chapter 5C of the Corporations Act, and any attorney, agent, sub-delegate and sub-agent of the Operator appointed in accordance with this Deed.

"Ordinary Approving Resolution" means a resolution passed on a poll at a meeting of Unitholders duly convened and held in accordance with the provisions of this Deed by Unitholders holding more than 50% of the total value of all Units other than Units held by the Operator or any of its Associates.

"Ordinary Resolution" means a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of this Deed by a majority of the persons voting on a show of hands and if a poll is held then by a majority of the votes exercised.

"Overseas Unitholder" means a Unitholder who has not notified the Operator of a place of address in Australia pursuant to clause 4.13 and who the Operator has reason to believe is resident outside Australia or is a company not registered and entitled to carry on business in Australia.

"Partly Paid Unit" means a Unit on which the Selling Price has not been paid in full.

"Permit to Occupy" has the meaning assigned to that term in the Cairns Casino Agreement.

"Prescribed CS Facility" has the meaning assigned to that term by section 761A of the Act.

"Prescribed CS Facility Rules" means the operating rules of a Prescribed CS Facility.

"Proper CS Facility Transfer" means a transfer effected in accordance with the Prescribed CS Facility Rules.

"Qualified Majority" in relation to a resolution means Unitholders holding at least 75% of the total value of all Units held by the Unitholders who voted on the resolution provided that Unitholders holding at least 25% of the total value of all Units held by Unitholders entitled to vote on the resolution in fact voted on the resolution.

"Recapitalisation Deed" means the deed dated 4 May 1999 made between Perpetual Trustee Company Limited, the Operator (as the Former Manager) each of the financial institutions listed in section 2 of schedule 4 to that deed, Australia and New Zealand Banking Group Limited, Casinos Austria International (Cairns) Pty Limited, Casinos Austria International Limited and Casinos Austria AG, in relation to the recapitalisation of the Trust.

"Register" means the register of Unitholders maintained pursuant to clause 24.

"Registered Holder" means a Unitholder.

"Related Body Corporate" has the meaning assigned to that term by section 50 of the Act.

"Restricted Units" means those Units which are designated as Restricted Units under the terms of the Foundation Agreement.

"Selling Price" means the price determined in accordance with clause 4.14 at which a Unit is issued or sold by the Operator.

"Site" has the meaning assigned to that term in the Cairns Casino Agreement.

"State" means the State of Queensland.

"Total Liabilities" means the total amount of liabilities calculated in accordance with clause 11.8.

"Total Tangible Assets" means the total amount calculated in accordance with clause 11.7.

"Trust" means the trust constituted by this Deed and called "Reef Casino Trust" or such other title as may be resolved upon in accordance with the terms of this Deed.

"Trust Fund" means all the cash, investments and other property for the time being held by or on behalf of the Operator upon the trusts of this Deed, including the Hotel-Casino Complex, other Authorised Investments and any of the other developments permitted under the Cairns Casino Agreement and assets representing:

- (a) the proceeds of sale of any investments;
- (e) all additions or accretions to investments (if any) received and for the time being retained; and

- (f) all income for the time being held pending distribution but excepting any income transferred to the Distribution Account.

"Uncertificated Securities" means Units which are uncertificated securities as defined in the Listing Rules.

"Unit" means that interest or part of the Trust Fund as is provided for in this Deed, and, except where the context otherwise requires, includes both a Fully Paid Unit and a Partly Paid Unit.

"Unitholder" means the person for the time being registered under the provisions of this Deed as the holder of a Unit and includes persons jointly so registered.

"Units in Issue" means all Units for the time being created and issued and not cancelled.

"Valuation Roll" means the roll of Authorised Investments kept pursuant to clause 11.4.

"Value of Net Assets" means the amount computed in accordance with the following formula:

$$V = (X + Y) - Z$$

where:

V = Value of Net Assets as at the last day of the relevant Half-Yearly Period

X = Total Tangible Assets on the last day of the relevant Half-Yearly Period

Y = the aggregate fair value of all intangible assets of the Trust Fund on the last day of the relevant Half-Yearly Period

Z = Total Liabilities on the last day of the relevant Half-Yearly Period.

"Vendor Securities" has the meaning assigned to that term by the Listing Rules.

1.2 Interpretation

In this Deed, unless the context indicates a contrary intention:

- (a) any term used in this Deed that is not defined in clause 1.1 but is defined in the Cairns Casino Agreement, for the purposes of this Deed, has the meaning assigned to it in the Cairns Casino Agreement;
- (b) words denoting individuals or persons includes corporations, firms, authorities, governments, or governmental authorities and vice versa;
- (c) headings are for convenience only and do not affect interpretation;
- (d) reference to a part, clause, sub-clause, paragraph, sub-paragraph, schedule, annexure or exhibit is a reference to a part, clause, sub-clause, paragraph, sub-paragraph, schedule, annexure or exhibit of this Deed;

- (e) references to this Deed, any other instrument or agreement are deemed to include references to this deed or such instrument or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (f) references to any party to this Deed or any other instrument or agreement include its successors and permitted assigns;
- (g) words denoting any gender include all genders;
- (h) references to any legislation or to any section or provision of any legislation include any statutory amendment, modification, replacement or re-enactment of it or any statutory provision substituted for it and ordinances, by-laws, regulations and other statutory instruments issued under it;
- (i) references to "dollars" and "\$" are to amounts in Australian currency;
- (j) all schedules, annexures and exhibits to this Deed form part of this Deed;
- (k) all references to time are to that local time as applies in the State of Queensland at the relevant date;
- (l) all references to law include applicable laws of jurisdictions within or outside Australia and the Listing Rules;
- (m) writing and cognate words include all means of reproducing words in a tangible and permanently visible form;
- (n) where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- (o) clause deleted
- (p) all references to the Prescribed CS Facility Rules are to be construed so as to take effect only from the time at which Units may be transferred under the Prescribed CS Facility Rules.

2. **COMPLIANCE**

2.1 **General compliance clause**

Notwithstanding any other provision of this Deed (including any provision of this Deed which purports to apply notwithstanding other provisions of this Deed) the Operator and the Unitholders covenant with each other, throughout the term of the Trust to comply with all applicable requirements of the Act in relation to this Deed subject to any relief granted from, or modification made to, any applicable law by the ASIC under the Act.

2.2 **No conflict**

To the extent to which there is any conflict between any of the covenants or requirements referred to in clause 2.1 and any other provision of this Deed, the relevant covenant or requirement will prevail.

2.3 Compliance with Listing Rules

The following clauses apply at all times while the Trust is admitted to the Official List:

- (a) notwithstanding anything contained in this Deed, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Deed 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 Deed to contain a provision and it does not contain such a provision, this Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency,

provided that nothing in this clause will operate to diminish or qualify the obligations of the Operator under clause 41.2 to comply with the requirements of the Control Act and the Cairns Casino Agreement.

3. THE TRUST

3.1 [clause deleted]

3.2 Establishment of the Trust Fund

Immediately after the execution of this Deed the Former Manager lodged with the Former Trustee the sum of \$100.00 to establish and constitute the Trust and the Trust Fund. On and from the Changeover Date the Operator must hold this amount together with all other money and property paid or transferred to or vested in and accepted by the Operator as additions to the Trust Fund upon the Trust.

3.2A Operator

On and from the Changeover Date, the Operator must act as the responsible entity of the Trust within the meaning of chapter 5C of the Act and must hold the Trust Fund on trust for the Unitholders in accordance with this Deed.

3.3 Vesting of the Trust Fund

Notwithstanding any other provision of this Deed affecting the holding of the Trust Fund, the whole of the Trust Fund will be vested in and be held by the Operator upon trust for the Unitholders until determination of the Trust.

3.4 **Name of Trust**

The name of the Trust is "Reef Casino Trust". However the name of the Trust may be changed from time to time by Ordinary Resolution.

4. **UNITS**

4.1 **Nature of Unit**

The beneficial interest in the Trust Fund is divided into Units.

4.2 **Interest in the Trust Fund**

Subject to the provisions of clauses 12.3 and 12.4, every Fully Paid Unit confers an equal interest in the Trust Fund and every Partly Paid Unit confers, a proportionate interest in the Trust Fund equal to the fraction of the Selling Price of the relevant Partly Paid Unit which has been paid. A Unit does not confer any interest in any particular part of the Trust Fund or any investment but only such interest in the Trust Fund as a whole as is conferred on a Unit under the provisions contained in this Deed.

4.3 [clause deleted]

4.4 **Creation of additional Units**

Subject to clauses 4.5 and 4.16:

- (a) additional Units will automatically be created upon the Operator causing additions of cash to be made to the Trust Fund to be held by the Operator upon the trusts of this Deed; and
- (b) the number of additional Units created pursuant to paragraph (a) will be that number arrived at by dividing the amount of cash which has been added to the Trust Fund by the Selling Price of the relevant Units.

4.5 **Issue of Units otherwise than for Cash**

Additional Units may be created and issued where the terms of acquisition of an Authorised Investment provide for the satisfaction of all or part of the purchase price of the Authorised Investment by the issue of Units. The number of additional Units created and issued pursuant to this clause will be that amount arrived at by dividing the value of the relevant Authorised Investment determined in accordance with clause 11 by the Selling Price of the relevant Units.

4.5A. [clause deleted]

4.6 **Offers of additional Units**

The Operator must not at any time offer any further Units for issue or sale except as expressly set out in this Deed unless such offer requires each offeree to subscribe for or purchase not less than a Minimum Holding and is:

- (a) made in accordance with terms which have been approved by an Ordinary Resolution; or
- (b) subject to the Listing Rules, to those persons who were Unitholders on a date determined by the Operator being not more than 30 days immediately prior to the date of the relevant prospectus and the offer:
 - (i) is made to the Unitholders in proportion to their holdings of Units on the relevant date subject to the right of the Operator to ignore fractions; and
 - (ii) specifies whether a Unitholder may renounce his entitlement in favour of some other person; and
 - (iii) relates to Units of the same class; or
- (c) otherwise permitted by the provisions of the Listing Rules.

4.6A Consolidation and Division

- (a) Units may be consolidated or divided as determined by the Operator.
- (b) Fractions of Units may not be created.
- (c) Where any consolidation or division performed under this clause 4.6A would otherwise result in a fraction of a Unit, the resulting number of Units is to be rounded up to the nearest whole Unit.

4.7 Offers to Overseas Unitholders

Notwithstanding the provisions of clause 4.6 the Operator may, in its discretion, deal with any Units which might otherwise be offered for sale to an Overseas Unitholder pursuant to clause 4.6 in the manner as may be permitted from time to time by the Listing Rules and this clause applies whether or not such further Units are or will be listed for quotation on the ASX.

4.8 Underwriting

Any offer of Units for issue or sale may be underwritten in the discretion of the Operator and the underwriter may take up any Units not subscribed. The fees and other amounts payable to the underwriter under any underwriting agreement must be paid out of the Trust Fund.

4.9 Private Placements

Subject to the Act and the Listing Rules, the Operator has the right, in addition to the right to issue Units conferred by clauses 4.6 and 9.3, to issue further Units to any person if the following provisions are satisfied:

- (a) the Trust is included in the Official List of the ASX and Units of the same class as those to be issued are quoted on that Official List and are not suspended from quotation;

- (b) [clause deleted]
- (c) the issue is not to the Operator or any Associate of the Operator; and
- (d) in the case where the number of Units proposed to be issued (together with any Units issued at a price other than as calculated in accordance with clause 4.14(a), (b) or (h) during the period of 12 months prior to the proposed date of the issue) would, immediately after the issue, comprise more than 10% of all of the Units in Issue or all Units of the same class as the Units proposed to be issued, the following additional requirements are satisfied:
 - (i) the issue is approved by a Qualified Majority where:
 - (A) the notice convening the meeting contained particulars of the use to be made of the capital raised by the issue; and
 - (B) the vote of any person or an Associate of any person to whom the Units are to be issued is disregarded for the purposes of determining whether there is a Qualified Majority;
 - (ii) if the Units to be issued comprise a separate class of Units, Unitholders of that class approve the issue in the manner set out in sub-paragraph (i); and
 - (iii) if the Operator believes that the issue may adversely affect the interests of Unitholders of any other class, Unitholders of that class approve the issue in the manner set out in sub-paragraph (i).

4.10 [clause deleted]

4.11 [clause deleted]

4.12 **Issue of a Unit**

A Unit will be deemed to have been issued when the name of the person entitled to it has been recorded in the Register.

4.13 **Address for service**

Every Unitholder must from time to time advise the Operator in writing of a place of address within the Commonwealth of Australia to be his registered address for the purposes of this Deed. In default of his doing so the Operator's office will be deemed to be his address for the purposes of this Deed.

4.14 **Selling Price**

The Operator covenants with the Unitholders jointly and to each of them severally that subject to clause 9.3, the Selling Price of any Units issued or sold by the Operator must be as follows:

- (a) [clause deleted]

- (b) in the case of any Unit issued in the manner provided in clause 4.6(b), an amount determined by the Operator which is not less than 70 percent of:
 - (i) where Units of the class to be issued are quoted on the ASX, the average weighted price at which the Units of that class were sold on the ASX during the period of 20 Business Days ending 3 Business Days prior to the date of the relevant prospectus; or
 - (ii) where Units of the class to be issued are not quoted on the ASX, the Current Unit Value of a Fully Paid Unit as at the date of the relevant prospectus;
- (c) in the case of a Partly Paid Unit which has been forfeited under clause 4.17, the price determined in accordance with paragraph (d) of that clause;
- (d) in the case of any Unit which the Operator is empowered to sell pursuant to either of clause 30.11 or clause 30.12, the price determined in accordance with those provisions;
- (e) in the case of a private placement under clause 4.9 which does not come within paragraph (d) of that clause:
 - (i) if any Units (of the class to be issued) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to not less than 90 percent of the average weighted price at which the Units were sold on the ASX during this 10 Business Day period; or
 - (ii) if no units (of the class to be issued) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to not less than 90 percent of the last recorded sale price of Units (of that class) on the ASX which occurred not later than 3 Business Days prior to the date of the offer;
- (f) in the case of a private placement under clause 4.9 which comes within paragraph (d) of that clause:
 - (i) if any Units (of the class to be issued) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to not less than 80 percent of the average weighted price at which the Units were sold on the ASX during this 10 Business Day period; or
 - (ii) if no Units (of the class to be issued) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to not less than 80 percent of the last recorded sale price of Units (of that class) on the ASX which occurred not later than 3 Business Days prior to the date of the offer;
- (g) in any other case where Units of the class to be issued or sold are quoted on the ASX:

- (i) if any Units (of the class to be issued or sold) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to the average weighted price at which the Units were sold on the ASX during this 10 Business Day period; or
 - (ii) if no Units (of the class to be issued or sold) were sold on the ASX during the period of 10 Business Days ending 3 Business Days prior to the date of the offer, an amount determined by the Operator equal to the last recorded sale price of Units (of that class) on the ASX which occurred not later than 3 Business Days prior to the date of the offer; and
- (h) in any other case, an amount equal to the Current Unit Value of a Fully Paid Unit as at the date of the offer.

4.15 **Partly Paid Units**

The Operator may in its absolute discretion determine at any time that Units to be offered for subscription or sale will be offered for subscription or sale on terms that the Selling Price of those Units will be payable by instalments of such amounts and at such times as the Operator determines and all the terms and conditions of any such offer will be set out in the document offering such Units for subscription or sale. Subject to this Deed, the terms and conditions attaching to any Partly Paid Unit may be varied or compliance with those terms and conditions waived by the Operator (and in accordance with the Act and the Listing Rules).

4.16 **Creation of additional Partly Paid Units**

Where the Operator exercises its discretion to offer Partly Paid Units for subscription or sale, the number of Partly Paid Units created will be that number arrived at by dividing the amount of cash added to the Trust Fund by the Operator to be held upon the trusts of this Deed in respect of the Partly Paid Units by the fraction of the Selling Price of the Partly Paid Units paid on application. No additional Units are created when cash representing subsequent instalments of the Selling Price of Partly Paid Units is added to the Trust Fund.

