

# Notice of Meeting and Explanatory Memorandum

## Alphinity Global Equity Fund (ARSN 609 473 127)

For a virtual meeting of unit holders to be held at 10:00am (AEDT) on 24  
March 2022.

### **YOUR VOTE IS IMPORTANT**

THIS IS AN IMPORTANT DOCUMENT AND YOUR VOTE IS IMPORTANT. WE ENCOURAGE YOU TO READ THIS DOCUMENT IN ITS ENTIRETY AND TO EXERCISE YOUR RIGHT TO VOTE EITHER BY ATTENDING THE MEETING OR BY LODGING YOUR PROXY FORM. PLEASE READ THE INFORMATION IN THIS DOCUMENT CAREFULLY. IF YOU ARE IN ANY DOUBT ABOUT THE PROPOSED RESOLUTIONS OR THE ACTION TO BE TAKEN YOU SHOULD SEEK YOUR OWN PROFESSIONAL ADVICE WITHOUT DELAY.

## Important Information and Disclaimers

This Notice of Meeting and Explanatory Memorandum (together, the **Document**) is dated 23 February 2022 (**Preparation Date**) and has been prepared by Fidante Partners Limited (ACN 002 835 592 AFSL 234668) (**Fidante Partners, we, us, our**) as responsible entity for the Alphinity Global Equity Fund ARSN 609 473 127 (**Fund**). Alphinity Investment Management Pty Ltd (ACN 140 833 709) (**Manager**) acts as the manager for the Fund. This Document sets out general information about the Fund in relation to the Resolution and other information in respect of the investment in the Fund for all Unitholders eligible to attend and vote on the Resolution (**Eligible Unitholders**), and this Document is addressed only to them.

Statements in this Document are made only as at the date of this Document, unless otherwise stated.

The information in this Document is of a general nature only and does not take into account any Eligible Unitholder's objectives, financial situation or needs. Before acting on information contained in this Document you should consider whether it is appropriate for you having regard to these factors. You should consider obtaining independent advice from a professional financial adviser before making any financial decisions in relation to the matters disclosed in this Document.

Any taxation position described is a general statement and is based on our interpretation of current tax laws.

All statements of opinion and/or belief in this Document, and all views expressed and all projections, forecasts or statements relating to expectations regarding future events or possible future performance of the Fund, represent Fidante Partners' assessment and interpretation of information available as at the date of this Document. No representation is made or assurance given that such statements, views, projections or forecasts are reasonable or correct or that the objectives or prospective returns of the Fund will be achieved.

Past performance information contained in this Document is not an indication of future performance.

Except insofar as liability under any law cannot be excluded, Fidante Partners, the Manager or their related entities and their respective directors, officers, employees, advisers, associates or representatives (**Fidante Group**) takes no responsibility for the information contained in this Document or in any other way for errors or omissions (including responsibility to any persons by reason of negligence). The Fidante Group is not liable to compensate Eligible Unitholders for any costs or expenses incurred in reviewing, investigating or analysing any information in relation to the Fund.

Fidante Partners has not authorised any person to give any information or make any representation in connection with the Fund which is not contained in this Document and any such information or representation not contained in this Document must not be relied upon as having been authorised by or on behalf of Fidante Partners.

An investment in the Fund is subject to investment risk, including possible delays in repayment and loss of income or capital invested. None of the Fidante Group in any way guarantees the performance of the Fund or any return of capital.

## Currency

All amounts expressed in this Document are in Australian dollars, unless specified otherwise.

## Time

All references to time in this Document are to Sydney time, unless specified otherwise.

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### What should you do?

- Step 1:** Read the Notice of Meeting and Explanatory Memorandum.
- Step 2:** If you have any questions about this Document or the Meeting, please contact the Fidante Partners Investor Services team on 13 51 53 during Sydney Business hours.
- Step 3:** Vote on the Resolution by either attending the virtual meeting at 10:00am (AEDT) 24 March 2022.

The Meeting will be made accessible to Unitholders through the online Lumi Platform which will include a facility for Eligible Unitholders to vote and ask questions in relation to the business of the Meeting.

Further instructions on how to participate in the virtual Meeting can be found below.

Eligible Unitholders who wish to participate in the Meeting online may do so from their computer, laptop, smartphone, tablet or other smart device by entering the URL into their browser: <https://web.lumiagm.com/334431904>

If you choose to participate in the Meeting on the day, you can log in to the Meeting by entering:

1. Your username, which is your Voter Access Code (**VAC**) located on your personalised proxy form enclosed with your Notice of Meeting cover letter and at the top of your Notice of Meeting cover letter.
2. Your password, which is the postcode registered to your holding if you are an Australian unitholder. Overseas unitholders should refer to the Virtual User Meeting Guide for their password details.
3. If you have been nominated as a third party proxy, please contact Boardroom Pty Ltd (**Boardroom**) on 1300 737 760 (in Australia) or +61 2 9290 9600 (International) for the log in details.

### Or

If you are not able to participate in the Meeting on the day and would like to nominate a person to attend the Meeting on your behalf, please complete and return the enclosed proxy form by mail, fax or e-mail (as specified below) so that it is received by no later than 10:00am on 22 March 2022.

Online	<a href="https://www.votingonline.com.au/agefgm22">https://www.votingonline.com.au/agefgm22</a>
Mail:	Boardroom Pty Limited GPO Box 3993, Sydney NSW 2001 Australia

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In person	Boardroom Pty Limited Level 12, 225 George Street Sydney NSW 2000 Australia
Fax:	+ 61 2 9290 9655
E-mail:	Proxy@boardroomlimited.com.au

Should you not wish to vote on the Resolution no action is required.

## NOTICE OF MEETING

### 1 Notice of Meeting

Notice is hereby given that a general meeting of the Unitholders of Alphinity Global Equity Fund (ARSN 609 473 127) (the **Fund**) will be held at 10:00am on 24 March 2022 (Australian Eastern Daylight Savings time).

The Meeting will be made accessible to Unitholders through the online Lumi Platform which will include a facility for unitholders to vote and ask questions in relation to the business of the Meeting.

Eligible Unitholders who wish to participate in the Meeting online may do so from their computer, laptop, smartphone, tablet or other smart device by entering the URL into their browser:

<https://web.lumiagm.com/334431904>

If you choose to participate in the Meeting on the day, you can log in to the Meeting as follows:

- (a) by entering your username, which is your Voter Access Code (VAC) located on your personalised proxy form enclosed with your Notice of Meeting cover letter and at the top of your Notice of Meeting cover letter.
- (b) by entering your password, which is the postcode registered to your holding if you are an Australian Unitholder. Overseas Unitholders should refer to the Virtual User Meeting Guide for their password details.
- (c) if you have been nominated as a third party proxy, by contacting Boardroom on 1300 737 760 (in Australia) or +61 2 9290 9600 (International) to obtain your log in details.

This Notice of Meeting is dated 23 February 2022

### 2 Key Dates

Event	Date
Last date for receipt of proxy forms	10:00am 22 March 2022
Last date for receipt of Certificate of Appointment of Corporate Representative (for Corporate Unitholders only)	5:00pm 23 March 2022
Meeting of Unitholders	10:00am 24 March 2022
Announcement of Meeting result	12:00pm 24 March 2022

If the Resolution is approved	
Proposed Amendments lodged with ASIC	24 March 2022
New product disclosure statement for the Fund will be issued	25 March 2022
Quotation of the Fund on the ASX	Targeting 2022 calendar year (pending operational readiness).

If the Resolution is not approved no changes to the Constitution will be made.

### 3 Important Notices

This Notice of Meeting is an important document and requires your immediate attention. This document should be read in conjunction with the accompanying Explanatory Memorandum.

If you have any questions in relation to this Notice of Meeting or the Explanatory Memorandum, please contact the Fidante Partners Investor Services team on 13 51 53 during Sydney Business hours.

### 4 Business

This Meeting has been called by Fidante Partners as responsible entity of the Fund under clause 39 of the Constitution and section 252A of the Corporations Act to consider and, if thought fit, to pass a resolution to amend the Constitution in accordance with the Supplemental Deed. The Resolution is set out in full below, and further details regarding the Resolution are set out in the Explanatory Memorandum.

### 5 The Resolution

#### 5.1 Resolution

To consider and, if thought fit, to pass as a special resolution of the Eligible Unitholders:

*"That the Constitution be amended in accordance with the provisions of the Supplemental Deed in the form tabled at the Meeting and signed by the Chairperson at the Meeting for the purposes of identification and that Fidante Partners Limited in its capacity as responsible entity of the Fund be authorised to:*

- (a) execute the Supplemental Deed and lodge it with ASIC; and*
- (b) upon the Supplemental Deed coming into effect, apply for, and do all things and take all steps that it reasonably considers to be necessary or incidental to obtain Quotation of the Class A Units on the Australian Securities Exchange."*

**Directors' recommendation:** The Directors of Fidante Partners unanimously recommend that Eligible Unitholders vote **for** this resolution.

### 6 Background to the Meeting and Resolution

Fidante Partners as responsible entity of the Fund, in conjunction with Alphinity Investment Management Pty Ltd (the **Manager**), has recently conducted a review of the Fund and its structure to ensure the Fund remains contemporary and competitive, and to investigate various options to facilitate enhanced flexibility for Unitholders.

Product innovation in the funds management industry has seen the recent development of a new dual access structure for funds (**Dual Trading Structure**) which enables unitholders to choose how they enter and exit a fund. Under a Dual Trading Structure, unitholders are given the following options in respect of how they transact with, and access, a fund:

- an investor can apply for, or redeem, units directly with the responsible entity of the fund (the traditional method); or
- an investor can buy or sell units in a fund via a securities exchange, such as the Australian Securities Exchange (**ASX**).

The manner in which a unitholder enters a fund does not affect the manner in which a unitholder exits that fund (and vice versa). Further, all units in a class are the same, irrespective of how they were acquired.

## Notice of Meeting and Explanatory Memorandum

In light of the recent development of the Dual Trading Structure, and as a result of the review of the Fund, Fidante Partners proposes that:

- subject to Unitholder approval, the Constitution be amended to permit one or more classes of Units to operate under the Dual Trading Structure. The proposed amendments to the Constitution are summarised in the Explanatory Memorandum and set out in full in the Supplemental Deed in the Annexure to the Notice of Meeting (the **Proposed Amendments**); and
- following approval of the Proposed Amendments by the Eligible Unitholders, Fidante Partners will apply for Quotation under the ASX AQUA Rules of the Class A Units on the ASX, which will then operate under the Dual Trading Structure.

It is important to note that the Proposed Amendments do not alter in any way the investment strategy of the Fund which will remain the same. It is also important to note that it is proposed that only Class A Units will be Quoted and operate under the Dual Trading Structure.