4.17 **Forfeiture of Partly Paid Units**

Subject to clause 4.15, if a Unitholder fails to pay in full any instalment due on any Partly Paid Unit on or by the due date the following provisions will apply:

- (a) the Operator may serve a notice on the relevant Unitholder:
 - (i) requiring payment of the unpaid amount on or before a specified date (which must be not earlier than 7 Business Days after the date of the notice);
 - (ii) specifying that in the event of non-payment the Partly Paid Unit in question is liable to be forfeited;

- (b) if the requirements for payment set out in the Forfeiture Notice are not complied with the Partly Paid Unit in question may at any time after the date specified in the Forfeiture Notice be forfeited if the Operator so determines;
- (c) if the requirements for payment set out in the Forfeiture Notice are not complied with then from the date for payment specified in the Forfeiture Notice the right to vote attached to the Partly Paid Unit in question will immediately be suspended and that suspension continues until the Operator otherwise determines in its absolute discretion;
- (d) subject to the Listing Rules and clause 4.21, a Partly Paid Unit which has been forfeited may be sold by the Operator as a Unit on which the instalment in respect of which it had been forfeited had been paid at a public auction but any time before sale the forfeiture may be cancelled upon such terms as the Operator thinks fit;
- (e) the holder of a Partly Paid Unit which has been forfeited will immediately upon forfeiture cease to be a Unitholder in respect of the forfeited Unit but remains liable to pay:
 - (i) to the Operator all money which at the date of forfeiture was payable by him to the Operator in respect of the forfeited Unit (together with interest at the Interest Rate per annum calculated on a daily basis from the date of forfeiture on the money for the time being unpaid); and
 - (ii) all remaining unpaid instalments of the Selling Price of the forfeited Unit on the dates on which those instalments are payable under the terms of issue of the Unit but this liability ceases if and when the Operator sells or otherwise disposes of the forfeited Unit under this clause;
- (f) a statement in writing by the Secretary of the Operator that a Partly Paid Unit has been duly forfeited on the date stated will be prima facie evidence of the facts stated as against all persons claiming to be entitled to the forfeited Unit;
- (g) where a Partly Paid Unit is forfeited pursuant to this clause the Operator may receive the consideration (if any) paid on sale or other disposal of the forfeited Unit and may appoint a person to execute or effect on behalf of the relevant Unitholder a transfer of the Unit in favour of the person to whom the Unit is sold or disposed of and to do all acts and things as may be necessary or appropriate under the Prescribed CS Facility Rules to effect the transfer and that person will not be obliged to see to the application of the purchase money (if any) nor will his title to that Unit be affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of the Unit;
- (h) where a forfeited Unit is sold or disposed of for cash, the Operator will deduct from the amount of the consideration received the amount of the instalment owing at the date of forfeiture together with any interest payable pursuant to paragraph (e) and a sum representing an amount which has been or will be incurred for commissions, stamp duties, transfer fees and other usual charges, on the sale or disposal of the Unit and any costs associated with the forfeiture or any

proceedings brought against the Unitholder to recover the amount owing, and the balance remaining will be paid to the Unitholder whose units were forfeited.

4.18 Joint holders of Partly Paid Units

Joint holders of Partly Paid Units are jointly and severally liable to pay all amounts due and payable on the Partly Paid Units held by them.

4.19 Early payment of instalments

The holder of a Partly Paid Unit will be entitled to pay the whole (but not part) of the amount of any unpaid instalment of the Selling Price of that Unit prior to the date on which that instalment is due to be paid under the terms of issue of that Unit if the Manager has given its prior approval to the advance payment but any such advance payment must not be taken into account in calculating the entitlement of the relevant Partly Paid Unit to distributions under clause 12.

4.20 Clause deleted

4.21 Exercise of Power of Sale

The Operator covenants with the Unitholders jointly and to each of them severally that in exercising its power of sale in accordance with clause 4.17(d) or clause 30.11 it will:

- (a) comply, as far as practicable, with sections 254Q and 254R of the Act as if those provisions related to the sale of the relevant Units; and
- (b) ensure that the time and the place of the auction are publicly advertised and notified to all Unitholders.

4.22 Clause deleted

5. ASX LISTING

The Operator must at all times use its best endeavours to maintain the listing of the Trust on the ASX and to maintain Official Quotation of the Units on the ASX.

6. MANAGEMENT OF THE TRUST

6.1 Operator's Powers

Subject to the provisions of this Deed, the Operator has all the powers over and in respect of the property and assets constituting the Trust Fund which it could exercise if it were the absolute and beneficial owner of such property and assets and as if it were a natural person and must manage the Trust for the benefit of the Unitholders. Without in any way affecting the generality of the foregoing the Operator has full and absolute powers of:

- (a) purchase and sale in whole or part of any investment forming part of the Trust Fund from time to time for cash or upon terms;
- (b) granting and taking leases, sub-leases, licences and permits to occupy, accepting and giving surrenders of leases, sub-leases, licences and permits to occupy, assigning and taking assignments of and accepting or consenting to the assignments of leases, sub-leases, licences and permits to occupy and the right to receive any rental or other payment under any such arrangement, compromising with lessees, lessors, sub-lessees, sub-lessors, licensees, licensors, grantees and grantors of permits to occupy and others and paying for repairs and improvements;
- (c) granting and receiving easements and rights of way and transferring, surrendering and dedicating land to the Crown or any authority, supreme, municipal, local or otherwise;
- (d) instituting and prosecuting legal proceedings of any kind and in particular to secure compliance with this Deed and the terms of any prospectus registered under Division 2 of Part 7.12 of the Act in respect of the Trust;
- (e) negotiating, compromising, settling, discharging and releasing any actions, legal proceedings, claims, obligations, accounts, demands, debts and proceedings of every description or nature;
- (f) attending and voting at meetings;
- (g) paying all outgoings connected with the Trust Fund or this Deed which are not otherwise payable by the Operator;
- (h) subject to clause 10.3, lending money (including, without limitation, for the purpose of assisting any person in the acquisition of, or subscription for, Units) and giving guarantees or indemnities for the payment of money or the performance of contracts or obligations;
- (i) borrowing, raising or securing the payment of money and securing any such borrowing, raising or payment of money or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Operator in any way and, in particular, by the issue of debentures, perpetual or otherwise, charged upon all or any part of the Trust Fund (both present and future) and purchasing or paying off any such securities and agreeing to the assignment by any person (including, without limitation, the State) of the right to receive any payment from the Operator;
- (j) developing, improving, building, altering, repairing, extending, replacing, rebuilding, managing, operating, leasing and otherwise dealing with any Authorised Investment and purchasing such plant, equipment and fittings as are necessary having regard to the purposes for which an Authorised Investment is from time to time being used or intended to be used;
- (k) entering into any arrangements with any Government or authority, whether supreme, municipal, local or otherwise to obtain from any such Government or

authority any licences, rights, privileges and concessions that the Trustee thinks is desirable to obtain and to carry out, exercise and comply with, any such arrangements, licences, rights, privileges and concessions;

- (l) establishing, purchasing, acquiring and conducting any type or class of business whatsoever which can be conducted upon, in conjunction with or by the exploitation of any Authorised Investment and doing anything incidental to the carrying on of such business including entering into an agreement or agreements for or in relation to the conduct of such business for and on behalf of the Operator or any other person;
- (m) employing any person whether in the capacity of an employee, consultant, independent contractor, expert or in any other capacity whatsoever in connection with any business conducted by the Operator or in connection with anything required to be done pursuant to the provisions of this Deed;
- (n) opening any account or accounts with any bank or banks and operating upon such account or accounts in all usual ways;
- (o) drawing and endorsing, discounting, selling, purchasing and otherwise dealing with bills of exchange either alone or jointly and in particular commercial bills;
- (p) preparing, executing and lodging or causing to be prepared, executed and lodged all or any returns required in connection with the Trust by the law of any State or the Commonwealth of Australia;
- (q) executing all such proxies, powers of attorney and other instruments (excluding any authority to operate the Operator's bank account other than any operating account of any business constituting part of the Trust Fund) as may be necessary or desirable to enable the Operator or any officer or delegate of the Operator to exercise the powers of management referred to in this Deed and revoking any such proxies, powers of attorney or other instruments;
- (r) doing all acts, deeds and things and executing all agreements, acknowledgments, deeds and other instruments necessary or incidental to the exercise of any of the powers of the Operator conferred by this Deed;
- (s) appointing:
 - (i) delegates (in accordance with clause 6.7); or
 - (ii) foreign custodians or nominees to hold any non-Australian Authorised Investments outside Australia on behalf of the Operator; and
- (t) becoming a member of the system established by Austraclear Limited for the purposes of ensuring the safe custody of Authorised Investments which are securities;
- (u) creating and issuing Fully or Partly Paid Units; and

any other powers consistent with or appropriate to the carrying into effect of the general powers of management or any other powers conferred by this clause.

6.2 [clause deleted]

6.3 [clause deleted]

6.4 **Non-recourse Borrowing**

Nothing in this Deed prevents the Operator from borrowing on behalf of the Trust in respect of the Approved Development to finance such development on the basis of “project” or “non-recourse” borrowing in which event the whole of the amount of any liability incurred in respect of or in connection with such development may be secured solely against that part of the Site on which such development is to be undertaken.

6.5 [clause deleted – except paragraphs (c) and (e), which have been moved to clause 6.1(u) and resuming words]

6.6 **Specific powers of the Operator**

Without in any way affecting the generality of its powers the Operator must:

- (a) by itself or its agents manage and supervise all land and real state investments and personal property investments of the Trust Fund and use its best endeavours to ensure that all land and real estate investments and personal property investments are kept in good repair, that all valid notices from and requirements of proper authorities are observed and complied with and that the same are let or otherwise dealt with to the best advantage;
- (b) conduct any business constituting part of the Trust Fund or supervise the due conduct of any such business in accordance with any management agreement entered into by the Operator with any other person and use its best endeavours to ensure that the rights and remedies of the Operator with respect to mortgage investments are enforced and that the obligations of the mortgagors under the securities are duly and punctually performed, fulfilled and kept.

6.7 [clause deleted]

6.8 [clause deleted]

6.9 **Delegation by Operator**

Without in any way affecting the generality of its powers, the Operator in managing the Trust Fund and in carrying out and performing the duties and obligations on its part contained in this Deed may:

- (a) by power of attorney appoint any person to be attorney or agent of the Operator for such purposes and with such powers and authorities as it thinks fit with power for the attorney or agent to sub-delegate any such powers, authorities or discretions and also to authorise the issue in the name of the Operator of documents bearing facsimile signatures of the Operator or of the attorney or agent either with or without proper manuscript signatures of its officers thereon and

appoint by writing or otherwise any person to be sub-agent of the Operator as the Operator may think necessary or proper for such purposes and with such powers, authorities and discretions (not exceeding those vested in the Operator) as it thinks fit provided that the Operator will be liable for all acts or omissions of any such attorney, agent, sub-delegate or sub-agent as if such acts or omissions were the Operator's own acts or omissions and will be responsible for their remuneration;

- (b) appoint and engage any property manager, Approved Valuers, solicitors, barristers, accountants, surveyors, contractors, project managers, development managers, advertising agents, marketing consultants, qualified advisers and other persons necessary, usual or desirable for the purpose of exercising its powers and performing its obligations and all reasonable and proper fees, charges and money payable to any such persons and all disbursements, expenses, duties and outgoings properly chargeable by such persons must be paid out of the Trust Fund or paid by the Operator who must be reimbursed out of the Trust Fund in accordance with clause 13.7.

6.10 Insurance

The Operator must cause the insurable freehold and leasehold property and any business or other property of the Trust to be insured in the name of the Operator with any one or more reputable companies or institutions to their full insurable value against fire and such other risk or risks (including loss of rent) as the Operator may in its discretion deem necessary and must maintain such insurance. All insurance policies effected pursuant to this clause must bear a notation that the policy cannot be cancelled without a minimum of 30 days' prior written notice to the Operator.

6.11 Depreciation

Subject to the provisions of clause 12.9(b)(xxvi), the Operator must ensure that provision is made from the income of the Trust Fund or from any other source it considers appropriate for the cost of replacing those assets of the Trust Fund which tend to depreciate in value through use or the effluxion of time.

6.12 [clause deleted]

6.13 [clause deleted]

7. NO INTERFERENCE BY UNITHOLDER

While a Unitholder is entitled to a beneficial interest in the Trust Fund as set out in this Deed, except as set out in this Deed that interest does not entitle the Unitholder:

- (a) to interfere with the rights or powers of the Operator in its dealings with the Trust Fund or any part of it; or
- (b) to exercise any right, power or privilege in respect of any Authorised Investment.

8. **PERIOD OF TRUST**

8.1 [clause deleted]

8.2 [clause deleted]

8.3 **Circumstances in which the Trust may be wound up**

The Trust must be determined and wound up by the Operator:

- (a) if the Operator is directed to wind up the Trust by an Extraordinary Resolution of Unitholders; or
- (b) subject to clause 8.5, if either of the following circumstances occurs:
 - (i) the Trust is included in the Official list of the ASX and quotation of Units on that Official List has been suspended for a continuous period exceeding 60 days; or
 - (ii) the Trust is included in the Official List of the ASX and is removed from that List; or
- (c) in circumstances where the Act provides for the Trust to be wound up.

8.4 **Winding Up**

Subject to the Act upon the determination of the Trust the Operator must hold the Trust Fund upon trust for the Unitholders and in the winding up of the Trust the Operator must proceed as follows:

- (a) the Operator must sell and realise the Trust Fund and such sale so far as reasonably practicable must be completed within 180 days after the commencement of the winding up, having regard to the interests of Unitholders and the decision to wind up the Trust, rather than await an improvement in the market for the Authorised Investments of the Trust;
- (b) if there is any deficiency of the assets of the Trust as compared with the liabilities of the Trust those Unitholders who held Partly Paid Units at the time of termination of the Trust will be liable to pay to the Operator upon demand the balance of the Selling Price unpaid on such Partly Paid Units;
- (c) the Operator will be entitled to retain out of the proceeds of winding up the Trust full provision for all contingent liabilities of the Trust incurred prior to the commencement of or during the winding up of the Trust but not yet due and payable for all costs, charges, expenses, claims and demands incurred, made or apprehended by the Operator in connection with or arising out of the winding up of the Trust including the fees of any agents, solicitors, bankers, accountants or other persons whom the Operator may employ in connection with the winding up of the Trust and out of the money so retained to be indemnified against any such costs, charges, expenses, claims and demands;

- (d) subject to paragraph (e), the Operator must from time to time distribute to the Unitholders all net cash proceeds derived from the realisation of the Trust Fund and available for the purpose of distribution on the basis that such proceeds are divided amongst all Units in Issue in proportion to the respective proportions of the Selling Price which has been paid and any such distribution must be made only after delivery to the Operator of the Certificate relating to the Units in respect of which the same is made or such other evidence of the title of the Unitholder as the Operator requires together with such form of receipt and discharge as may be required by the Trustee;
- (e) Units which are Vendor Securities and are subject to the provisions of an escrow agreement under the Listing Rules at the commencement of the winding up rank behind all other Units for the purposes of paragraph (d).

8.5 Extraordinary Resolution of Unitholders

The Trust will not be determined and wound up if any of the circumstances set out in clause 8.3(b) occur and a meeting of Unitholders is convened within the period of 90 days after the date on which the relevant event occurred to consider, as a separate resolution, all of the following:

- (a) a proposal to restructure the Trust (unless the ASIC or a delegate of the ASIC directs that this is not required to be considered);
- (b) removing the Operator;
- (c) terminating the Trust;
- (d) any matter directed by the ASIC to be considered; and
- (e) any matter determined by the Operator as appropriate,

provided that if the meeting resolves not to adopt any of the proposals placed before it, the Trust must be wound up in accordance with clause 8.4.

8.6 Voting procedures for the purposes of clause 8.5

For the purposes of a meeting convened pursuant to clause 8.5:

- (a) any proposal considered by the meeting of Unitholders may only be passed if agreed to by a Qualified Majority;
- (b) the notice convening the meeting must contain adequate notice of:
 - (i) any matters to be considered at the meeting of which the Operator is aware;
 - (ii) any resolutions to be put to the meeting of which the Operator is aware; and
 - (iii) a summary of information relating to these matters and resolutions that is relevant to the decision of a Unitholder on how to vote at the meeting;

- (c) subject to the Act, a preferential voting system may be employed whereby Unitholders rank the alternatives in order of preference and votes are re-distributed on a preferential basis provided that:
 - (i) the system is explained in all notices of the meeting;
 - (ii) the Operator reasonably believes that such a voting procedure would be in the interests of the Unitholders;
 - (iii) the Auditor acts as an independent scrutineer at the meeting;
 - (iv) the Register is up to date so as to assist in the counting of votes and the allocation of preferences; and
 - (v) Unitholders are urged to attend and vote at the meeting.

8.7 **Audit of Final Accounts**

The Operator must procure an independent audit by a registered company auditor of the final accounts after winding up.

9. **CAPITAL OF THE TRUST FUND**

9.1 **Capital Reserve Account**

All capital gains or losses whether on revaluation or realisation must be credited or debited as the case may be to a capital reserve account which must be maintained in two parts or divisions, namely an asset realisation account in which gains or losses on realisation must be entered, and an asset revaluation account in which gains or losses on revaluation must be entered. Following the realisation of an asset which has been previously revalued the appropriate adjustment must be made to the asset revaluation account so that the full amount of the realised capital gain or loss in respect of that asset is reflected in the asset realisation account.

9.2 **Distributions from Capital Reserve Account or Capital**

The Operator may from time to time transfer to the Distribution Account for distribution to Unitholders in accordance with clause 12:

- (a) that proportion of any credit balance of the asset revaluation account referred to in clause 9.1 that the Operator determines should be transferred; or
- (b) that proportion of any credit balance of the asset realisation account referred to in clause 9.1 that the Operator determines should be transferred; or
- (c) an amount from the capital of the Trust that the Operator determines should be transferred.

All amounts transferred pursuant to paragraph (a) or (b) must be debited to the Capital Reserve Account.