The Explanatory Memorandum describes:

- the key changes to the Constitution to include provisions which enable Fidante Partners to seek Quotation of a Class of Units on a Securities Exchange and to allow for that Class of Units to operate under the Dual Trading Structure;
- how the Dual Trading Structure will apply to Class A Units if the Resolution is approved; and
- the key advantages, disadvantages and tax implications of approving the Resolution.

We suggest that you carefully consider the nature of these changes before voting on the Resolution.

## 7 Important Information about the Meeting

### 7.1 Calling the meeting

This Meeting has been called by Fidante Partners as responsible entity of the Fund under clause 39 of the Constitution and section 252A of the Corporations Act to consider and, if thought fit, approve the Resolution.

### 7.2 Quorum and adjournment

In accordance with section 252R(2) of the Corporations Act, the quorum for this Meeting is two members present at all times during the Meeting.

If within 30 minutes from the time appointed for the Meeting a quorum is not present, the meeting will stand adjourned to the same day in the next week at the same time and place.

The quorum requirement described above will also apply to the resumed meeting. If no quorum is present at the resumed meeting with 30 minutes after the time for the start of that meeting, the meeting will be dissolved.

Under clause 40 of the Constitution, the chairperson also has power to adjourn the Meeting for any reason to such place and time as the chairperson thinks fit.

### 7.3 Resolution voting requirements

The Resolution is a special resolution which must be passed by at least 75% of the votes cast by members entitled to vote on the resolution. In accordance with section 253J(1) of the Corporations Act, the Resolution will be decided on a poll.

#### **7.4 Voting entitlements**

The holding of each Eligible Unitholder for the purposes of ascertaining the voting entitlements for the Meeting will be as it appears in the register at 5pm on the business day before the day of the Meeting.

#### **7.5 Voting exclusions**

Under the Corporations Act, Fidante Partners and its associates are not entitled to vote their interest on a resolution if they have an interest in the resolution or matter other than as a Unitholder in the Fund. Fidante Partners and its associates will not vote their interests on the Resolution. However, Fidante Partners (and its associates) may vote as proxies on the Resolution if their appointments specify the way they are to vote and they vote that way.

#### **7.6 Calculation of voting rights**

In accordance with section 253C(2) of the Corporations Act, on a poll each Eligible Unitholder has one vote for each dollar of the value of total interests they have in the Fund.

#### **7.7 Joint holders**

In the case of joint holders, section 253D of the Corporations Act provides that only the vote of the Eligible Unitholder whose name appears first in the register counts.

#### **7.8 Voting and proxies**

Eligible Unitholders can vote in either of two ways:

- (a) by attending the Meeting and voting either in person or by attorney or, in the case of corporate Eligible Unitholders, by corporate representative; or
- (b) by appointing a proxy to attend and vote on their behalf.

##### *Corporate Unitholders*

To vote in person at the Meeting, a corporation which is an Eligible Unitholder may appoint an individual to act as its representative. The appointment must comply with the requirements of section 253B of the Corporations Act. The appropriate Certificate of Appointment of Corporate Representative must be received by Boardroom by mail, fax or e-mail (specified below) by no later than 5:00pm on 23 March 2022. If you require a Certificate of Appointment of Corporate Representative to complete, please contact Fidante Partners during business hours.

Mail:	Boardroom Pty Limited GPO Box 3993, Sydney NSW 2001 Australia
Fax:	+ 61 2 9290 9655
E-mail:	proxy@boardroomlimited.com.au

##### *Appointment of a proxy*

Eligible Unitholders are entitled to appoint a proxy to attend and vote on their behalf at the meeting. A proxy need not be an Eligible Unitholder.

An Eligible Unitholder entitled to cast two or more votes at the Meeting may appoint two proxies and specify the proportion or number of votes each proxy is appointed to exercise. If the Eligible Unitholder appoints two proxies and does not specify the proportion or number of votes each proxy may exercise, then each proxy may exercise half of the votes.



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A generic proxy form accompanies this Notice of Meeting. To appoint a proxy, an Eligible Unitholder must complete and sign a proxy form and deliver or send it by post, fax or email (together with, if applicable, the original authority (or a certified copy of it) under which the proxy form is signed) so that it is received by Fidante Partners no later than 10:00am on 22 March 2022. The relevant postal address, fax number and email address are set out on page 2 of this Notice of Meeting.

If you return your proxy form but do not nominate a representative, Linda Matthews, company secretary of Fidante Partners, (**Company Secretary**) will be your proxy and will vote on your behalf as you direct on the Proxy Form.

If you have appointed the Company Secretary as your proxy (or the Company Secretary becomes your proxy) and you do not mark any of the boxes 'For', 'Against' or 'Abstain' in respect of the Resolution on the proxy form, then you will be deemed to have directed the Company Secretary to vote **in favour** of the Resolution.

### 7.9 Auditor

Section 252T of the Corporations Act provides that the auditor of the Fund and the auditor of the Fund's compliance plan are entitled to attend the Meeting and be heard at the Meeting on any part of the business of the meeting that concerns them in such capacity.

### 7.10 Minutes

Fidante Partners is required to prepare minutes for the Meeting and ensure that Unitholders are provided access to these minutes in accordance with sections 253M and 253N of the Corporations Act.

### 7.11 No personal investment advice

The information contained in this Document does not constitute personal financial product advice and has been prepared without reference to your particular investment objectives, financial situation, taxation position and needs. It is important that you read this Document in its entirety and consider your own objectives, financial situation and needs before making any investment decision and any decision on how to vote on the Resolution. If you are in any doubt in relation to these matters, you should consult your investment, financial, taxation or other professional adviser.