9.3 Bonus Units

Notwithstanding the provisions of clause 4.6 and clause 4.14 but subject to the Cairns Casino Agreement, the Operator may from time to time resolve to capitalise any sum standing to the credit of the Capital Reserve Account and apply the same in paying up in full at a Selling Price determined by the Operator further Units which must be issued as Fully Paid Units to holders of Units already issued at a date determined by the Manager (not being earlier than 10 Business Days prior to the date of the issue). Upon the Operator so resolving such new Units will automatically be created and:

- (a) the number of such new Units so created will be that number arrived at by dividing the amount so capitalised by the Selling Price so determined;
- (b) the amount of the Selling Price per Unit so determined will be deemed to have been subscribed for each such Unit;
- (c) the Units so created rank for distribution of income and for all other purposes in accordance with the provisions of clause 12.3, or from such other date or dates following such creation, as the Operator decides;
- (d) subject to paragraph (e) below, such Units must be distributed to Unitholders in proportion to their holdings of Units on the date so determined by the Operator and the Operator may ignore fractions and round down each Unitholder's entitlement to the nearest whole number;
- (e) a Partly Paid Unit confers an entitlement to receive that number of Bonus Units calculated in accordance with the following formula:

$$B \times \frac{W}{Z}$$

Where:

B = the number of Bonus Units which the holder of that Partly Paid Unit would have been entitled to receive under paragraph (d) above if the relevant Units were Fully Paid Units;

W = the aggregate of instalments of the Selling Price of the Partly Paid Unit which have been paid at the date of calculation;

Z = the Selling Price of the Partly Paid Unit

and the Operator is entitled to ignore fractions and round down the entitlement to the nearest whole number;

- (f) while the Trust is admitted to the Official List of the ASX the Operator may in its discretion deal with the new Units which but for this proviso might be distributed to any Overseas Unitholder in any manner permitted from time to time by the Listing Rules;

- (g) such new Units will be deemed to have been issued to the persons entitled when the names of those persons have been recorded in the Register;
- (h) the sum so capitalised must be debited to the Capital Reserve Account and will thereafter be treated as funds subscribed by Unitholders.

10. **INVESTMENT OF THE TRUST FUND**

10.1 **Investment of the Trust fund**

The Trust Fund must be invested only in Authorised Investments, all of which must be vested in the Operator or held on the Operator's behalf by its delegates, custodians or nominees appointed in accordance with clause 6.

10.2 **Authorised Investments**

An Authorised Investment is any investment which is defined as "eligible investment business" by Section 102M of the Income Tax Assessment Act 1936 and where consistent with that definition includes:

- (a) an estate or estates in fee simple in the Site or any part of it;
- (b) a leasehold interest or interests in the Site or any part of it;
- (c) the Hotel-Casino Complex;
- (d) any other development or developments constructed or to be constructed on the Site or any part of it including but not limited to parking facilities, transit lounges, conservatories, entertainment facilities of all kinds, and shopping and commercial centres;
- (e) the Casino Licence to be granted pursuant to the Control Act in respect of the Casino forming part of the Hotel-Casino Complex together with any other arrangement, licence, right, privilege or concession entered into with or granted by any Government or authority (supreme, municipal, local or otherwise) in respect of the Site or the Hotel-Casino Complex;
- (f) all plant, equipment, furnishings and fittings used or intended to be used in association with the Hotel-Casino Complex and or in association with any other development or developments constructed or to be constructed on the Site or any part of it whether or not such plant, equipment, furnishings, and fittings are situated on the Site;
- (g) goodwill, stock-in-trade, licences, rights, privileges and concessions and any other property whether real or personal acquired or provided for the respective operations of the Casino, the Hotel or any other premises forming part of the Hotel-Casino Complex or forming part of any other development or developments constructed or to be constructed on the Site;
- (h) any other casino or hotel-casino complex situated within Australia together with any of the items listed in paragraphs (a) to (g) of this clause if they are in respect of,

used or intended to be used in association with, or are acquired for the respective operations of the relevant casino, hotel or any other premises forming part of such complex or the respective businesses thereby conducted.

10.3 [clause deleted]

10.4 **Clause deleted**

10.5 [clause deleted]

10.6 [clause deleted]

10.7 [clause deleted]

10.8 [clause deleted]

10.9 [clause deleted]

10.10 [clause deleted]

10.11 [clause deleted]

10.12 [clause deleted]

10.13 [clause deleted]

10.14 **Hotel-Casino Complex Investment**

The Operator must do everything necessary to maintain all necessary permits, licences and authorities required to enable it or another person to operate the Hotel-Casino Complex and to operate and manage (whether through itself, its agents or delegates) the Hotel-Casino Complex.

10.15 **Variation of Hotel-Casino Agreements**

The Operator may from time to time do any of the following:

- (a) amend, vary, cancel or rescind any of the following:
 - (i) the Cairns Casino Agreement;
 - (ii) the Permit to Occupy and a Special Lease under the Lands Act 1962 (Queensland) of the Site;
 - (iii) the Foundation Agreement;
 - (iv) the Design and Construction Agreement dated 16 December 1993 with Concrete Constructions Group Pty Limited for the design and construction of the Hotel-Casino Complex;
 - (v) the agreement to sub-lease the Hotel to Australis Hotels Pty Limited dated 9 December 1993 and the relevant sub-lease dated 22 January 1996;

- (vi) the agreement to sub-lease the Casino to Casinos Austria International (Cairns) Pty Limited dated 9 December 1993 and the relevant sub-lease dated 22 January 1996;
 - (vii) the agreement with Reef Centre Management Pty Limited to a sub-lease in respect of various ancillary facilities in the Hotel-Casino Complex dated 9 December 1993, the relevant sub-lease dated 22 January 1996 and a management agreement with Reef Centre Management Pty Limited in connection with the management of the common areas of the Hotel-Casino Complex and the repair and maintenance of the Hotel-Casino Complex dated 9 December 1993; and
 - (viii) the Loan Agreement with Bank fur Arbeit und Wirtschaft AG dated 26 October 1999;
- (b) enter into any agreement, bond, covenant or other instrument:
- (i) in substitution for any of the Agreements referred to in clause 10.15(a);
 - (ii) provided for in any of the Agreements referred to in clause 10.15(a) including any instrument for the borrowing or raising of money with or without security;
 - (iii) for the leasing, licensing or granting of any other right of occupancy in respect of the Hotel-Casino Complex or any part of it or any other development or developments constructed or to be constructed on any other part or parts of the Site;
 - (iv) for the management of the Hotel-Casino Complex or any part of it or any other development constructed or to be constructed on any other part or parts of the Site and the operations and business of those developments with all such powers and authorities as are in the opinion of the Operator necessary or desirable for its effective conduct including (without limitation), the powers to acquire and dispose of property, to collect money and to operate bank accounts;
 - (v) which in the opinion of the Operator is otherwise necessary or desirable to give effect to the investment by the Operator in the Authorised Investments, the protection and maintenance of the Authorised Investments and the derivation of income from the Authorised Investments including their management, operation and conduct.

10.16 [clause deleted]

10.17 [clause deleted]

10.18 Further assurances by the Trustee

Subject to the provisions of this Deed and to all proper enquiries and legal steps deemed necessary by the Operator, the Operator shall take all steps necessary on its part to give effect to and carry out the undertakings and obligations assumed by the Operator

pursuant to any agreement entered into by the Operator pursuant to the provisions of clauses 10.14 or 10.15.

10.19 Enforcement by Operator

Subject to the provisions of this Deed, the Operator shall supervise and enforce the due performance by any third party of its obligations under any agreement referred to or entered into pursuant to clauses 10.14 or 10.15.

10.20 Disposal of main undertaking

Notwithstanding any other provision of this Deed enabling the sale of all or any of the investments of the Trust Fund, no sale or disposal of the main undertaking of the Trust Fund will (except on winding up of the Trust or on determination of the Trust as set out in clause 8) be valid unless previously approved by an Ordinary Resolution.

10.21 Repair and maintenance

Notwithstanding any other provisions of this clause 10, the Operator will be entitled in its absolute discretion to carry out or have carried out on its behalf the repair and maintenance of the Hotel-Casino Complex or any part of it and to replace Authorised Investments which ordinarily depreciate through use or effluxion of time. The Operator will be entitled to be reimbursed from or charge directly to the fund maintained pursuant to sub-paragraph 12.9(b)(xxvi) the aggregate amount of the costs and disbursements incurred in relation to any such repair and maintenance or replacement of Authorised Investments.

11. VALUATION ROLL AND CURRENT UNIT VALUE

11.1 Valuations of real property

The Operator covenants with the Unitholders jointly and to each of them severally that it will:

- (a) from time to time, appoint and instruct an Approved Valuer to value the real property of the Trust;
- (b) cause the real property of the Trust to be valued:
 - (i) if the Operator reasonably believes that there has been a significant change in the value of the property; and
 - (ii) [paragraph deleted]
 - (iii) in any event, at intervals of not more than 3 years;
- (c) instruct the Approved Valuer who has been appointed to prepare a valuation of the property that:
 - (i) takes into account the value of all estates in the relevant property that are not held by the Operator;

- (ii) is based on the price at which the property might reasonably be expected to be sold at the date of the valuation, assuming:
 - (A) a willing, but not anxious, buyer and seller; and
 - (B) a reasonable period within which to negotiate the sale, having regard to the nature and situation of the property and the state of the market for property of the same kind; and
 - (C) that the property was reasonably exposed to that market; and
 - (D) that, except in relation to the Casino Licence, no account is taken of the value or other advantage or benefit, additional to market value, to the buyer incidental to ownership of the property being valued; and
 - (E) that the Trust has sufficient resources to allow a reasonable period for the exposure of the property for sale; and
 - (F) that the Trust has sufficient resources to negotiate an agreement for the sale of the property; and
- (iii) only takes into account instructions given by the Operator; and
- (iv) is based on all the information that the Approved Valuer needs for the purposes of the valuation being made available by or on behalf of the Operator;
- (d) if the Operator arranges for the valuation of more than one property under this clause, it will ensure that the times at which the properties are valued are arranged in a manner that, in the Operator's opinion, best promotes the interests of the Unitholders;
- (e) if the Operator arranges a valuation under this clause, it will at the written request of a Unitholder, inform the Unitholder of:
 - (i) the current value of the property; and
 - (ii) the instructions that the Operator gave to the valuer; and
 - (iii) the period of time that the valuer expects would be required to sell the property if it were offered for sale immediately;
- (f) it will, as soon as practicable after receiving a valuation of a property of the Trust, send a copy of it to the Auditor unless the Operator reasonably believes that the valuation should not be adopted, in which case the Operator will:
 - (i) state the reasons for that belief in the next report of the Operator to Unitholders; and
 - (ii) cause the property to be revalued.

11.2 Valuation reports on real property

The Operator covenants with the Unitholders jointly and to each of them severally that it will instruct the Approved Valuer who is appointed under clause 11.1 that the report of the valuation must:

- (a) state whether the report includes a valuation of the property that is derived from the earnings obtained from the property, and, if it does so, set out the earnings of the property and the multiple of those earnings used to calculate the valuation (in this clause called “**capitalised value**”); and
- (b) set out, to the best of the knowledge of the Approved Valuer, the sale prices and capitalised values of properties of a similar nature and situation to the property being valued that have been sold within a reasonable period before the preparation of the report; and
- (c) if the prices and capitalised values referred to in paragraph (b) are not ascertainable by the Approved Valuer, contain a statement to that effect and set out prices at which willing but not anxious buyers and sellers have been negotiating the sale of properties of a similar nature and situation to the property within a reasonable period before the preparation of the report; and
- (d) if properties referred to in paragraphs (b) and (c) are not ascertainable by the Approved Valuer, contain a statement to that effect and state whether the earnings for a period in respect of any lease or licence in the property (in this clause called “**first amount**”) that is not held by the Operator, are more or less than, or equal to, the earnings for the period in respect of the lease or licence that might reasonably be expected if that period commenced at the date of the valuation of the property (in this clause called “**second amount**”); and
- (e) if in any case the first amount is less than the second amount, contain a calculation of the capitalised value of the lease or licence derived from the second amount and include a statement of:
 - (i) the proportion of the period to which the earnings that comprise that sum relate; and
 - (ii) the amount of the costs of the Trust in relation to those earnings; and
 - (iii) any other assumptions on which the calculation is based.

11.3 No more than two valuations

The Operator covenants that it will ensure that one Approved Valuer does not undertake more than two consecutive valuations of any real property of the Trust Fund.

11.4 Valuation Roll

The Operator will keep current a Valuation Roll of all Authorised Investments held in the Trust Fund recording the value of such investments (without providing for the cost of replacement of same) which:

- (a) in respect of the real property of the Trust, will be the value stated in the most recent valuation report prepared pursuant to clause 11.2 or where there is no valuation report in respect of any particular item of real property, the amount which represents the cost of that item to the Trust;
- (b) in respect of any equity securities or loan securities (within the meaning of those terms as used in the Listing Rules) which are listed on the ASX or any other Stock Exchange, will be the last sale price recorded in an Official List during the period of three months ending on the last Business Day of the preceding quarter, or if no sale price is so recorded, or the Operator otherwise thinks fit, the value determined by the Operator and certified by a stockbroker as a fair and reasonable value; and
- (c) in any other case, will be the value placed on the investment in the last audited accounts of the Trust recommended by the Operator and approved by the Auditor or where no such value has been placed on an investment, the amount which represents the cost of that investment to the Trust.

11.5 Current Unit Value of a Fully Paid Unit

The Current Unit Value of a Fully Paid Unit at any time is be such amount as is the quotient derived from dividing the Current Value of the Trust Fund at that time by:

- (a) the total number of Fully Paid Units in Issue at that time; plus
- (b) a number equal to the total sum of all the fractions represented by the respective proportions of the Selling Price which have been paid on all the Partly Paid Units in Issue at that time,

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11.6 Current Unit Value of a Partly Paid Unit

The Current Unit Value of a Partly Paid Unit at any time is an amount determined by multiplying the Current Unit Value of a Fully Paid Unit at that time by the fraction of the Selling Price of the Partly Paid Unit which has been paid at that time.

11.7 Total Tangible Assets

For the purpose of this Deed the expression "Total Tangible Assets" means that amount computed by adding:

- (a) the total of all cash on hand or at bank excluding any amount standing to the credit of the Distribution Account; plus
- (b) the total of the values shown in the Valuation Roll of all Authorised Investments; plus
- (c) the total of the amounts owing to the Trust by way of debtors including amounts in respect of instalments of Selling Price due but unpaid on Partly Paid Units but excluding any bad or doubtful debts and also excluding the total amount of instalments of Selling Price unpaid on Partly Paid Units if such instalments are not then due and payable; plus

- (d) the total of all expenses prepaid.

11.8 Total Liabilities

For the purposes of this Deed the expression "Total Liabilities" means at any time:

- (a) the aggregate of the amounts required to repay borrowings or to meet liquidated obligations in respect of or owing on the Authorised Investments in which the Trust Fund is invested including, without limitation, provision for capital commitments not funded from the Trust Fund and estimated liabilities for income taxes;
- (b) varied by any other adjustments which in the opinion of the Auditor are appropriate in accordance with generally accepted Australian accounting standards consistently applied to make a proper determination of the liabilities;
- (c) not taking into account any outstanding redemption requests under clause 42 nor any contingent liabilities of the Trust nor any obligations of the Trust which would not, on the basis of generally accepted Australian accounting standards consistently applied, be shown as liabilities of the Trust in an audited balance sheet of the Trust prepared as at the date upon which the calculation of the "Total Liabilities" is made, unless in the opinion of the Auditor the inclusion of any such contingent liability or other obligation is necessary in order to make a proper determination of the liabilities of the Trust and the Trustee concurs in that opinion; and
- (d) not taking into account any liabilities attributable to Unitholders as members on the basis of generally accepted Australian accounting standards consistently applied.

11.9 Current Value of the Trust Fund

For the purpose of this Deed the expression "Current Value of the Trust Fund" means that amount computed by deducting from the Total Tangible Assets the Total Liabilities.

11.10 Valuation of Assets

In addition to the obligations of the Operator to arrange for valuations of the real property of the Trust Fund under clause 11.1, the Operator has the right at any time and from time to time to instruct an Approved Valuer to value the assets of the Trust and must upon receipt of such valuation promptly send a copy of it to the Auditor. The cost of such valuations will be borne by the Trust Fund.

11.11 Costs and expenses of Authorised Investments

All costs, stamp duties and other disbursements and expenses incurred by the Operator in the acquisition and sale or other dealing by the Operator with any of the assets or investments of the Trust Fund (including all costs and expenses incurred in the conduct of any business forming part of the Trust Fund) will be payable out of the Trust Fund.

12. **INCOME OF THE TRUST**

12.1 **Income period**

For the purposes of this clause 12:

- (a) an "income period" means a half yearly period commencing either on the first day of July or January (as the case may be) of any year and ending on the last day of the subsequent December and the subsequent June respectively provided that the period between the date of this Deed and 31 December 1993 and the period between the determination of the Trust and the first day of July or the first day of January last preceding such termination will each be deemed to be an income period; and
- (b) "net income of the Trust Fund" means the amount determined in accordance with clause 12.9 unless a contrary intention is indicated.

12.2 **Operator to receive money**

Except as elsewhere provided the Operator must receive all money, rights and property which are paid or receivable in respect of the Trust Fund.

12.3 **Ranking of Fully Paid Units**

Unless otherwise provided by their terms of issue but subject to clauses 12.6, 12.16, 30.9, 30.10 and 30.12, Fully Paid Units rank for distribution of amounts from the Distribution Account from the first day of the month immediately following their issue so that where Units are issued during an income period those Units participate in a distribution in respect of that income period in proportion to the part of that income period (calculated in calendar months) for which the Units ranked for distribution.