### 7.12 Privacy

Fidante Partners may collect personal information in the process of conducting the Meeting. Such information may include the name, contact details and security holdings of Unitholders and the name of persons appointed by Unitholders to act as a proxy, corporate representative or attorney at the Meeting. This collection is required or authorised by the Corporations Act.

The primary purpose of the collection of personal information is to assist Fidante Partners to conduct the Meeting.

From time to time, we may also be required to provide this information to a governmental or regulatory body such as ASIC, the Australian Tax Office or a law enforcement agency.

The main consequence of not collecting the personal information outlined above would be that Fidante Partners may be hindered in, or prevented from, conducting the Meeting.

Unitholders and persons appointed to act as a proxy, corporate representative or attorney at the meeting have certain rights to access and seek correction of personal information that has been collected, and should contact Fidante Partners in the first instance if they wish to access their personal information.

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Unitholders who appoint a named person to act as their proxy, corporate representative or attorney should ensure that they inform that person of these matters.

Fidante Partners' privacy policy (available at [www.fidante.com.au](http://www.fidante.com.au)) contains more information about how we usually collect, use and disclose your personal information and how you can ask for access to it or seek correction of it. Fidante Partners' privacy policy also contains information about how you can make a complaint and how we will deal with such a complaint.

If you would like further information about our privacy policies or practices, please contact Fidante Partners' Privacy Officer as specified in the privacy policy.

### **7.13 Foreign members**

This Document complies with disclosure requirements in Australia, which may be different to those in other countries.

## EXPLANATORY MEMORANDUM

### 1 Background to the Meeting

Product innovation in the funds management industry has seen the recent development of a new Dual Trading Structure which enables unitholders to choose how they enter and exit a fund. Under a Dual Trading Structure, unitholders are given the following options in respect of how they transact with, and access, a fund:

- an investor can apply for, or redeem, units directly with the responsible entity of the fund (the traditional method); or
- an investor can buy or sell units in a fund via a securities exchange, such as the ASX.

The manner in which a unitholder enters a fund does not affect the manner in which a unitholder exits that fund (and vice versa). Further, all units in a class are the same, irrespective of how they were acquired.

In light of the recent development of the Dual Trading Structure, and as a result of the review of the Fund, Fidante Partners proposes that:

- subject to Unitholder approval, the Constitution be amended to permit one or more classes of Units to operate under the Dual Trading Structure. The Proposed Amendments are summarised in this Explanatory Memorandum and set out in full in the Supplemental Deed in the Annexure to the Notice of Meeting; and
- following approval of the Proposed Amendments by the Eligible Unitholders, Fidante Partners will apply for Quotation under the ASX AQUA Rules of the Class A Units on the ASX, which will then operate under the Dual Trading Structure.

It is important to note that the Proposed Amendments do not alter in any way the investment strategy of the Fund which will remain the same. It is also important to note that it is proposed that only Class A Units will be Quoted and operate under the Dual Trading Structure.

We suggest that you carefully consider the nature of these changes before voting on the Resolution.

### 2 Resolution

#### 2.1 What is the Resolution?

*'That the Constitution be amended in accordance with the provisions of the Supplemental Deed in the form tabled at the Meeting and signed by the Chairperson at the Meeting for the purposes of identification and that Fidante Partners in its capacity as responsible entity of the Fund be authorised to:*

- execute the Supplemental Deed and lodge it with ASIC; and*
- upon the Supplemental Deed coming into effect, apply for, and do all things and take all steps that it reasonably considers to be necessary or incidental to obtain Quotation of the Class A Units on the Australian Securities Exchange.'*

#### 2.2 Why is the Resolution being proposed?

The Resolution is being proposed because amendments (as set out in the Supplemental Deed) will need to be made to the Constitution to allow Fidante Partners to implement the Quotation of

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Class A Units on the ASX and to allow the Class A Units to be operate under the Dual Trading Structure.

Accordingly, the Proposed Amendments include changes to the Constitution to allow for Unitholders to acquire and dispose of their Units both directly with Fidante Partners (in the usual course) or to buy or sell their Units on a Securities Exchange. The Proposed Amendments also give the responsible entity specific powers to seek and maintain Quotation of a Class of Units on a Securities Exchange.

It is important to note that the Fund currently has two classes of Units on issue: The Founders Class (**Class F**) and a publicly available Retail Class (**Class A**). If the Resolution is approved, Fidante Partners only intends to Quote Class A Units on the ASX in order to provide existing and prospective Class A Unitholders with an ability to acquire or dispose of Class A Units via the Securities Exchange. Fidante Partners does not currently intend to seek the Quotation of Class F Units because of its restricted availability and limited investor base.

### 2.3 What are the Proposed Amendments?

The Proposed Amendments are set out in full in the Supplemental Deed which is included in the Annexure to the Notice of Meeting.

The following table summarises the proposed changes and provides an explanation as to why the changes are being proposed.