12.4 **Ranking of Partly Paid Units**

Subject to clauses 4.19, 12.14 and 12.6, 30.9, 30.10 and 30.12, a Unit which is a Partly Paid Unit for the whole or part of an income period, participates in the amount to be distributed from the Distribution Account in respect of that income period according to the proportion of the Selling Price paid up on the Partly Paid Unit and the proportion of the relevant income period (calculated in calendar months) for which the relevant proportion of the Selling Price has been paid. Subject to clause 4.19, for the purposes of this calculation where an instalment of the Selling Price of a Partly Paid Unit is paid into the Trust Fund the Unit in respect of which the payment is made is entitled to rank for an increased participation from the first day of the month immediately following the date of such payment.

12.5 **Distribution account**

Subject to clauses 12.11, 12.14, 12.16, 30.9, 30.10 and 30.12, the net income of the Trust Fund to be distributed in respect of any income period, must be calculated as at the last day of such period and transferred and credited to an account styled "Distribution Account" prior to distribution and must be distributed in accordance with clause 12.7

among the persons who are Unitholders as at the close of business on the last day of such period in proportion to the Units then held by them and on the basis set out in clauses 12.3 and 12.4, subject to any deduction to be made in respect of any tax or duty.

12.6 Entitlements to income after transfer

If the Register is closed for the purposes of determining entitlements to participate in distributions from the Distribution Account and a transfer was lodged but not registered prior to the date of closure, the Operator will nevertheless in its absolute discretion be entitled to pay the entitlement in respect of the Units which are the subject of the transfer to the transferee to the exclusion of the transferor.

12.7 Distributions of income

The first distribution of income must be made not later than 31 March 1994 and must comprise the amount, if any, credited to the Distribution Account in respect of the income period ending on 31 December 1993. If there are no Unitholders then entitled to the distribution of that amount in accordance with clauses 12.3 and 12.4 such amount must be dealt with as part of the money available for distribution for the next succeeding income period. Subject to the Listing Rules, thereafter the Operator must half-yearly not later than the last days of March and September in each year distribute the amount standing to the credit of the Distribution Account.

12.8 Not practicable

If any income is received on any date so that in the opinion of the Manager, it is not practicable to distribute that income on the next date for distribution under clause 12.7 that income may be treated by the Manager and the Trustee as having accrued immediately after expiration of the relevant income period and be distributed accordingly.

12.9 Determination of income

Subject to clause 12.10, in determining the net income of the Trust Fund available to be paid into the Distribution Account in respect of any income period:

- (a) any credit or debit balance in the Capital Reserve Account as at the last day of the relevant income period must not be taken into account; and
- (b) the Operator must deduct from the total amount of all income due and receivable by it as at the last day of the relevant income period the following costs, charges, expenses and allowances due or accrued in respect of that period:
 - (i) the Operator's fees under clause 13;
 - (ii) [paragraph deleted]
 - (iii) the costs of auditing accounts and all other Auditor's services required by this Deed and the costs of obtaining taxation advice or other taxation services;
 - (iv) the costs of establishing, maintaining and auditing the Register;

- (v) costs and disbursements in connection with the acquisition or sale of Authorised Investments including legal fees, stamp duties, brokerage and commission;
- (vi) costs and disbursements incurred by the Operator in connection with a proposal made in relation to the Trust;
- (vii) costs and disbursements of the Operator in connection with the borrowing or raising of money by the Operator for the purposes of the Trust and the giving or discharging of security;
- (viii) valuation fees payable to any valuer instructed by the Operator;
- (ix) costs and disbursements in connection with any rearrangement of the capital structure of the Trust, including the Recapitalisation of the Trust in accordance with the Recapitalisation Deed dated 4 May 1999 made between the Former Trustee, the Former Manager each of the financial institutions listed in section 2 of schedule 4 to that deed, Australia and New Zealand Banking Group Limited, Casinos Austria International (Cairns) Pty Limited, Casinos Austria International Limited and Casinos Austria AG, in relation to the recapitalisation of the Trust.;
- (x) costs and disbursements in connection with convening or holding any meeting of Unitholders and implementing any resolution passed by Unitholders;
- (xi) costs and disbursements of the Operator in connection with any modification of this Deed under clause 33;
- (xii) costs and disbursements of the Operator incurred in any issue or offer of Units including, without limitation, costs and disbursements incurred in the preparation, registration, printing, distribution and promotion of a prospectus, ASX listing fees and ASIC fees;
- (xiii) underwriting and other fees and expenses payable to an underwriter of any issue of Units pursuant to an underwriting agreement;
- (xiv) bank charges on any application account and any other banking accounts operated solely for the Trust;
- (xv) stamp duty on cheques, bank account debits tax, financial institutions duty and other similar imposts;
- (xvi) costs and disbursements of the Operator preparing, printing and posting statements, cheques, accounts, notices, reports and other documents sent to Unitholders;
- (xvii) costs and disbursements incurred by or on behalf of the Operator in connection with its retirement from office and the appointment of a substitute, including costs associated with the preparation, execution and stamping of any Deed of retirement or release;

- (xviii) except where the court otherwise directs, costs and disbursements (on a full indemnity basis) incurred in the initiation, conduct and settlement of any court proceedings (including any negotiations, conferences and demands) made or brought by the Operator against the Former Trustee or any other person in respect of any breach or default under this Deed;
- (xix) costs and disbursements (on a full indemnity basis) incurred by the Operator in the initiation, conduct and settlement of any court proceedings (including any negotiations, conferences and demands) to enforce any provision of this Deed, in respect of any Trust property or otherwise to protect the interest of Unitholders or any class of Unitholders;
- (xx) rates, taxes (including, without limitation, income tax and capital gains tax), charges, assessments and impositions, whether parliamentary, governmental, municipal or otherwise, assessed, charged, levied or imposed in respect of the Trust Fund or any Authorised Investment;
- (xxi) premiums and other disbursements in relation to insurance of the Trust assets and interests;
- (xxii) costs and disbursements incurred in preparing and lodging returns under the Corporations Act or any other statute binding on the Operator;
- (xxiii) the costs of acquiring, establishing, developing and maintaining computer hardware and software systems required for the administration of the Trust and the Trust Fund;
- (xxiv) the fees, charges and other amounts referred to in clause 6.96.9(b);
- (xxv) all other costs and disbursements in connection with the management and administration of the Trust, the management and administration of the Trust Fund, and the performance of the functions and duties of the Operator under this Deed, the Corporations Act and the Listing Rules including (without limitation) the following costs and disbursements of the Operator:
 - (A) remuneration paid to the directors of the Operator and any costs and disbursements incurred by those directors in attending board meetings of the Operator and in otherwise undertaking their duties and responsibilities as directors of the Operator;
 - (B) salaries and wages of employees of the Operator;
 - (C) any fringe benefits tax which may become payable by the Operator;
 - (D) travel and accommodation expenses of directors and employees of the Operator;
 - (E) motor vehicle running expenses including car parking;

- (F) costs and disbursements in connection with the leasing, depreciation and maintenance of all office equipment and motor vehicles;
- (G) costs and disbursements in connection with the leasing and maintenance of business premises;
- (H) costs and disbursements incurred in connection with entertainment and other marketing activities;
- (I) costs and disbursements in connection with the day-to-day operation of the Operator's business including telephone and facsimile charges, stationery, printing, postage, couriers and electricity charges;
- (xxvi) such amount as the Operator reasonably believes is prudent or necessary to provide for the repair and maintenance of the Hotel-Casino Complex and the replacement of Authorised Investments which ordinarily depreciate through use or effluxion of time for transfer to a sinking fund;
- (xxvii) any amount considered necessary to provide for the amortisation of the cost of any Authorised Investment;
- (xxviii) due provision for pre-payments and allowance for doubtful debts;
- (xxix) such other contingencies as it may be necessary to bring to account in order that the net income for the particular income period may fairly represent the results of the Trust for that period; and
- (xxx) costs, charges and expenses of and incidental to:
 - (A) the preparation, monitoring, review, amendment or replacement of the Compliance Plan;
 - (B) the appointment of the auditor of the Compliance Plan;
 - (C) the Compliance Committee and its members;
 - (D) holding meetings of the members of the Compliance Committee, without regard to where any member may reside;
 - (E) the indemnity referred to in clause 43;
 - (F) any insurance purchased or maintained or premium for insurance paid or agreed to be paid as contemplated by clause 43;
 - (G) considering and dealing with any matter reported or recommended by the Compliance Committee;
- (xxxi) while there is no Compliance Committee, any costs, charges and expenses associated with or incidental to the board of directors of the Operator

carrying out the functions which would otherwise be carried out by a Compliance Committee.

12.10 Auditor to determine disputes

The Auditor must determine any dispute as to whether any item under clause 12.9 is an income item or a capital item. Additionally the Operator may determine that in a given nominated income period the Operator has determined to be responsible for and indemnify the Trust Fund for any costs or fees so notified by the Operator.

12.11 Undistributed income account

Before any income of the Trust Fund in respect of any income period is transferred to the Distribution Account pursuant to clause 12.5, the Operator must set aside out of the net income of the Trust Fund for that income period such sum as it determines in its discretion (provided that the amount in question does not exceed 50 percent of the net income for the relevant income period), and credit the same to an account styled "Undistributed Income Account" and:

- (a) the sum standing to the credit of the Undistributed Income Account will not while it remains credited to that account be subject to distribution to Unitholders and continues to form part of the Trust Fund;
- (b) the Operator may determine to transfer all or a part of the sum standing to the credit of the Undistributed Income Account to the Distribution Account to be distributed to Unitholders in accordance with clause 12.5;
- (c) the Operator may pay and charge against the Undistributed Income Account the amount of any tax that may be assessed against the Operator or the Former Trustee arising out of or as a consequence of the setting aside by the Operator or the Former Trustee any sum out of net income and crediting it to the Undistributed Income Account and may to the extent that it is entitled at law so to do, recover the amount of any tax so paid from any Unitholder or set off such amount against any other liability of the Trustee to a Unitholder under this Deed.

12.12 Costs of replacing depreciating assets

Costs and expenses incurred in replacing Authorised Investments which ordinarily depreciate in value through use or effluxion of time may be paid out of any of the following sources as determined by the Operator:

- (a) subject to the terms of the agreements and sub-leases referred to in clauses 10.14(b)(v) and (vi), cash surpluses of the Trust Fund from time to time including amounts standing to the credit of the Undistributed Income Account but excluding cash held pending distribution, transfer to or distribution from the Distribution Account; or
- (b) additions of cash to the Trust Fund by the creation of additional Units in accordance with clause 4; or
- (c) any sinking fund established under clause 12.9(b)(xxvi).

12.13 No deductions

Except as permitted in accordance with the provisions of this Deed, no deductions must be made from the net income of the Trust Fund.

12.14 Distributions on Partly Paid Units liable for forfeiture

Any money paid into the Distribution Account which would but for the provisions of this clause 12.14 be payable to the holder of Partly Paid Units on which instalments are then due but have not been paid up and are liable for forfeiture in accordance with clause 4.17 must be accumulated in a reserve account and must not be distributed to the holder of those Units until the amount of instalments payable on the Partly Paid Units and any interest accrued together with any outstanding charges have been duly paid to the satisfaction of the Operator. Any liability to tax, stamp duty or other government imposts in respect of the amount in the reserve account must be deducted from that amount before it is paid to the relevant Unitholder. Where Units are forfeited, sold or disposed of pursuant to clause 4.17 the amount standing in the said reserve account in respect of those Partly Paid Units must after deduction of all amounts as provided for in paragraph (h) of clause 4.17 be transferred to the Distribution Account and become available for distribution at the end of the next income period.

12.15 Taxable income exceeds Accounting income

If the net income of the Trust Fund in respect of a Financial Year is less than the net income of the Trust Fund in respect of that Financial Year as calculated in accordance with the Income Tax Assessment Act 1936, the Operator may, transfer to the Distribution Account an amount not exceeding the amount of the difference from any one or more of the following sources:

- (a) the Capital Reserve Account;
- (b) the Undistributed Income Account; or
- (c) the capital of the Trust.

12.16 No entitlement to distributions where Escrow Agreement breached

If there has been a breach of any escrow agreement under the Listing Rules in relation to Units of a Unitholder which are Vendor Securities, the Unitholder ceases to be entitled to any distributions in respect of those Units for so long as the breach subsists.

13. REMUNERATION OF OPERATOR**13.1 Period to 30 June 2000**

If this clause 13 comes into effect before 1 July 2000 then, in respect of the period from the date this clause comes into effect to 30 June 2000 (both dates inclusive) ("the initial period"), the Operator shall be entitled to receive by way of remuneration an amount which bears to the amount which would be calculated under clause 13.2 if the Half Yearly

Period ending on 30 June 2000 were a relevant Half Yearly Period as the number of days in the initial period bears to the number of days in that Half Yearly Period.

13.2 Half yearly fee

Subject to clause 13.4, the Operator shall be entitled to receive by way of remuneration for its services under this Deed in respect of each Half Yearly Period ("the relevant Half Yearly Period") from 1 July 2000 until termination of the Trust a half yearly fee which shall be the sum of the following two amounts:

- (a) an amount equal to 0.375% of the Value of the Net Assets as at the last day of the relevant Half Yearly Period; and
- (b) an amount which is the greater of :
 - (i) the amount which bears to \$37,500 the same ratio as the Consumer Price Index for the relevant Half Yearly Period bears to the Consumer Price Index for the Half Yearly Period ending on 31 December 1995; and
 - (ii) an amount determined as follows:

Gross Value of Fund as at the last day of the relevant Half-Yearly Period ("GVF")	Amount
\$0 to \$74,999,999	0.05% of GVF
\$75,000,000 to \$199,999,999	\$37,500 plus 0.04% of GVF in excess of \$75,000,000
\$200,000,000 or above	\$87,500 plus 0.03% of GVF in excess of \$200,000,000

13.3 Calculation and payment of half yearly fee

The half yearly fee for a Half Yearly Period payable under clause 13.2 will be calculated by the Operator as soon as possible after the end of that Half Yearly Period and shall be payable as follows:

- (a) as to the amount payable under clause 13.213.2(a), in two equal instalments on the last days of the first and fourth months of the Half Yearly Period next after that Half Yearly Period; and
- (b) as to the amount payable under clause 13.213.2(b), within the first two months of the Half Yearly Period next after that Half Yearly Period.

13.4 Last Half Yearly Period

If the Trust terminates during a Half Yearly Period, an appropriate adjustment must be made on a proportionate basis, to the fee payable for that Half Yearly Period to reflect the

ratio between the full Half Yearly Period and the number of days from the first day of that Half Yearly Period to the date of termination of the Trust. Such adjusted fee shall be calculated by the Operator and paid no later than two months after the termination of the Trust.

13.5 [clause deleted]

13.6 [clause deleted]

13.7 [clause deleted]

14. **REIMBURSEMENT OF OPERATOR'S EXPENSES**

In addition to its remuneration under clause 13, the Operator shall be entitled each month to reimburse itself or to pay out of the income of the Trust Fund all reasonable costs, charges, expenditure and liabilities which it may incur in relation to the matters set out in clauses 10.21 and 12.9 or incurred by it or on its behalf during the preceding month in the due exercise of its powers or in the due performance of its duties under this Deed.

14.1 [clause deleted]

14.2 [clause deleted]

14.3 [clause deleted]

15. [clause deleted]

16. [clause deleted]

16.1 [clause deleted]

16.2 [clause deleted]

16.3 [clause deleted]

16.4 [clause deleted]

16.5 [clause deleted]

16.6 [clause deleted]

16.7 [clause deleted]

16.8 [clause deleted]

16.9 [clause deleted]

17. **DUTIES OF OPERATOR**

The Operator covenants with the Unitholders jointly and with each of them severally that:

- (a) it will comply with the duties imposed on the responsible entity by the Act;

- (b) as long as Units are quoted on ASX, it will comply with applicable Listing Rules;
- (c) while it continues in the position of Operator it will not undertake any business other than the business of Operator of the Trust provided that nothing in this paragraph prevents or deems to prevent any Associate of the Operator from being engaged in any other business.

18. [clause deleted]

18.1 [clause deleted]

18.2 [clause deleted]

18.3 [clause deleted]

18.4 [clause deleted]

18.5 [clause deleted]

19. **OPERATOR'S RESPONSIBILITIES AND INDEMNITIES**

19.1 **Limitation**

Each of the following provisions of this clause 19 is subject to clause 17 and operates without in any way limiting the covenants given or deemed to be given by or the duties imposed on the Operator in this Deed and without prejudice to any indemnity allowed by law or given elsewhere in this Deed to the Operator.

19.2 **Indemnity of Operator**

Without limiting any other indemnity in favour of the Operator in this Deed, the Operator must be indemnified out of the Trust Fund from and against any expense and liability that may be incurred in performing its duties as Operator pursuant to the provisions of this Deed provided that the Operator has acted in accordance with the provisions of this Deed.