Proposed Amendments	Summary of Amendment	Explanation
<b>Quotation of a Class of Units</b>	<p>Fidante Partners may, at any time, apply for Quotation of a Class. Fidante Partners must promptly notify Unitholders in that Class of the decision to seek Quotation of Units in that Class.</p> <p>Quotation of a Class of Units will mean that Class is quoted on the Securities Exchange (but does not mean that Class is quoted on the main board of a Securities Exchange and/or admitted to the official list).</p>	<p>There is currently no provision in the Constitution which expressly allows Fidante Partners to seek Quotation of a Class of Units.</p> <p>These amendments mean that Class A Units (and any other Classes of Units) may be Quoted on a Securities Exchange such as the ASX. Specific Unitholder approval will not be required prior to the Quotation of a Class, but Fidante Partners must notify the Unitholders of the relevant Class of its decision to seek Quotation prior to submitting the application for Quotation to the ASX.</p>
<b>Compliance with Operating Rules and other regulatory required provisions</b>	<p>The Proposed Amendments include both general and, where required, specific provisions such that while a Class of Units is Quoted:</p> <ul style="list-style-type: none"><li>the Constitution is expressed to be subject to the relevant clearing, settlement and Operating Rules applicable to the relevant Securities Exchange on which the Class is Quoted;</li></ul>	<p>These provisions are necessary to regulate a Quoted Class of Units and are required if the Class A Units are to be Quoted on the ASX.</p>

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Proposed Amendments	Summary of Amendment	Explanation
	<ul style="list-style-type: none"> <li>provisions of the Corporations Act, any ASIC relief, the ASX listing rules and the official Operating Rules applicable to the relevant Securities Exchange will apply to the Constitution and are taken to amend the Constitution as required. The Operating Rules and other regulatory required provisions will prevail over any other provision of the Constitution to the extent of any inconsistency.</li> </ul> <p>Other consequential amendments to the Constitution are required to contemplate a Quoted class (including to the issue and redemption price, minimum redemption amounts and the transfer provisions).</p>	
<b>Market making activities</b>	<p>While a Class is Quoted and subject to the Operating Rules, Fidante Partners may from time to time in relation to that Class, offer and/or agree to sell Units in that Class on-market, and issue Units in that Class to itself, for the purposes of fulfilling the sale of Units in that Class on-market.</p> <p>Fidante Partners may also from time to time, in relation to a Class that is Quoted, offer and/or agree to purchase Units in that Class on-market to facilitate the on-market withdrawal of Units in that Class by a Unitholder.</p>	<p>In order to facilitate the buying and selling of Units on-market while a Class is Quoted, Fidante Partners will undertake a market making role to provide liquidity.</p> <p>As the market maker, Fidante Partners will be required to issue or redeem Units on market as well as issue or redeem Units to itself for the purpose of fulfilling its market obligations following the sale or purchase of units of the relevant Securities Exchange.</p> <p>Third-party service providers may also need to be appointed to assist Fidante Partners in the market making activities if a Class is Quoted.</p>
<b>Rounding of units and fractional units</b>	<p>A new 'rounding' clause will be inserted to give Fidante Partners the power to round up or down calculations made under the Constitution to the number of decimal places as determined by Fidante Partners (or to the nearest whole number), cancel parts of Units and to round up or down any amounts payable under the Constitution to the nearest cent as determined by Fidante Partners. An express power has also been inserted to allow Fidante Partners to round down any fractional units that are to be recorded on any sub-register required by the ASX.</p>	<p>The new 'rounding' clause and amendment to the 'Parts of Units' clause are to give Fidante Partners the power to round existing fractional units to a whole number or cancel parts of Units. This is because only whole units can be traded via the ASX.</p>

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Proposed Amendments	Summary of Amendment	Explanation
	The existing 'Parts of Units' clause will be amended to clarify that Fidante Partners may round fractional Units to a whole number, including after the creation and issue of such fractional Units.	
<b>Applications and redemptions</b>	It will be possible to acquire or dispose of Units which are Quoted on a Securities Exchange either by making an application or redemption directly with Fidante Partners (as is currently permitted), or by buying or selling such Units on a Securities Exchange on which they are Quoted (e.g. ASX).	<p>Currently, Unitholders wishing to acquire or dispose of Units must complete application or redemption forms for their investment directly with Fidante Partners and Unit Registrar.</p> <p>The Proposed Amendments will mean that once Quoted, Units in a Class will have the benefit of the Dual Trading Structure which will mean Units in that Class can be acquired or redeemed directly with Fidante Partners (in accordance with the current process) or be able to be bought and sold on-market.</p>
<b>Transfers</b>	The Proposed Amendments outline how transfers operate where Units are Quoted. While a Class is Quoted, a Unitholder may transfer their Units as provided by the Operating Rules. It also permits Fidante Partners to place a holding lock to prevent a transfer of Quoted Units where permitted to do so under the Operating Rules.	The amendments are required to address transfers while Units in a Class are Quoted (which are subject to the Operating Rules).
<b>Other amendments not related to Dual Trading Structure</b>	<p>The following other amendments to the Constitution are proposed which are not directly related to the implementation of the Dual Trading Structure:</p> <ul style="list-style-type: none"> <li>• insert a new 'classes' clause which clarifies that where Units of different Classes are issued, the terms of those Units may, among other matters, provide for an issue price or redemption price that is calculated in a way that is different from the price set out in the Constitution or create rights which are preferred or subordinate to those that apply to other units or another class;</li> <li>• insert a provision which gives Fidante Partners an express power to establish and issue an ETF Class Unit (which would operate as a Quoted class that</li> </ul>	<ul style="list-style-type: none"> <li>• The new classes clause is intended to clarify the existing position in clause 4 of the Constitution which allows Fidante Partners to create different classes on various terms.</li> <li>• The ETF Class Unit provision has been included to provide Fidante Partners with the power to create a traditional ETF class which would not operate under the Dual Trading Structure. An ETF Class is not proposed to be created while there is a Class of Units that is</li> </ul>