19.3 [clause deleted]

19.4 **No liability where prohibited by law**

The Operator does not incur any liability to anyone in respect of any failure to perform or do any act or thing which the Operator is hindered, prevented or forbidden from doing or performing by reason of any provision of any present or future law of the Commonwealth of Australia or any of its States or Territories or any ordinance, rule, regulation or by-law made pursuant to that law or any decree, order or judgment of any competent court.

19.5 **No liability to account**

The Operator is not be liable to account to any Unitholder or otherwise for any payments made by the Operator in good faith to any duly empowered fiscal authority of the Commonwealth of Australia or any of its States or Territories for taxes or other charges

upon the Trust Fund or upon the Certificates or with respect to any transaction under this Deed notwithstanding that any such payment ought not or need not have been made.

19.6 Operator may act on advice

The Operator may act upon the opinion or advice of or information obtained from barristers or solicitors independent of and instructed by the Operator and upon any statement of or information obtained from any bankers, accountants, Approved Valuers and other persons appointed by the Operator being persons independent of the Operator and believed by the Operator in good faith to be expert in relation to the matters upon which they are consulted and the Operator is not liable for anything done or suffered by it in good faith in reliance upon any such opinion, advice, statement or information.

19.7 [clause deleted]

19.8 [clause deleted]

19.9 [clause deleted]

19.10 No responsibility of Operator for advisers

The Operator is not responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any banker, receiver, barrister, solicitor, Approved Valuer or qualified adviser of the Operator except to the extent that such loss is attributable to the Operator's own neglect or wilful default.

19.11 [clause deleted]

19.12 Operator's discretion

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

19.13 No conflict of Operator

Nothing in this Deed prevents the officers, shareholders or any Associate of the Operator:

- (a) from subscribing for, purchasing, holding, dealing in or disposing of Units; or
- (b) subject to clause 17, from otherwise at any time contracting or acting in any capacity as representative or agent or entering into any contract or transaction whatsoever with the Operator, any Unitholder or any company whose shares form part of the Trust Fund; or
- (c) from being interested (directly or indirectly) in any such contract or transaction or otherwise

and none of them is in any way liable to account either to the Operator, the Unitholders or any other person for any profits or benefits made or derived in connection with any such activities.

19.14 No benefit for Operator

No provision of this Deed operates so as to confer or be capable of conferring on the Operator, its successors in office or any person who has been the Operator or was formerly a trustee under this Deed any share, benefit or other interest in the Trust Fund whether as a Unitholder or pursuant to the doctrine of constructive trusts or otherwise.

19.15 Operator may contract

The Operator is not by reason of its fiduciary capacity in any way precluded from making any contract or entering into any transaction with any Related Body Corporate of the Operator or with itself as operator or responsible entity or trustee of another trust or settlement in the ordinary course of the business of the Operator or from undertaking any banking, financial or agency services for the Operator or any Related Body Corporate of the Operator and without prejudice to the generality of these provisions such contracts and transactions may include any contract or transaction in relation to the subscription or placing of or any dealing with any stock, shares, debenture stock, debentures or other security of the Operator or any Related Body Corporate of the Operator or of any other company in which any of them is interested and the acceptance of any office of profit from the Operator or any Related Body Corporate of the Operator or any contract of loan or deposit or other contract or transaction which any person or company not being the Operator could or might have entered into with the Operator or any Related Body Corporate of the Operator or any such other company and the Operator is not accountable either to any Related Body Corporate of the Operator or any such other company or the Unitholders for any profits arising from any such contracts, transactions or offices.

19.16 No payment by Operator

Except where the Operator fails to show the degree of diligence and vigilance required of a trustee having regard to the powers, authorities or discretions conferred on the Operator by the Trust Deed, the Operator is not bound to make any payment to the Unitholders except out of the Trust Fund.

19.17 Operator's discretion on sale and purchase

Whenever the Operator is entitled to buy any Authorised Investment or sell any investment or property the Operator has the fullest discretion to determine the time and manner of such purchase or sale including the right to determine to postpone such sale for so long as it thinks fit. The Operator is empowered to effect any sale or realisation over a reasonable period of time and in such lots or parcels as it considers advisable and to fix and vary reserve prices below which investments may not be sold and to make interim distributions to the persons entitled as it may think appropriate. The Operator is not deemed to be under any obligation to realise any specific price or reserve in respect of any investment or property sold.

19.18 No liability on liquidation

The Operator is not under any liability nor will it incur any liability by reason of any error of fact or law or matter or thing done or omitted to be done by it, in good faith under this Deed if any body corporate goes into liquidation or is dissolved or if for any other reason

it becomes impossible or impracticable to carry out the provisions of this Deed in respect of any such body corporate.

19.19 [clause deleted]

19.20 [clause deleted]

19.21 **Security deposits**

Subject to clause 19.22, if at any time the Operator is required by the Federal or any State Government or by any statute to lodge approved deposits, securities or bonds for the additional protection of Unitholders, the Operator must provide the same from its own resources and will not have any claim on the Trust Fund for such purpose.

19.22 **Operator's election not to comply**

If the Operator elects not to comply with any requirements imposed under clause 19.21, then it must immediately convene a meeting of Unitholders in accordance with the Act to choose another responsible entity or determine that the Trust be wound up.

19.23 [clause deleted]

19.24 [clause deleted]

19.25 **No greater liability of the Operator**

Except where the Operator fails to observe the duties imposed on it under this Deed or at law having regard to the powers, authorities or discretions conferred on the Operator by the Trust Deed, the Operator is not liable to the Unitholders or any third party to extent greater than the Operator's right to be indemnified, and the extent that it is actually indemnified, out of the investments, cash and other property actually vested in the Operator or received by it in accordance with the provisions of this Deed.

19.26 **No separate accounts**

The Operator is not bound to make any apportionment or keep separate accounts of the investments of the Trust Fund and the Operator must hold the whole of the Trust Fund for the time being as one trust fund upon the Trust.

19.27 **Operator's indemnity for liabilities on Authorised Investments**

Should the Operator purchase any Authorised Investment in regard to which there is a liability, the Operator will have a right of indemnity out of the Trust Fund in respect of any such liability.

19.28 **Operator's indemnity for liabilities from borrowings**

Should the Operator borrow or raise money or incur any other liability pursuant to a direction of the Unitholders or otherwise acting in accordance with the powers conferred on the Operator by the Trust Deed, the Operator will have a right of indemnity out of the Trust Fund in respect of any such liability.

19.29 Duties and charges

Subject to the provisions of clause 23 the Operator is not required to effect any transaction or dealing with any Certificate, transfer or other instrument on behalf or for the benefit or at the request of any Unitholder unless such Unitholder has first paid in cash or otherwise provided to the Operator's satisfaction for all duties, taxes, governmental charges, transfer fees, registration fees, brokerage and other charges which may have become or may be payable in respect of any such transaction or dealing provided that the Operator is entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Unitholder and retain the amount so paid out of any money to which that Unitholder may be or become entitled under this Deed.

19.30 Indemnity for stamp duty

Without prejudice to any of the provisions of this Deed, the Operator is indemnified and is entitled to be reimbursed out of the Trust Fund in respect of all stamp duty and other imposts State or Federal which they may incur or which is or may be imposed in relation to the receipt, collection, investment, disposal and distribution of money or property or the performance or exercise of their duties and powers under this Deed and otherwise under or by virtue of or in respect of the Trust and for the purpose of such indemnity and reimbursement may from time to time realise such investments of the Trust in such manner and at such time as the Operator may in its discretion determine.

19.31 Limitation on Rights of Unitholders

No Unitholder is entitled to require the transfer to him of any of the property comprised in the Trust Fund nor, subject to the rights of Unitholders created by this Deed and by law, entitled to interfere with or question the exercise or non-exercise by the Operator of any of the trusts, powers, authorities or discretions conferred upon Operator by this Deed or in respect of such property.

19.32 No Limitation on Operator's Duties

Nothing in this clause 19 limits the Operator's duty of care and diligence and vigilance in respect of the Trust or prevent or restrict any determination as to whether there has been a breach of trust or affect the exclusive operation of the provisions of any statute prescribing the circumstances under which the Operator may obtain relief from breach of trust.

19.33 [clause deleted]**20. ACCOUNTS AND AUDIT****20.1 Records to be kept**

The Operator must keep or cause to be kept true accounts of all sums of money received and expended by or on behalf of the Trust, all sales and purchases of investments and Units and the assets and liabilities of the Trust.

20.2 Location of Books and Records

The Operator must keep proper books of account in accordance with the requirements of the Act.

20.3 Yearly and Half-Yearly Accounts

The Operator must prepare a half-yearly report in respect of each half-year ending on 30 June and an annual report in respect of each year ending on 31 December. Each report must contain such information as is required by the Act, and the Listing Rules and, subject to the Act, must comprise a Distribution Statement as prescribed in clause 20.6 together with such notes and explanations as may be necessary for proper understanding of the reports. The reports must comply with the Listing Rules and with all applicable provisions of the Act and must be sent or otherwise made available to Unitholders in accordance with the Act.

20.4 [clause deleted]

20.5 Audit

Each half-yearly and yearly account must be audited by the Auditor who must report on the matters required to be reported on in respect of the Trust under this Deed, the Act and under the Listing Rules as if the Trust were a company subject to the Act. The Auditor must complete the audit of the yearly account within 2 months of the end of the Financial Year and immediately on completion of the audit must submit a report on the audit to the persons specified in section 82(2) of the Control Act. In carrying out his duties the auditor is entitled at regular intervals to examine the accounts of the Operator maintained in respect of the Trust as required by clause 20.1 and to require from the Operator such information, explanations, documents and accounts as he may consider necessary for the performance of his duties.

20.6 Distribution Statement

A Distribution Statement must include a statement of the amount (if any) that the Operator has determined must be distributed to Unitholders out of profits or reserves and the amount it has determined should be carried to reserves and must otherwise be in such form and with such content as the Operator determines, subject to compliance with the provisions of the Act and the Listing Rules.

20.7 Clause deleted

20.8 Report by Operator

The Operator must twice in each year upon request by the Auditor give to the Auditor a certificate in writing setting out the investments and cash constituting the Trust Fund at the date of such request.

20.9 Report to the ASX

The Operator must give to ASX a half-yearly and yearly report which must be lodged within the periods and contain the information (subject to necessary amendments or variations) prescribed in the Listing Rules for half-yearly and yearly reports by a company

or within such other periods and containing such other information as may be prescribed from time to time in the Listing Rules for an entity of the nature of the Trust.

20.10 [clause deleted]

21. **AUDITOR**

21.1 **Appointment**

Subject to clause 21.2 and to obtaining the prior approval of the Minister, the Auditor must be appointed by the Operator, must be duly qualified in the manner provided in Section 82(1) of the Control Act and must be a chartered accountant and a registered company auditor or firm of chartered accountants the relevant members of which are so registered. The remuneration of the Auditor must be fixed by the Operator.

21.2 **Removal of Auditor**

The Auditor may at any time be removed by Ordinary Resolution. Subject to the Act and to obtaining the prior approval of Unitholders by Ordinary Resolution, the Auditor may retire upon the expiration of 1 month's notice to the Operator. Any vacancy in the office of Auditor must be filled by the Operator appointing an auditor who would be qualified to be appointed under clause 21.1.

21.3 **Restrictions on Appointment**

The Auditor may be the auditor of the Operator or of any other trust whether of a similar nature to the Trust or otherwise but may not be an officer or employee (or the partner of an officer or employee) of the Operator.

22. **APPLICATIONS FOR UNITS**

22.1 **Form and procedure for application**

Every person who wishes to apply for the issue of Units in response to an offer contained in an offer document issued in relation to the Trust by the Operator must complete and lodge or cause to be lodged with the Operator either at its registered office or at such other place as the Operator may from time to time determine an application for Units signed by or on behalf of the applicant in the form or to the effect of the form specified in the First Schedule (or in such other form as may, from time to time, be determined by the Operator) together with payment of the Selling Price for the number of Units applied for or in the case of Partly Paid Units, of the instalment of the Selling Price payable on application for those Partly Paid Units.

22.2 **Entitlement and acceptance form**

The Operator is entitled in respect of an offer made in terms of clause 4.6(b) to treat the receipt by it of the entitlement and acceptance form accompanying the offer, duly completed by the Unitholder to whom it was issued, or where applicable, the person in whose favour the entitlement was renounced, accompanied by payment of the amount due, as compliance with the provisions of clause 22.1.

22.3 Operator's Discretion

Subject to the provisions of clause 4.6(b), the Operator has an absolute discretion as to whether an application for Units is accepted.

22.4 [clause deleted]

22.5 Application Money

Application money for Units must be paid by the applicants to the Operator, to be placed by the Operator in a special trust account until such time as the minimum subscription (if any) has been reached and the Operator has determined to proceed to allotment of Units. Until such time as the Operator proceeds to allotment of Units, the Operator must hold such application money upon bare trust for the applicants, and the Operator must comply with all obligations imposed on it in the same manner as it would be required to do if it were a company offering shares for subscription or purchase. Any interest earned by the Operator as a result of holding application moneys pursuant to this clause 22.5 forms part of the Trust Fund.

22.6 [clause deleted]

22.7 [clause deleted]

23. CERTIFICATES**23.1 Issue of Certificates**

Where the Operator is required by the Act to issue a Certificate to a Unitholder, subject to the Listing Rules, the Certificate must be in or to the effect of the form set out in the Second Schedule subject to any modifications as the Operator determines evidencing the title to the Units.

23.2 Form of Certificates

Certificates may be engraved, lithographed or printed as the Operator may from time to time determine and must be signed on behalf of the Operator by a duly authorised officer of the Operator by autographical or mechanical or other means and when so signed have full force and validity.

23.3 Cessation of officer

In case any officer of the Operator whose signature or signatures appear on any Certificate dies or otherwise ceases to be such officer before the relevant Certificate have been issued such Certificate is nevertheless as valid and binding as though the officer whose signature or signatures so appeared had continued as an officer up to and including the date of the issue of the Certificate.

23.4 Certificates without charge

Subject to clauses 23.9 and 26.11, Certificates must be issued without charge to Unitholders except in the circumstances set out in clause 23.7.

23.5 Form of Certificates

Each Certificate must:

- (a) have a distinctive number;
- (b) specify the number of Units to which it relates; and
- (c) state whether the Units are Fully Paid Units or Partly Paid Units.

23.6 Certificates for Partly Paid Units

Separate Certificates must be issued for Fully Paid Units and for Partly Paid Units and in the case of Partly Paid Units the Certificates must show by endorsement or otherwise the amount of the Selling Price paid on such Units but where the amount of the Selling Price paid on some Partly Paid Units held by a Unitholder differs from the amount of the Selling Price paid on other Partly Paid Units held by that Unitholder, separate Certificates must be issued. A new Certificate must be issued on each occasion that an instalment of the Selling Price is paid by a Unitholder in respect of the Partly Paid Units held by the Unitholder.

23.7 Replacement Certificates

Subject to clause 26.11, if any Certificate issued pursuant to this Deed is worn out or defaced then, if it is produced to the Operator, the Operator may cancel the Certificate and may cause to be issued a new Certificate in its place. If any Certificate is lost or destroyed then upon proof of that fact to the satisfaction of the Operator and if an indemnity as the Operator may deem adequate is given, a new Certificate in its place must be given to the person entitled to the lost or destroyed Certificate. An entry as to the issue of the new Certificate and indemnity (if any) must be made in the Register. A fee as prescribed by the Operator not exceeding the amount permitted from time to time by the Act must be paid to the Operator by the person entitled to the new Certificate.

23.8 Multiple Certificates

Subject to the provisions of this Deed, any Unitholder is entitled without fee on surrendering his Certificate to the Operator to exchange it for Certificates of different amounts of Units (being in multiples of 100 Units) not exceeding in the aggregate the total number of Units represented by the Certificate which has been surrendered provided that no Unitholder is entitled to exercise his right of exchange under this clause on more than 2 occasions in any Financial Year.

23.9 Uncertificated Holdings

Where the Trust has been authorised to participate in any system of Uncertificated Securities, the Operator is empowered under this Deed to do all acts and things required

under the rules governing that system to facilitate the participation by the Trust in that system.

24. REGISTER OF UNIT HOLDERS

24.1 Contents of Register

The Register of Unitholders must be kept by or on behalf of the Operator (who must ensure that it is kept up to date) at either the registered office of the Operator or at such other place in Australia as the Operator determines and there must be entered on the Register:

- (a) the names and addresses of the Unitholders;
- (b) the number of Units and the numbers of Certificates held by them respectively;
- (c) the date at which the name of each person was entered in the Register as a Unitholder;
- (d) the date on which any person ceased to be a Unitholder;
- (e) in the case of Partly Paid Units, their Selling Price and the instalments of the Selling Price which have been paid; and
- (f) any other details considered necessary by the Operator.

24.2 Audit of Register

The Operator must cause the Register to be audited at intervals of not more than 12 months.

24.3 Operator's reliance on Register

The Operator shall be entitled to accept the Register as being correct and as constituting conclusive evidence of the ownership of Units.

24.4 Changes of name or address

Any change of name or address of any Unitholder must be notified to the Operator who must alter the Register accordingly.

24.5 Inspection

Subject to the Act (as modified by any declaration made or exemption granted by the ASIC pursuant to the Act), the Operator and the Unitholders are entitled free of charge to inspect the Register at either the registered office or the principal place of business of the Operator at any time when such office is required by the Act or the Listing Rules to be accessible to the public or at such other place in Australia and at such time as the Operator determines.