Proposed Amendments	Summary of Amendment	Explanation
	<p>does not have the Dual Trading Structure feature);</p> <ul style="list-style-type: none"> <li>• amend the duration of the Fund such that Fidante Partners cannot issue or redeem any Units from the 80<sup>th</sup> anniversary of the commencement of the Fund if that issue or redemption would cause a contravention of the rule against perpetuities or any other law or equity</li> <li>• amend the existing 'Meetings' clause to permit meetings of Unitholders to be held physically (with or without using virtual meeting technology) or using virtual meeting technology only; and</li> <li>• other minor and tidy-up amendments.</li> </ul>	<p>separately operating under the Dual Trading Structure.</p> <ul style="list-style-type: none"> <li>• The duration clause has been amended to make it clear that the issue or redemption of Units by Fidante Partners must not contravene the rule against perpetuities or any other law or equity.</li> <li>• The amendments to the existing 'Meetings' clause are required to permit the holding of meeting of Unitholders using virtual meeting technology only once the legislative measure introduced as a result of COVID-19 are no longer in force.</li> </ul>

## 2.4 What happens if the Resolution is approved?

If the Resolution is approved, the Constitution will be amended as set out in the Supplemental Deed upon lodgement of the Supplemental Deed with ASIC. As a Unitholder, you will be bound by the terms of the Supplemental Deed even if you did not vote in favour of the Resolution.

Following approval of the Resolution, Fidante Partners will apply for the Quotation of the Class A Units on the ASX at a time determined by Fidante Partners, having regard to the operational readiness of the Fund, market conditions and subject to ASX approval. It may be necessary for Fidante Partners to undertake a consolidation of Class A Units prior to Quotation to facilitate trading on the ASX. Fidante Partners will notify Unitholders of its decision to seek Quotation of the Class A Units 30 days' prior to the proposed Quotation on the ASX.

Following such Quotation, the Class A Units will be subject to the Dual Trading Structure. Fidante Partners will bear the upfront and ongoing exchange-related fees and costs associated with the Quotation of the Class A Units on the ASX and accordingly, the Dual Trading Structure will not give rise to an increase in the direct costs borne by the Fund.

The Dual Trading Structure allows investors to access the Fund by buying or selling Class A Units via the ASX and/or directly with Fidante Partners (in the usual course). Set out in the table below is a summary of how the Dual Trading Structure will operate in respect of the Class A Units once Quoted.

	Buying / Selling Units on Securities Exchange	Acquiring / Redeeming Units with Fidante Partners
How to acquire / redeem	Investors can buy or sell Class A Units on the ASX in the same way that they may be able to buy or sell shares in listed	Investors must complete an application form or redemption request (as applicable) and submit it to Fidante Partners.

	companies. An application form or a redemption request is not required.	
What is the issue / redemption price?	<p>The entry / exit price will be the price at which the investor has purchased or sold the Class A Units on the ASX.</p> <p>Investors will have the ability to buy and sell Class A Units via the ASX at what is generally expected to be a tight spread to indicative net asset value (<i>iNAV</i>) per Unit given the price is generally referable to market prices of the underlying portfolio of securities during the trading day.</p>	Where investors apply for or redeem their Class A Units directly with Fidante Partners, the price of their Class A Units is determined by reference to the actual net asset value ( <b>NAV</b> ) per Class A Unit (plus or minus the buy or sell spread). The NAV is calculated in accordance with the Fund's constitution and is the value of all the Fund's assets attributed to the Fund (or specific unit class) less the value of the Fund's (or specific unit class') liabilities at the valuation time
Minimum number of units to acquire	No minimum number subject to ASX requirements.	\$10,000 for initial application (\$1,000 for regular savings plan) and \$1,000 for additional investments (\$100 for additional investments via regular savings plan).

As noted above, the manner in which an investor enters the Fund does not affect the manner in which that investor exits the Fund. For example, once Quoted, an investor can buy Class A Units on-market on the ASX but choose to redeem their Class A Units directly with Fidante Partners. To allow the 'switching' between the method of entry and exit to occur, Fidante Partners intends to establish two sub registers on which Unitholders may hold their Class A Units:

- (a) an issuer sponsored sub register which will be a continuation of the current register for Unitholders who **do not** wish to trade their Class A Units via the ASX or who are subsequently issued Class A Units after submitting an application form; and
- (b) a CHESS sponsored sub register for Unitholders who have purchased their Class A Units via the ASX or wish to trade their Class A Units on the ASX.

Under the Dual Trading Structure, Unitholders holding their Class A Units on one particular sub register can request for their Class A Units to be transferred to the alternate sub register, subject to any conditions which Fidante Partners may require for the change in sub register.

## 2.5 What if the Resolution is not approved?

If the Resolution is not approved no amendments to the Constitution will be made and you will not be bound by the terms of the Supplemental Deed. The Constitution as currently drafted will continue to apply and the Dual Trading Structure will not be implemented.

## 2.6 Reasons you may choose to vote in favour of the Resolution

### I. Choice and flexibility:

If the Resolution is approved and Class A Units are Quoted on the ASX, Class A Unitholders will be able to choose the manner in which they transact their Class A Units (either directly



with Fidante Partners or via the ASX). The manner in which a particular Class A Unitholder enters the Fund does not affect the manner in which they exit the Fund.

For existing Class A Unitholders who wish to continue to hold their Class A Units in the current manner, they are able to continue transacting directly with Fidante Partners for applications and redemptions in the ordinary course. That is, they can apply for or redeem their Class A Units with Fidante Partners directly at a price based on the NAV per unit as determined on the following business day as set out in the Constitution.