24.6 No Trust on Register

The Operator is not obliged to enter on the Register notice of any trust express, implied or constructive in respect of any Unit. The Operator must recognise a Unitholder and his executors or administrators as the absolute owner of the Units in respect of which he is registered and all persons may act accordingly. Except as ordered by a Court of competent jurisdiction or as required by law or as otherwise set out in this Deed, the Operator is not bound to take notice of any trust or equity whether express, implied or constructive affecting the ownership of any Unit or the rights incidental to it and the receipt of such Unitholder or his executors or administrators for any money payable in respect of the Units represented by his Certificates will be a good discharge to the Operator.

24.7 Closure of Register

While any Units are quoted on the ASX, the Operator must give at least 9 Business Days' (or such other period (if any) as may be required by the Listing Rules) notice of the date of closing of the Register by advertisement in a daily newspaper circulating generally throughout Australia and must inform ASX in writing of the time and date of closure and the period and purpose for which the Register will be closed.

25. STATE REGISTERS

25.1 Separate Registers

The Operator may at any time and from time to time establish and maintain a separate Register in respect of any State or Territory of Australia on which there must be entered:

- (a) the names and addresses of those Unitholders who request that their names and all or some of the Units held by them respectively be entered or transmitted;
- (b) the number of Units and the numbers of Certificates for the time being held by them respectively and comprised in the request for such entry or transmission;
- (c) the date on which the name of any Unitholder was entered on the separate Register in respect of any Unit standing in his name and comprised in the request;
- (d) the date on which any person ceased to be a Unitholder (if on that date any Unit in his name was entered on the separate Register) or the date on which by his request any Units held by that person are removed from the separate Register, whichever date first occurs; and
- (e) any other details considered necessary by the Operator.

25.2 Designation of Register

Every such separate Register must be designated the Register for the capital city of the State or Territory in respect of which it is established.

25.3 **References to the Register**

Every reference in this Deed to "the Register" is deemed to include every Register unless it appears from the context that a particular Register is referred to in which case the reference is deemed to be to the Register as the case may be on which the Units in question are registered.

25.4 **Removal from one Register to another**

The Operator may at the request of a Unitholder remove any Units held by that Unitholder from one Register to another. Such request must be in writing in the form prescribed by the Operator or in such other form as the Operator may approve and must be forwarded by the Unitholder to the Operator at the Register on which his Units then stand together with the Certificates (if any) relating to those Units.

26. **TRANSFER OF UNITS**

26.1 **Right of transfer**

Subject to the terms of this Trust Deed, a Unitholder may transfer any Units held by that Unitholder.

26.2 **Method of transfer**

The Operator must not register or give effect to a transfer of Units unless:

- (a) in the case of a transfer of a kind to which provisions in the Prescribed CS Facility Rules apply – the transfer is in accordance with those provisions; or
- (b) in any other case – a proper instrument of transfer has been delivered to the Operator.

26.3 **Transfer to be stamped**

A written instrument of transfer must be stamped (if required by law) and must be:

- (a) where the Units are quoted on ASX, signed, marked, validated, endorsed or confirmed (as the case may be) as and in the manner required by the Act and the Listing Rules; or
- (b) in any other case, signed by the transferor and the transferee.

26.4 **Transferor remains holder**

Subject to the Act, the Prescribed CS Facility Rules and to clause 12.6, a transferor of Units must be deemed to remain the holder of those Units until the transferee is entered in the Register in respect of those Units and a transfer of Units does not pass the right to any distributions payable in respect of the Units until registration of the transfer.

26.5 Refusal to Register

Subject to clause 26.10, the Operator may not refuse to register or give effect to a transfer of a Unit unless:

- (a) the registration of or giving effect to the transfer would result in a contravention or breach of or failure to observe the provisions of a law of the Commonwealth of Australia or of any Australian State or Territory (including, without limitation, the Control Act), the Listing Rules, the Cairns Casino Agreement, the Foundation Agreement or any escrow agreement under the Listing Rules in relation to Units which have been designated Vendor Securities; or
- (b) in the case of a Partly Paid Unit:
 - (i) the Operator has required the transferee to complete a statutory declaration stating that the transferee is financially able to meet the unpaid instalments of the Selling Price of that Partly Paid Unit and such a declaration has not been received by the Operator within a reasonable time; or
 - (ii) any instalment of the Selling Price of the Partly Paid Unit is due and remains unpaid; or
- (c) it is a transfer of any Restricted Units by a Founder in breach of the provisions of the Foundation Agreement or the Operator is otherwise entitled under the terms of the Foundation Agreement to refuse to register or give effect to the transfer.

26.6 Operator's decision absolute

Subject to clause 26.10, a decision of the Operator relating to the registration of an instrument of transfer is absolute. Written notice of refusal to register any transfer and the precise reasons for the refusal must be given within 5 Business Days after the date on which the transfer was lodged with the Operator.

26.7 Transfers left at Registered Office

Every instrument of transfer must be left at the registered office of the Operator (or at such other place as the Operator may from time to time prescribe or accept) for registration accompanied by (except in the case of Uncertificated Securities) the Certificate for the Units to be transferred and such other evidence as the Operator may require to prove the title of the transferor or the transferor's right to transfer the Units. The Operator may waive the production of any Certificate if satisfactory evidence of its loss or destruction is given to it. If the Trust participates in a computerised or electronic system of the kind described in clause 26.11, then transfers of Units must be effected in accordance with the Listing Rules and Prescribed CS Facility Rules applying to the system.

26.8 Transfers to be retained

All instruments of transfer which are registered must be retained by the Operator. Any instrument of transfer which the Operator declines to register must (except in case of fraud) be returned on demand to the person depositing it.

26.9 Closure of Register

Subject to the provisions of the Act, the Listing Rules and the Prescribed CS Facility Rules, the registration of transfers may be suspended and the Register closed at such times and for such periods as the Operator thinks fit not exceeding an aggregate of 30 days in each calendar year.

26.10 Transfers in accordance with Prescribed CS Facility Rules

Subject to clause 26.5(a), the Operator must not refuse or fail to register, or give effect to or delay or in any way interfere with, a Proper CS Facility Transfer.

26.11 CHESS

The Trust may participate in any computerised or electronic system for market settlement, securities transfer and registration conducted in accordance with the Corporations Act, the Listing Rules and the Prescribed CS Facility Rules. If the Trust participates in a system of this kind, then despite any other clause of this Trust Deed:

- (a) Units may be transferred, and transfers may be registered in any manner required or permitted by the Listing Rules or the Prescribed CS Facility Rules applying in relation to the system;
- (b) the Operator must comply with and give effect to those Rules;
- (c) the Operator may, in accordance with those Rules, decline to issue certificates for holdings of Units.

27. TRANSMISSION OF UNITS

27.1 Title to Units of deceased Unitholder

Subject to the Act and the Prescribed CS Facility Rules, in case of the death of a Unitholder the survivor or survivors where the deceased was a joint holder and the executor or administrator of the deceased where he was a sole holder is the only person recognised by the Operator as having any title to the Units registered in his name.

27.2 Registration on death or bankruptcy

Subject to the Act and the Prescribed CS Facility Rules, any person becoming entitled to any Units in consequence of the death or bankruptcy of a Unitholder may upon such evidence being produced as may from time to time be required by the Operator elect either to be registered himself as Registered Holder of the Units or to have some person nominated by him registered as the Registered Holder of the Units.

27.3 Notice of election

If the person becoming entitled under clause 27.2 elects to be registered himself he must deliver or send to the Operator a notice in writing in the form prescribed by the Operator or in such other form as the Operator may approve signed by him stating that he so elects. If he elects to have his nominee registered he and the nominee must testify the election by delivering or sending to the Operator an instrument of transfer to that nominee. All the

provisions of this Deed relating to the registration of transfers of Units are applicable to any such notice or transfer as if the death or bankruptcy of the Unitholder had not occurred and the notice or transfer was a transfer executed by the Unitholder.

27.4 **Entitlement to notices**

A person becoming entitled to Units in consequence of the death or bankruptcy of a Unitholder is entitled to receive and may give a discharge for all moneys payable in respect of the Units but he is not entitled to receive notices of or to attend or vote at any meetings of Unitholders until he becomes a Unitholder in respect of such Units.

28. **VOTING RIGHTS ON INVESTMENTS**

28.1 **Voting Rights of Operator**

The Operator may exercise all voting rights conferred by any investment of the Trust Fund as it determines in its discretion, having regard to its functions and duties under this Deed.

28.2 [clause deleted]

29. **MEETING OF UNIT HOLDERS**

29.1 **Requisition for Meetings**

The Operator may at any time and must on the requisition in writing of Registered Holders holding not less than 5 percent of the number of votes that may be cast on the resolution to be the subject of the meeting or of not less than 100 of the Unitholders entitled to cast a vote on the resolution to be the subject of the meeting, convene a meeting of the Unitholders.

29.1A The manner in which any meeting of Unitholders must be convened and held is in accordance with the applicable provisions of the Act, and the following provisions of this clause 29 take effect subject to, and only to the extent that they are not inconsistent with, the requirements of the Act.

29.2 **Requirements of Meeting**

The requisition under clause 29.1 must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition must be signed by the requisitionists and deposited at the principal office of the Operator in the State and may consist of several documents in like form each signed by one or more of the requisitionists. If the Operator does not within 21 days of the date of deposit of the requisition duly proceed to convene a meeting of Unitholders to be held within 3 months from the date of deposit of the requisition, the requisitionists or a majority of them in value may themselves convene the meeting but any meeting so convened must not be held after 3 months from the date of deposit of the requisition. Any meeting convened under this clause by the requisitionists must be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Operator.

29.3 Notice of Meeting

The following provisions govern notice of meetings of Unitholders convened under this Deed:

- (a) subject to obtaining the prior written consent of all Unitholders to any shorter period of notice (if permitted by the Act), not less than 21 clear days notice (excluding both the date of service of the notice and the date of meeting) of all meetings of Unitholders must be given to each Unitholder in the Trust entitled to vote, each director of the Operator, the auditor of the Trust and the auditor of the Compliance Plan;
- (b) each notice must set out:
 - (i) the place, date and time of the meeting;
 - (ii) any matters to be considered at the meeting of which the party convening the meeting is aware;
 - (iii) any resolutions to be put at the meeting of which the party convening the meeting is aware; and
 - (iv) a summary of information relating to those matters and resolutions that is relevant to the decision of a Unitholder on how to vote at the meeting;
- (c) while the Trust is admitted to the Official List of the ASX at least 10 Business Days notice of any meeting of the Unitholders must be given by advertisement in a daily newspaper circulating generally throughout Australia and in writing to the ASX;
- (d) the accidental omission to give notice to, or the non-receipt of a notice by, any Unitholder does not invalidate the meeting;
- (e) [clause deleted]

29.4 Quorum

No business must be transacted at any meeting of Unitholders unless a quorum is present when the meeting proceeds to business. The quorum must be at least 5 persons holding or representing by proxy at least 10 percent of the Units in Issue. If within 15 minutes from the time appointed for any meeting a quorum is not present the meeting must stand adjourned to the same day in the next week at the same time and place.

29.5 Quorum at adjourned meeting

At a meeting (other than a meeting called to consider a resolution to wind up the Trust) which has been adjourned under clause 29.4, the Unitholders carrying the right to vote at that meeting present in person or by proxy (whatever their number and the number of Units represented by their Certificates) form a quorum and have power to pass the resolutions to be proposed.

29.6 Chairman

Subject to Section 252S of the Act, at any meeting of Unitholders a person nominated by the Operator (whether a Unitholder or not) must preside as chairman and if no such person is present or is present but unwilling to act within 15 minutes after the time appointed for holding the meeting the Unitholders present must choose one of their number to preside as chairman.

29.7 Voting

Every question submitted to a meeting of Unitholders must be decided in the first instance by a show of hands provided that a poll must be held in any case where:

- (a) it is required by this Deed or by law that the question be decided by a majority which is to be measured by a percentage of the votes cast by those present or by the value of Units held; or
- (b) it is demanded either before or immediately after any question is put to a show of hands by the chairman or Unitholders present, personally or by proxy, not being less than 5 in number or Unitholders present with at least 5% of the votes that may be cast on a poll; or
- (c) it is required because this Deed requires that the question be decided by an Ordinary Approving Resolution, or a Qualified Majority.

29.8 Casting Vote

In the case of an equality of votes the chairman, both on the show of hands and on a poll has a second or casting vote in addition to the vote or votes (if any) to which he may be entitled as a Unitholder.

29.9 Votes

Subject to the provisions of this Deed and in particular to clauses 4.17(c), 29.29, 29.30, 30.9, 30.10 and 30.12 on a show of hands every Unitholder who is present in person or by proxy and who was recorded on the Register at the Books Closing Date for that meeting as the holder of a Unit carrying the right to vote at that meeting will have one vote (provided that any person who represents by proxy more than one Unitholder only has one vote on a show of hands) and on a poll every such Unitholder has one vote for each dollar value of the value of Units held by that Unitholder determined in accordance with the provisions of the Act.

29.10 Joint Holders

In the case of joint holders of a Unit the vote of the senior who tenders a vote whether in person or by proxy will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority is determined on the basis of whose name stands first on the Register.

29.11 Corporations

A corporation being a Unitholder may vote by any officer or representative duly authorised in writing who is entitled to speak, demand a poll, vote, act as proxy and in all other respects exercise the rights of a Unitholder and is to be regarded as a Unitholder for all purposes.

29.12 Unsound mind

A Unitholder of unsound mind or in respect of whom an order has been made by any Court having jurisdiction in respect of mental health may vote whether on a show of hands or on a poll by his committee, curator bonis or other person in the nature of a committee, curator bonis appointed by such Court and such committee, curator bonis or other person may on a poll vote by proxy.

29.13 No objection

No objection may be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting will be valid for all purposes. Any such objection made in due time must be referred to the chairman of the meeting and his decision on the matter is final and conclusive.

29.14 Proxies

Subject to the Act, on a show of hands and on a poll votes may be given either personally or by proxy and a proxy has the same right of audience as a Unitholder. Any person may act as a proxy whether or not he is a Unitholder.

29.15 Appointment of Proxy

The instrument appointing a proxy must be in such form as is specified in the notice of meeting.

29.16 Deposit of Proxy

The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority duly certified in accordance with Section 14 of the Queensland Powers of Attorney Act 1998 must be deposited with the Operator or its duly appointed agent at a place, fax number or electronic address specified for the purpose in the notice of meeting not less than 2 days before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument or proxy must not be treated as valid. No instrument appointing a proxy is valid after the expiration of 12 months from the date named in it as the date of its execution.

29.17 Form of Proxy

An instrument appointing a proxy may be in the following form or in any other form which the Operator approves:

“I, _____ of
being a Unitholder of Reef Casino Trust **HEREBY APPOINT**
of
to vote for me and on my behalf at the meeting of the
Unitholders to be held on the _____ day of _____ 20____
and at any adjournment thereof.

Signed at _____ by me this _____ day of _____ 20____.

I direct my proxy to vote for/against the proposed resolution. (In the absence of direction the proxy may vote as he thinks fit or abstain from voting)”

29.18 Vote valid

A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, insanity or revocation has been received by the Operator before the commencement of the meeting or adjourned meeting at which the proxy is used.

29.19 Declaration by chairman of the result

At any meeting of Unitholders unless a poll is demanded in the manner set out in clause 29.7 a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority will be conclusive evidence of that fact.

29.20 Presence at meeting

The presence at any meeting or adjourned meeting of a Unitholder who has given a proxy in respect of such meeting does not invalidate the proxy and the proxy holder is entitled to vote in place of the Unitholder unless the Unitholder has, prior to the meeting or adjourned meeting, as the case may be, advised the chairman of that meeting that the proxy is revoked.

29.21 Manner of Poll

If at any meeting a poll is required to be held as set out in clause 29.7 it must be taken in such manner and either at once or after an adjournment as the chairman directs and the result of the poll will be deemed to be the resolution of the meeting at which the poll was required to be held. The demand for a poll may be withdrawn.

29.22 Adjournment

The chairman may with the consent of any meeting of Unitholders adjourn the same from time to time and from place to place. Any poll demanded at any meeting of Unitholders on the election of a chairman or any question of adjournment must be taken at the meeting without adjournment. The demand for a poll does not prevent the continuance of a

meeting for the transaction of any business other than the question on which the poll has been demanded.

29.23 Effect or Resolution

A resolution passed at a meeting of the Unitholders duly convened and held in accordance with this Deed is binding upon all the Unitholders whether present or not at the meeting and each of the Unitholders and the Operator are bound to give effect to the resolution.

29.24 Minutes

Minutes of all resolutions passed and proceedings at every meeting of Unitholders must be made and duly entered in a book to be provided for that purpose by the Operator and any such minutes if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Unitholders shall be conclusive evidence of the matters stated in them and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made is deemed to have been duly held and convened and all resolutions duly passed.

29.25 Electronic or Virtual Meetings

- (a) The Operator may determine to hold a meeting of Unitholders using or with the assistance of any technology that gives the Unitholders as a whole a reasonable opportunity to participate, which may include, but is not limited to, electronic participation facilities or linking separate meeting places together by technology including without limitation, at no physical venue using virtual meeting technology only.
- (b) If a meeting is to be held in accordance with clause 29.25(a):
 - (i) the Operator may prescribe the regulations, rules and procedures in relation to the manner in which the meeting is to be conducted; and
 - (ii) the Operator may communicate such regulations, rules and procedures (or instructions on how they can be accessed) to Unitholders by notification to the ASX.
- (c) If, before or during a meeting, any technical difficulty occurs which may materially impact the participation of Unitholders who are not present in the same location as the chairperson of the meeting, the chairperson may:
 - (i) adjourn the meeting until the technical difficulty is remedied; or
 - (ii) continue to hold the meeting in the main place (and any other place which is linked under clause 29.25(a) and transact business, and no Unitholder may object to the meeting being held or continuing.
- (d) Nothing in this clause 29.25(a) is to be taken to limit the powers conferred on the chairperson by law.

29.26 [clause deleted]

29.27 Place of Meeting

Any meeting of Unitholders must be held at a place situated in the State nominated by the person calling the meeting.

29.28 Annual Meeting

The Operator may in its discretion and must if required by law, summon an annual meeting of Unitholders to be held not later than 31 December, 2000 and not later than 30 June in each successive year until determination of the Trust. The purpose of the meeting is to receive and consider the yearly accounts in respect of the preceding year, the report of the Auditor on those accounts and the report of the Operator sent to the Unitholders in accordance with clause 20.3, to elect directors to the board of the Operator in accordance with clause 29.32(b) in the case of an annual meeting held during an Election Year, and such additional business as may be set out in the notice of meeting.

29.29 Restrictions on voting

The Operator and each of the Unitholders covenant with each other that they will not vote on any resolution considered at a meeting of Unitholders if disqualified or prohibited from doing so by the Act or the Listing Rules.

29.30 Vote not taken into account

The Operator covenants that at any meeting of Unitholders it will not take account of the vote of a person that would contravene clause 29.29.

29.31 Right to attend

The following persons have the right to attend and be heard at any meeting of Unitholders (including any adjourned meeting):

- (a) paragraph deleted;
- (b) paragraph deleted;
- (c) any director, officer, solicitor or auditor of the Operator;
- (d) any barrister instructed by the Operator's solicitor;
- (e) the Auditor;
- (f) the Minister or his or her duly appointed representative;
- (g) any Unitholder and any duly appointed proxy of a Unitholder;
- (h) the auditor of the Compliance Plan; and
- (i) any member of the Compliance Committee (if any).

29.32 Appointment and Removal of Directors of Operator by Unitholders

The appointment and removal of directors of the Operator by Unitholders in accordance with clause 9.2(g) of the Foundation Agreement must be determined in accordance with the procedure set out in the following provisions:

- (a) Subject to paragraph (g) below, a person is only eligible for election to the office of director of the Operator pursuant to this clause if:
 - (i) he or she has been nominated:
 - (A) pursuant to a nomination in writing signed by registered holders of not less than 5% of the total number of Units in Issue other than Restricted Units; or
 - (B) by the board of directors of the Operator; and
 - (ii) the nomination and the nominee's written consent to the nomination has been deposited with the Operator prior to:
 - (A) 30 September in 2000 and 31 March in each subsequent Election Year in the case of an appointment pursuant to paragraph (c); or
 - (B) 30 Business Days prior to the meeting in the case of an appointment pursuant to paragraph (b) or (d);

provided that a person who holds the office of director of the Operator by virtue of being previously appointed pursuant to this clause is deemed to be properly nominated pursuant to this paragraph (a) upon giving written notice to the Chairman prior to 30 September in 2000 and 31 March in each subsequent Election Year of his or her intention to stand for re-election; and

- (iii) he or she has been approved by the Minister.
- (b) If the Operator elects to summon an annual meeting pursuant to clause 29.28 in an Election Year, the Unitholders may by Ordinary Resolution at such a meeting appoint two persons as directors of the Operator, provided that any person so appointed have been nominated in accordance with paragraph (a).
- (c) If the Operator elects not to summon an annual meeting pursuant to clause 29.28 in an Election Year, the Operator must conduct a postal ballot in accordance with the following procedure:
 - (i) on or before 31 October 2000 and 30 April in each subsequent Election Year the Operator must send or cause to be sent by post to all Unitholders:
 - (A) a blank ballot paper setting out the names of all persons nominated or deemed to be nominated in accordance with paragraph (a); and
 - (B) voting instructions which must state that all ballot papers are to be returned to the Operator or to any person nominated by the

Operator prior to 30 November 2000 and 31 May in each subsequent Election Year (the "Closing Date"); and

- (ii) on a ballot for the election of Directors in accordance with this paragraph every Unitholder who votes on the ballot has:
 - (A) one vote for each Fully Paid Unit of which he or she is the Registered Holder on 31 October 2000 and 30 April of each subsequent relevant Election Year; and
 - (B) a fraction of a vote equivalent to the proportion of the total Selling Price paid-up for each Partly Paid Unit of which he or she is the Registered Holder on 31 October 2000 and 30 April of each subsequent Election Year; and
- (iii) immediately after the Closing Date, the Operator must examine the ballots received by it and determine which nominees have the highest and second highest number of votes. Those nominees will by virtue of this clause be appointed as directors of the Operator. The Operator must then send or cause to be sent by post to all Unitholders the results of the election.
- (d) A director of the Operator appointed or deemed to be appointed pursuant to this clause may be removed from office at any time by Ordinary Resolution passed at a meeting of Unitholders convened pursuant to this clause 29 and at that meeting the Unitholders may by Ordinary Resolution appoint another person in place of the director so removed provided that the person has been nominated in accordance with paragraph (a).
- (e) [clause deleted]
- (f) If a director is removed from office pursuant to paragraph (d) and another person is not appointed in his or her place or the office of a director of the Operator appointed pursuant to this clause becomes vacant under the articles of association of the Operator, the Chairman may appoint a director in his or her place.
- (g) Any person appointed pursuant to paragraph (f) need not have been nominated in accordance with sub-paragraphs (a)(i) and (ii) and is deemed to have been appointed by the Unitholders for the purposes of clause 9.2(g) of the Foundation Agreement and the articles of association of the Operator.
- (h) A person appointed as a director of the Operator pursuant to the provisions of this clause or who is deemed to have been so appointed under the provisions of the Foundation Agreement continues to hold office until:
 - (i) he or she is removed in accordance with paragraph (d);
 - (ii) his or her office is deemed to have been vacated under the articles of association of the Operator; or
 - (iii) he or she is not reappointed in the Election Year following the date of his or her appointment either:

- (A) pursuant to paragraph (b), if an annual meeting is held in that Election Year; or
- (B) pursuant to paragraph (c), if an annual meeting is not being held in that Election Year;

whichever occurs first.

30. RESTRICTIONS ON HOLDINGS

30.1 Definitions for clause 30:

For the purposes of this clause;

- (a) "Foreign person" means:
 - (i) a natural person not ordinarily resident in Australia;
 - (ii) a corporation (other than a foreign corporation) in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;
 - (iii) a corporation (other than a foreign corporation) in which two or more persons each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest; or
 - (iv) a foreign corporation

PROVIDED HOWEVER that:

- (v) a corporation incorporated in Australia and having its shares listed for quotation in the official list of a stock exchange in Australia and which is the registered holder or the beneficial owner of not more than 1 percent of all Units for the time being created and not cancelled; or
- (vi) a corporation incorporated in Australia which is the registered holder or beneficial owner of not more than 0.25 percent of all Units for the time being created and not cancelled

is not, for the purposes of this Agreement, a foreign person unless the Minister deems it to be a foreign person;

- (b) "Foreign corporation" means a corporation incorporated elsewhere other than in Australia and any Australian External Territory;
- (c) a person is taken to hold a controlling interest in a corporation if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15 percent of the voting power in the corporation or holds interests in not less than 15 percent of the issued shares in the corporation;
- (d) two or more persons are taken to hold an aggregate controlling interest in a corporation if they, together with any associate or associates of any of them, are in

a position to control not less than 40 percent of the voting power in the corporation or hold interests in not less than 40 percent of the issued shares in the corporation;

- (e) the following persons are associates of a person:
 - (i) the person's spouse or a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
 - (ii) any partner of the person;
 - (iii) any corporation of which the person is an officer;
 - (iv) where the person is a corporation, any officer of the corporation;
 - (v) any employee or employer of the person;
 - (vi) any officer of any corporation of which the person is an officer;
 - (vii) any employee of a natural person of whom the person is an employee;
 - (viii) any corporation whose directors are accustomed or under an obligation whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a corporation, of the directors of the person;
 - (ix) any corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the person is accustomed or under an obligation, whether formal or informal to act;
 - (x) any corporation in which the person holds a controlling interest;
 - (xi) where the person is a corporation, a person who holds a controlling interest in the corporation;
 - (xii) any person who is, by virtue of this paragraph (e), an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of this paragraph);
- (f) a reference to a person being entitled to Units or a stipulated percentage of the same has the same meaning as a reference in Chapter 6 of the Act to a person being entitled to a stipulated percentage of the voting shares in a company and that person's entitlement must be calculated in the manner prescribed for calculation of substantial shareholdings in Chapter 6 of the Act as if that Chapter applied and as if Units were voting shares.

30.2 Restriction on entitlement

Without the prior written approval of the Minister, the total number of Units to which any person (other than a Founder) may be entitled must not exceed 5 percent of the total number of Units in Issue at any time.

30.3 **Restriction on entitlements of foreign persons**

Subject to clause 30.4 the total number of Units to which a foreign person or foreign persons in aggregate may be entitled must not exceed 40 percent of the total number of Units in Issue at any time provided that the Minister may by notice in writing exempt any holding of specified Units by a specified person from the provisions of this clause and during the period of such exemption those Units must be disregarded for the purposes of this clause.

30.4 **Exception to restriction**

The restriction in clause 30.3 does not apply where pursuant to the Cairns Casino Agreement the Minister has by notice in writing exempted any holding of specified Units by a specified person from the restriction during a specified period.

30.5 **Transferee of Units to which foreign person entitled**

An applicant for or a transferee of Units to which a foreign person (other than the transferor) is entitled or would upon registration become entitled must advise the Operator of that entitlement at the time of lodgement of the application or within 14 days of the transfer taking effect (as the case may be) in accordance with the provisions of this Deed.

30.6 **Foreign person becomes entitled**

A Registered Holder of Units:

- (a) to which a foreign person becomes entitled or ceases to be entitled to must advise the Operator of that entitlement or the cessation of that entitlement within 2 Business Days of becoming aware of the circumstances giving rise to the entitlement or cessation of entitlement; and
- (b) must advise the Operator of any change in the entitlement of a foreign person to Units (including, without limitation, a change in the nature or extent of that entitlement or in the identity of the foreign person having the entitlement) within 2 Business Days of becoming aware of the circumstances giving rise to the change in entitlement.

30.7 **Requirements of Operator**

The Operator may at any time require the production of a statutory declaration by any person registered as the holder of any Units setting out the name and address of each person entitled to those Units and full particulars of their entitlements within 2 Business Days after the date the Operator's request is deemed to have been served under the provisions of clause 31.1.

30.8 **Operator not to issue Units or register transfers**

Subject to the Listing Rules and to clause 26.10, the Operator must not issue any Units or register or give effect to any transfer of Units if in its opinion the issue or registration would have the effect of causing any breach of any of the restrictions on holding containing in clauses 30.2 and 30.3.

30.9 Notice from Operator

The Operator may issue a notice to any Unitholder if:

- (a) a breach of the restrictions on holding contained in clauses 30.2 and 30.3 has occurred in respect of any Units held by the Unitholder; or
- (b) the Unitholder has failed to produce a statutory declaration when required to do so pursuant to clause 30.7;

requiring the Unitholder to dispose of their entire holding of Units or a specified proportion of the holding within a period of 2 months of the date of the notice and any right to vote or to receive any distribution pursuant to clause 12 conferred on the Unitholder in respect of the Units specified in the notice will be suspended immediately from the date of the notice and that suspension will continue until the Units are disposed of in accordance with this clause or clause 30.11 (whichever occurs first).

30.10 Notice from Minister

If:

- (a) a notice in writing is issued to the Operator by the Minister pursuant to Section 31(2) of the Control Act, on the grounds that a Unitholder is not or has ceased to be at any time a suitable person to be associated or connected with the ownership, administration or management of the operations or business of the Trust; or
- (b) the Governor-in-Council in pursuance of the Cairns Casino Agreement or any Act of the State now or hereafter in force by direction or by Order in Council published in the Queensland Government Gazette requires a disposal of the Units held by any person

the Operator must issue a notice to that Unitholder requiring that Unitholder to dispose of such Units within a period of 2 months of the date of the notice and any right to vote or to receive any distribution pursuant to clause 12 conferred on the Unitholder in respect of the Units specified in the notice must be suspended immediately from the date of the notice and that suspension must continue until the Units are disposed of in accordance with this clause or clause 30.11 (whichever occurs first).

30.11 Failure to comply with notice

If the requirements of any notice referred to in clauses 30.9 or 30.10 are not complied with by the relevant Unitholder within the time so specified the Operator must:

- (a) cause the number of Units held by the Unitholder specified in the notice or any lesser number of them to be sold at public auction in the manner specified in clause 4.21;
- (b) if the Units so sold are registered on a branch Register, cause such Units to be removed to the principal Register without any request or consent of the Unitholder;

- (c) appoint a person to execute any document and do any act or thing on behalf of the Unitholder to give effect to the disposal of the Units by the Operator and to receive and give a good discharge for the purchase money;
- (d) register or give effect to the transfer despite the fact that any Certificate for the Units may not have been delivered to the Operator and unless the Units are Uncertificated Securities, issue a new Certificate to the transferee, in which case any previous Certificate will be deemed to have been cancelled; and
- (e) seek and obtain any consents to the sale which may be required under terms of any of the Cairns Casino Agreement, the Control Act or the Foundation Agreement;

30.12 Change in the persons entitled to Restricted Units

If a founder is in default of its obligations under clause 10.1 of the Foundation Agreement, the following provisions apply:

- (a) the following rights conferred on the Founder in relation to the relevant Restricted Unit will be suspended immediately that the change occurs:
 - (i) any right to vote; and
 - (ii) any right to receive distributions pursuant to clause ;

and the suspension will continue until the Operator in its absolute discretion determines; and
- (b) the Operator must:
 - (i) cause the Restricted Unit to be sold in a manner which will realise the highest price reasonably obtainable;
 - (ii) seek and obtain any consents to the sale which may be required under terms of any of the Cairns Casino Agreement, the Control Act or the Foundation Agreement;
 - (iii) if the Restricted Unit so sold is registered on a branch Register, cause the Restricted Unit to be removed to the principal Register without any request or consent;
 - (iv) appoint any person to execute any document and do any act or thing on behalf of the Founder to give effect to the disposal of the Restricted Unit by the Operator and give a good discharge for the purchase money; and
 - (v) register or give effect to the transfer despite the fact that the Certificate for the Restricted Unit may not have been delivered to the Operator and issue a new Certificate to the transferee in which event the previous Certificate is deemed to have been cancelled.

30.13 Proceeds of Sale

If Units are sold by the Operator in exercise of the power of sale conferred by clause 30.11 or clause 30.12, the purchase money received by the Operator in respect of the sale less the expenses of sale must be paid to the relevant Unitholder or Founder (as the case may be) within 14 days of the date of the sale provided that unless the Units are Uncertificated Securities, the Unitholder or Founder has delivered to the Operator for cancellation the Certificates in which such Units were comprised or has provided proof satisfactory to the Operator as to the loss or destruction of the relevant Certificate. Failing such delivery or proof the Operator may sue such person for the recovery of the Certificate and the Unitholder or Founder must not, in any such action, deny or dispute the Operator's ownership and right to possession of the Certificate.

31. NOTICES

31.1 Notices to Unitholders

Any notice required to be given to a Unitholder under this Deed is deemed to have been duly given:

- (a) if it is in writing and either personally delivered or sent by post in a properly prepaid envelope addressed to the Unitholder at his address in Australia appearing in the Register or in any case where an address in Australia has not been furnished, addressed to the Unitholder at the registered office of the Operator; or
- (b) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the Unitholder has supplied to the Operator for giving notices.
- (c) In the case of joint Unitholders a notice given to the joint holder whose name stands first on the Register is sufficient notice to all such joint Unitholders.
- (d) Any notice given by post is deemed to have been served on the Business Day following the day when it was posted and in proving such service it is sufficient to prove that the letter containing the notice was properly addressed and posted by prepaid post and a statement signed by the Operator that it was so posted and the date of posting is conclusive evidence of those facts.
- (e) Where the Operator sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender's fax machine.
- (f) Where the Operator sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is sent.
- (g) Where the Operator gives a notice to a Unitholder by any other means permitted by law relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10.00am (Sydney time) on the day after the date on which the Unitholder is notified that the notice is available.