The implementation of the Dual Trading Structure will mean that Class A Unitholders also have the flexibility to buy and sell their Class A Units on the ASX. Fidante Partners may provide liquidity to investors on the ASX by acting as a buyer and seller of Class A Units. The price at which an investor buys or sells Class A Units on the ASX will be determined by the relevant price at which that investor bought or sold Class A Units on the ASX (i.e. market price) and not determined based on the NAV per unit.

Class A Unitholders have the ability to 'switch' between how they transact their Class A Units without any tax consequences. In other words, an investor who acquires Class A Units on the ASX may, at any time, determine that they wish to redeem those Class A Units directly with Fidante Partners. Likewise, an investor who applies for Class A Units by submitting an application form directly with Fidante Partners may, at any time, exit the Fund by selling their Class A Units on the ASX. The manner in which an investor enters and exits the Fund will determine the price at which they enter / exit the Fund (see section 2.4 above).

## **II. No increase in management fees and direct costs**

The implementation of the Dual Trading Structure will mean the Fund will be subject to additional costs which would otherwise not be payable by the Fund if the Class A Units are not Quoted. Such costs include the cost of seeking Quotation on the ASX, ongoing fees payable to the ASX to maintain Quotation and indirect costs (such as the costs payable to a service provider to calculate the iNAV).

Fidante Partners will bear all costs associated with seeking Quotation of Class A Units on the ASX as well as other direct exchange-related costs. Accordingly, there will be no increase to the management fees payable to Fidante Partners or direct exchange-related costs paid out of the Fund as a result of implementing and maintaining the Dual Trading Structure.

## **III. Certainty of Pricing and Increased Transparency**

The Quotation of Class A Units allows Class A Unitholders to transact at a real-time price at any time during the ASX trading day.

Because Class A Units are able to be traded via the ASX, Fidante Partners will provide a live intraday iNAV on the Fund's website (generally updated every 1 second) which provides increased transparency on the indicative valuation of the Fund, giving comfort to investors with regards to the price at which they may transact Class A Units on the ASX. This will be in addition to the current daily application and redemption price (based on NAV) for the Class A Units on the Fund's website.

The Dual Trading Structure means that Class A Unitholders will also benefit from greater transparency and reporting of portfolio holdings of Class A Units which will be disclosed to the ASX each quarter (on a lagged basis).

## **IV. Increased regulatory oversight**

Once Class A Units are Quoted, they will be subject to the ASX AQUA Rules and increased regulatory oversight by the ASX with enhanced disclosure obligations. This will mean Class

A Unitholders will benefit from the additional oversight that the ASX will provide with respect to the Fund.

**V. Potential Economies of Scale**

There are potential operational efficiencies due to the likely proportionately lower transactional and operational costs (when calculated as a percentage of the Fund's funds under management (**FUM**)) resulting from the implementation of the Dual Trading Structure. This is because under the Dual Trading Structure, there will be increased access points to the Fund (i.e. investors will be able to also access the Class A Units via the ASX) which may lead to a growth in the Fund's FUM.

**VI. Greater certainty with regards to settlement times**

Class A Units which are sold on the ASX will be settled in accordance with the ASX settlement timeframes. This means that Class A Unitholders who choose to sell their Class A Units via the ASX will have greater certainty with regards to the timing of receiving the proceeds of the sale compared to redeeming their Class A Units directly with Fidante Partners (where, under the Constitution, Fidante Partners has up to 21 days from the date of the redemption to pay the redemption amount).

**2.7 Reasons you may choose to vote against the Resolution**

**I. Market making losses (and profits) attributed across Class A or the whole Fund**

As the market maker, Fidante Partners will provide liquidity to investors who wish to buy or sell Class A Units on the ASX by acting as a buyer and seller of such units. In undertaking this role, there is a risk that Class A could suffer a loss (e.g. by error in execution of the transaction or as a result of the price at which the Class A Units are transacted on the ASX) which may adversely affect the NAV of the Fund. Such losses will be borne by all Class A Unitholders, irrespective of the manner in which they acquired Class A Units. For completeness, all Class A Unitholders will, in the same way, be exposed to any profits arising from Fidante Partner's role as market maker.

All losses and profits from market making are expected to be immaterial and will be continuously monitored. The impact of market making losses may be reduced by the expected increase in FUM, specific controls implemented to monitor accuracy of the iNAV and the implementation of hedging processes.

It should also be noted that while in practice any market making losses will be attributed to Class A only, as there is no legal segregation of liabilities across classes, there is a risk that such market making losses will be borne by all unitholders of the Fund, including unitholders in all unit classes.

**II. All Unitholders subject to Securities Exchange rules**

Once Class A Units are Quoted, the Fund will be subject to the ASX AQUA Rules which will apply to a Class A Unitholder irrespective of whether they acquired Class A Units on or off market. The ASX AQUA Rules may impose additional constraints on the Fund and the Class A Unitholders (for example, the ASX AQUA Rules may change in the future such that the Fund is no longer able to invest in certain securities which is part of the current investment strategy). While the ASX AQUA Rules do not currently impose restrictions on the investment strategy of the Fund, this may change in the future.

**III. Fractional Units may be rounded to a whole number**

If you hold fractional Units in Class A (i.e. Units where the numerical quantity is not a whole number), and if you decide to switch your holding to transact via the ASX, any fractions of such Units on issue at a time when the Units are to be Quoted will be rounded to a whole number with effect from the date of Quotation. The reason for this is that only whole units can be traded via the ASX. It is anticipated that this will have a negligible impact on Class A Unitholders. For example, if you held 125.1234 Class A Units, this would be rounded to 125 Class A Units.