31.2 [clause deleted]

32. **PAYMENTS BY CHEQUE**

Any money payable by the Operator to a Unitholder under the provisions of this Deed may be paid by crossed "not negotiable" cheque made payable to the Unitholder or bearer and sent through the post to the registered address of such Unitholder or in the case of joint holders made payable to the joint holders or bearer and sent to the registered address of that one of the joint holders who is first named on the Register. Payment of every such cheque if duly presented and paid is a satisfaction of the money payable and is a good discharge to the Operator.

32A. **TRUST DEED**

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

33. **ALTERATIONS TO TRUST**

33.1 **Permissible alterations**

Subject to section 601GC of the Corporations Act (while the Trust is a registered scheme), to any approval required by the Cairns Casino Agreement, the Foundation Agreement or the Listing Rules, and any approval required by law, the Operator may by deed replace or amend this deed (including this clause).

33.2 **Amendments to satisfy legal requirements**

The Operator must (without limiting the provisions of clause 33.1) take all reasonable steps to cause the Trust Deed to be amended from time to time to satisfy the requirement of any statute, ordinance, rule, regulation or by-law or any law made under the authority of any statute, regulation, by-law or ordinance including, and without limitation, the provisions of any or all of the Control Act or the Casino Agreement Act or any Listing Rules (subject to any exemption from any such requirement that may be given by any competent authority from time to time).

33.3 **Meeting of Unitholders**

If the Operator is of the opinion that as a result of any requirement referred to in clause 33.2 the assets of the Trust Fund or any part of them are to be invested or deposited otherwise than freely in accordance with the discretions given to the Operator by this Deed or if as a result of any law it appears to either the Operator to be in the interests of the Unitholders to wind up the Trust, the Operator may convene a meeting of Unitholders in the manner set out in clause 29 for the purpose of considering whether or not the Trust should be wound up and at such a meeting the Unitholders may by Extraordinary Resolution resolve that the Trust should be determined and wound up in accordance with clause 8.3. If such a resolution is not passed then the Operator will be entitled to retire in accordance with clause 16.

34. **DOCUMENTS TO BE RETAINED BY OPERATOR**

All applications for Units, cancelled Certificates, instruments of transfer and transmission must be retained by the Operator for a period of 2 years (or such other minimum time as

may be required by law). On the expiration of the 2 year period (or other minimum period) any such document may in the discretion of the Operator be destroyed.

35. UNITHOLDERS BOUND BY DEED

The terms and conditions of this Deed are binding on the Operator and each Unitholder and all persons claiming through them respectively and as if each such Unitholder or person had been party to this Deed.

36. CLAUSE DELETED

36.1 [clause deleted]

36.2 [clause deleted]

36.3 [clause deleted]

36A. COMPLAINTS

36A.1 Unitholder complaints

The Operator must establish and maintain a procedure for dealing with complaints by Unitholders which meets the requirements of section 912A(2) of the Corporations Act and in the case of Unitholders which are wholesale clients, in accordance with clause 36A.2.

36A.2 Unitholder complaints – Wholesale clients

If a Unitholder is a wholesale client, the Operator may deal with complaints by that Unitholder in any manner which is agreed between the Operator and that Unitholder. In the absence of such agreement, the Operator must apply the procedures in clause 36A.1 to the Unitholder as if the Unitholder was a retail client.

37. **COPIES OF DEED**

A copy of this Deed must at all times during usual business hours be made available by the Operator at its registered office for inspection by Unitholders who are entitled to receive from the Operator a copy of this Deed on payment to the Operator of the sum of \$50.00, such other sum as the Operator may from time to time prescribe or such lower amount as is the maximum permitted to be charged under the Act.

38. **LIMITATION OF LIABILITY**

38.1 **No liability on holder of Fully Paid Units**

Notwithstanding any other provision of this Deed or any provision included or deemed to be included in it, a Registered Holder of a Fully Paid Unit does not by virtue of his holding of such Unit have any liability to make any contribution to the Trust Fund or to make any payment to the Operator in respect of that Unit.

38.2 **Limitation on liability of Partly Paid Units**

Notwithstanding any other provision of this Deed (except clause 38.6) or any provision included or deemed to be included in it, the liability of a Registered Holder of a Partly Paid Unit by virtue of his holding of such Unit is limited to the payment of the unpaid balance of the Selling Price in respect of such Unit and upon payment in full of such Selling Price such Unitholder does not have any liability to make any further contribution to the Trust Fund or to make any payment to the Trustee or Manager in respect of that Unit.

38.3 **No personal liability**

No Unitholder is under any obligation personally to indemnify the Operator or any creditor of the Operator in respect of any of the liabilities (actual, contingent or otherwise and whether due to a deficiency or not) of the Operator in relation to, arising from or in connection with the Trust Fund, whether arising from or by reason of the holding of such Unit or any relationship with the Operator arising from any such holding. Any such liability is expressly excluded. The only rights, if any, of indemnity of the Operator and its respective creditors, is limited to having recourse to the Trust Fund.

38.4 **No agency**

Nothing in this Deed constitutes the Operator as the agent of any Unitholder or creates any relationship between a Unitholder on the one hand or the Operator (other than as Operator) on the other.

38.5 **No right of recourse**

Creditors and other persons having dealings with the Operator expressly disclaim any right or entitlement to have recourse to any Unitholder in respect of any liabilities of the Trust or the Operator. Without limiting the generality of the provisions of this clause 38, each of the Unitholders is entitled to rely on the provisions of this clause 38 in case where

a liability is incurred as a result of the exercise of any discretions or at the request of a Unitholder.

38.6 **Liability on a deficiency**

If there is, at the termination of the Trust, a deficiency of the assets of the Trust Fund as compared with the liabilities, the liability of the Unitholders who are at the time of termination of the Trust holders of Partly Paid Units will be as set out in clause 8.4(b).

39. **GOVERNING LAW**

This Deed is governed by the law of the State and any proceedings to enforce any provision may be taken in the courts of the State or in the courts of New South Wales.

40. **ACKNOWLEDGMENT BY UNITHOLDERS**

Each Unitholder, on becoming a Unitholder, acknowledges and accepts that it is in the best interests of Unitholders for the Operator and, prior to the Operator becoming the responsible entity of the Trust, any former Operator and the Former Trustee and the Former Manager, to own, develop and conduct the business of the Hotel-Casino Complex and any or all other development or developments permitted by this Deed or the Cairns Casino Agreement.

41. **DUTIES AND LIABILITIES OF OPERATOR**

41.1 [clause deleted]

41.2 **Control Act**

The Operator must in the exercise of its powers and in the performance of its duties comply with any requirements of the Control Act and the Cairns Casino Agreement.

41.3 **The Act**

The Operator must in the exercise of its powers and in the performance of its duties comply with any requirements of the Act that may relate to the same.

42. **WITHDRAWAL FROM THE TRUST**

42.1 **Redemption of Units**

- (a) A Unitholder may at any time make a request to the Operator for the redemption of some or all of the Unitholder's Units.
- (b) Subject to clause 42.2:
 - (i) while the Trust is Liquid, the Operator must give effect to any such request for the redemption of Units in accordance with clauses 42.3 to 42.9; and
 - (ii) when the Trust is not Liquid the Operator must give effect to such request but only in accordance with clause 42.22;

(iii) clauses 42.13 to 42.17 apply in the case of all requests for redemption.

- (c) A Unitholder may not withdraw a request for the redemption of Units unless the Operator agrees.

42.2 Non-application of clause 42.1

Clause 42.1 does not apply in any of the following circumstances:

- (a) [paragraph deleted]
- (b) [paragraph deleted]
- (c) the disposal of, or the acquisition by the Operator of, the Units in question is prohibited or restricted by any of the Casino Agreement Act, the Cairns Casino Agreement or the Foundation Agreement;
- (d) the request for the redemption of Units is made by a Unitholder within the period commencing on the date a notice of meeting is given under clause 8.5 and ending on the date the meeting is held;
- (e) a request is made for the redemption of Units while the Trust is being lawfully wound up whether pursuant to a resolution to wind up the Trust or otherwise; and
- (f) the Trust is included in the Official List of the ASX and the Units are listed for quotation and for a period of 60 days after the units are suspended from quotation.

42.3 Redemption of Units when Trust is Liquid

The provisions of clauses 42.4 to 42.14 apply if the Operator receives a request from a Unitholder for the redemption of some or all of the Unitholder's Units at a time when the Trust is Liquid.

42.4 Application to be in approved form

A request for redemption of Units must be in writing and in a form reasonably acceptable to the Operator.

42.5 Redemption of part of holding

A Unitholder may request the redemption of part of his or her Unit holding provided that:

- (a) the Unitholder holds more than the Minimum Holding and the request for redemption relates to a number of Units which is not less than the Minimum Holding; and
- (b) carrying out the redemption will not result in the Unitholder holding less than the Minimum Holding.

42.6 Applications and certificates to be lodged with Operator

The request for redemption must be lodged with the Operator and, unless the Units which are the subject of the request are Uncertificated Securities, must be accompanied by the Certificate which relates to the Units (or such other evidence of ownership as the Operator may require) which are the subject of the request.

42.7 Price

The price payable in respect of each Unit which is the subject of a request for redemption under clause 42.9 is:

- (a) in the case of a Fully Paid Unit, the Current Unit Value of a Fully Paid Unit calculated as provided in clause 11.5 by reference to the Current Value of the Trust Fund as at the date redemption is effected; and
- (b) in the case of a Partly Paid Unit, the Current Unit Value of a Fully Paid Unit calculated as provided in paragraph (a) above less the aggregate amount of unpaid instalments of the Selling Price of the relevant Partly Paid Unit (whether or not those instalments are due at the date of receipt of the request for redemption),

and will be payable to the Unitholder out of the Trust Fund. The Operator is not obliged to pay any part of the redemption price out of its own funds.

42.8 Redemption period

The Operator must redeem the Units which are the subject of a valid request for redemption and pay the redemption price to the Unitholder who made the request within a period of 60 days from receipt of the relevant request.

42.9 Extension of redemption period

Provided that the Operator has taken all reasonable steps to realise sufficient Authorised Investments to satisfy a request for redemption of Units, the period for redemption of Units and payment to the relevant Unitholder specified in clause 42.8 may be extended if, and only for so long as, circumstances exist which are outside the Operator's control and prevent the realisation of sufficient Authorised Investments to enable the request for redemption to be satisfied.

42.10 [clause deleted]

42.11 [clause deleted]

42.12 [clause deleted]

42.13 Cancellation of redeemed Units

The number of Units redeemed as a result of a request for redemption must be cancelled and may not be reissued, but this clause does not limit or restrict the right of the Operator to create and issue further or other Units.

42.14 Cancellation of Certificate

Upon the cancellation of redeemed Units, unless the Units in question are Uncertificated Securities, the Operator must cancel or cause to be cancelled the Certificate (if any) which relates to the redeemed Units and must cause to be issued to the Unitholder a Certificate for the balance (if any) of the Units held by the Unitholder which have not been redeemed. If all of the Units held by that Unitholder have been redeemed the Unitholder's name must be removed from the Register.

42.15 [clause deleted]

42.16 Revaluation after ceasing to be quoted on the ASX

On receipt of the first request for redemption pursuant to this clause 42 after the Units have been suspended from quotation on the ASX Official List for a continuous period exceeding 60 days, the Operator will forthwith cause the assets of the Trust Fund to be revalued as at the date of receipt of the request unless the assets of the Trust Fund have been revalued within the period of 12 months preceding that date.

42.17 Valuation to establish current value

For the purposes of calculating the price payable on redemption of any Unit, the Operator, without prejudice to its other rights conferred by this Deed, may require a valuation by an Approved Valuer to be made of the investments of the Trust Fund.

42.18 [clause deleted]

42.19 [clause deleted]

42.20 [clause deleted]

42.21 [clause deleted]

42.22 Withdrawal when the Trust is not Liquid

When the Trust is not Liquid:

- (a) a Unitholder may only withdraw from the Trust in accordance with the Act and with the provisions of a current withdrawal offer made by the Operator in accordance with the Act;
- (b) a Unitholder may not withdraw from the Trust if there is no withdrawal offer then open for acceptance by Unitholders;
- (c) the Operator is not required to make a withdrawal offer ;
- (d) if the Operator receives a request for redemption of Units and there is no current withdrawal offer then open for acceptance it must give written notice to the Unitholder who made the request that:
 - (i) the request for redemption will not be satisfied; or

- (ii) the request for redemption will be held over by the Operator until such time, if any, as there is a current withdrawal offer open for acceptance by Unitholders (but the Operator will be under no obligation to make a withdrawal offer).

43. INDEMNITY

43.1 Indemnity for Compliance Committee Members

A Compliance Committee member is entitled to be indemnified out of the Trust Fund in respect of a liability to the extent that such indemnity is permitted by the Act where that liability is incurred:

- (a) in good faith to another person (other than the Operator or related body corporate), through acting as a member of the Compliance Committee, that member;
- (b) in defending proceedings, whether civil or criminal, in which judgment is given in favour of them or in which they are acquitted; or
- (c) in connection with an application, in relation to proceedings referred to in paragraph (b) above, in which the Court grants relief to them under the Act.

43.2 Limitations on indemnity and provision of insurance

The Operator or a related body corporate of the Operator must not:

- (a) indemnify a person who is or has been a member of the Compliance Committee against a liability incurred by the person as a member, or exempt the person from such liability but this paragraph 43.2(a) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, in which judgment is given in favour of them or in which they are acquitted or in connection with an application, in relation to such proceedings, in which the Court grants relief to them under the Act.; or
- (b) pay or agree to pay a premium in respect of a contract insuring any person who is, or has been a member of the Compliance Committee against a liability incurred by a person as a member of the Compliance Committee and arising out of conduct involving a wilful breach of a duty referred to in section 601JD of the Act but this paragraph 43.2(b) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal and whatever their outcome.

EXECUTED as a Deed on the date specified on page 1.

FIRST SCHEDULE

(Clause 22.1)

**REEF CASINO TRUST
APPLICATION FOR UNITS**

TO: Reef Corporate Services Limited

Christia
n
NamesSurname/Company Name and
ACN**"Block" letters
please**

Address/Registered Office

St
at
e

Postcode

"Block" letters please

apply for () Units in the Reef Casino Trust
upon and subject to the terms and conditions of the offer contained in the Prospectus
dated 20 and the Trust Deed dated 20 .

Attached is my/our cheque for the sum of \$ being payment in full the first
instalment of the Selling Price for the number of Units applied for and I/we agree to
accept that or any lesser number allotted to me/us.

I/We authorise you to register me/us as Registered Holder(s) of the Units allotted to
me/us in the Register.

Signature(s)

.....)

.....)

.....)

Date: / /19

THIS APPLICATION FORM MUST NOT BE DISTRIBUTED UNLESS IT IS ATTACHED TO THE PROSPECTUS. NO UNITS WILL BE ISSUED ON THE BASIS OF THIS APPLICATION FORM AFTER 6 MONTHS FROM THE DATE OF THE PROSPECTUS.

Notes

1. This application must be signed personally or by the applicant's authorised attorney and if made under power of attorney the donee of such power states that the donee has received no notice or revocation thereof.
2. In the case of joint applications all must sign and full names must be shown in place provided.
3. Applications lodged by companies must be executed under their common seals or under a power of attorney.
4. All cheques should be in Australian dollars, made payable to "[The operator (from time to time)]" and crossed "Not negotiable".

INSTRUCTIONS FOR LODGEMENT

1. Sign application where indicated.
2. Applications lodged by companies must be executed by the company's directors, or under common seal or power of attorney. constitution or power of attorney must be submitted for notation.
3. Cheques to be payable to "[The operator (from time to time)]" and crossed "Not negotiable".
4. Mail or deliver both cheque and application form direct to [].
For further information, telephone Reef Casino Trust on []
5. Minimum application acceptable is for [] Units and any multiples of [] Units in excess of [] Units.

SECOND SCHEDULE
(Clause 23)
REEF CASINO TRUST
FORM OF UNIT CERTIFICATE

Principal Register: []

The total number of Units in the Trust as at the date of this Certificate is Units.

Certificate No:

Date:Number of Units:

The Units are Fully Paid Units / Partly Paid Units

THIS IS TO CERTIFY that the Unitholder named above is the Registered Holder of the above number of Fully Paid / Partly Paid Units in the Reef Casino Trust (the "Trust") as constituted and regulated by TRUST DEED dated 2 July 1993 (as amended from time to time) which is a registered managed investment scheme under chapter 5C of the Corporations Act on (the "Trust") and which is operated Reef Corporate Services Limited as responsible entity.

The Operator has the power to give security over the assets of the Trust in priority to the rights of Unitholders.

* The Partly Paid Units represented by this Certificate were issued at a Selling Price of \$[] per Unit. The following instalments of the Selling Price have been duly paid on the dates indicated below:

1. \$ on [] endorsement of Operator _____

2. \$ on [] endorsement of Operator _____

3. \$ on [] endorsement of Operator _____

4. \$ on [] endorsement of Operator _____

* Only where Partly Paid Units.

Signed for and on behalf of

the Operator

.....

THE COMMON SEAL of REEF)
CORPORATE SERVICES)
LIMITED is affixed by authority)
of the Board of Directors and in)
the presence of:)

Director

Secretary/Director/ Authorised Person

THE COMMON SEAL of ROPART)
NOMINEES PTY LIMITED)
is affixed by authority of the)
Board of Directors and in)
the presence of:)

Director

Secretary/Director/ Authorised Person