#### **IV. Increased Operational Risk**

There will be increased operational risks introduced by the Dual Trading Structure, including risks associated with the additional commitments and obligations that Fidante Partners will have in order to give effect to the Dual Trading Structure. Operating the Fund under the Dual Trading Structure requires Fidante Partners and external service providers to implement sophisticated systems and procedures, including systems and procedures that relate to the Securities Exchange activities. Inadequacies with these systems and procedures or the people operating them could lead to a problem with the Fund's operation and result in a decrease in the value of the Units.

#### **V. iNAV Risk**

As the Dual Trading Structure will permit Class A Units to be transacted on the ASX, Fidante Partners will publish the iNAV of the Class A Units on its website to assist in determining the market price of the Quoted Class A Units. There is a risk that the calculation of the iNAV may not accurately reflect the underlying NAV of the Fund or that it may not be up to date. To mitigate this risk, Fidante Partners will engage a party experienced in calculating and disseminating the iNAV, which will assist Class A Unitholders and potential investors to track the fair value of Class A Units and compare it to the traded price to help decide when to buy and sell Class A Units.

#### **VI. Indirect costs associated with Quotation**

As noted above, the implementation of the Dual Trading Structure will mean the Fund will be subject to additional costs which would otherwise not be payable by the Fund if the Class A Units are not Quoted. While Fidante Partners will bear all upfront and ongoing direct exchange-related costs associated with implementing and maintaining the Dual Trading Structure, indirect costs such as the costs payable to a service provider to calculate the iNAV or the costs of running two sub-registers will be an additional expense that may be recovered from the Fund. Such indirect costs will be attributable to Class A only, but as there is no legal segregation of liabilities across classes, there is a risk that such indirect costs will be borne by all unitholders of the Fund.

### **2.8 Taxation implications**

If the Resolution is approved at the Meeting, the Proposed Amendments to the Constitution should not result in a capital gains tax (CGT) event or trust resettlement.

### **2.9 Directors' recommendation**

The Directors of Fidante Partners have carefully considered the advantages and disadvantages of the Resolution and unanimously recommend that the Eligible Unitholders vote **in favour** of the Resolution.

## 2.10 Intentions of Fidante Partners and its associates with respect to its own unitholding

Fidante Partners and its associates currently hold a small amount of Units in the Fund. Under the Corporations Act, Fidante Partners and its associates are not entitled to vote their interests on a resolution if they have an interest in the resolution or matter other than as a member of the Fund.

Fidante Partners and its associates will not vote their interests on the Resolution. However, Fidante Partners may vote as proxies on the Resolution if their appointments specify the way they are to vote and they vote that way.

## 3 Definitions and Interpretation

### 3.1 Definitions

In this Notice of Meeting and in the Explanatory Memorandum the following definitions apply unless the context otherwise requires. In addition, capitalised terms used in this document are as defined in the Constitution, unless otherwise indicated.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** or **Australian Securities Exchange** means ASX Limited or a licensed market operated by that company (whichever the context requires).

**ASX AQUA Rules** means the rules set out in Schedule 10A of the Operating Rules for the ASX.

**Class** means a class of Units, being Units which have the same rights (disregarding any differences connected with the first distribution following an issue of Units).

**Class A** has the meaning give to that term in section 2.2 of the Explanatory Memorandum.

**Class A Unit** means a Unit which has been determined by Fidante Partners to be a Unit in Class A.

**Class A Unitholder** means a registered holder of a Class A Unit.

**Class F** has the meaning give to that term in section 2.2 of the Explanatory Memorandum.

**Constitution** means the constitution of the Fund dated 19 November 2015, as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Dual Trading Structure** has the meaning given to that term in section 6 of the Notice of Meeting.

**Eligible Unitholder** means a Unitholder eligible to attend and vote on the Resolution.

**Explanatory Memorandum** means the explanatory memorandum accompanying this Notice of Meeting.

**Fund** means Alphinity Global Equity Fund (ARSN 609 473 127).

**iNAV** has the meaning give to that term in section 2.4 of the Explanatory Memorandum

**Operating Rules** means the official operating rules of the entity that operates a Securities Exchange on which the Units are Quoted, as modified or supplemented in relation to the Fund.

**Proposed Amendments** has the meaning given to that term in section 6 of the Notice of Meeting.

**Quoted** means quoted on the Securities Exchange in accordance with the applicable Operating Rules, but does not include where the quotation is of Units on the main board of a Securities Exchange in connection with the Fund being admitted to the official list of that Securities Exchange, and **Quotation** has a corresponding meaning

**Resolution** means the proposed resolution set out in section 5.1 of this Notice of Meeting.

**Securities Exchange** means a financial market, including the ASX, on which Units are traded (or, where applicable, it is proposed they be traded).

**Supplemental Deed** means the supplemental deed in respect of the Constitution as set out in the Annexure

**Unit** means an ordinary unit in the capital of the Fund.

**Unitholder** means a registered holder of a Unit.

### 3.2 Interpretation

The following rules of interpretation apply unless the context requires otherwise.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after *includes, including, for example*, or similar expression does not limit what else might be included.
- (c) The singular includes the plural, and the converse also applies.
- (d) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (e) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (f) A reference to a section is a reference to a clause of this Notice of Meeting or the Explanatory Memorandum (as applicable).
- (g) A reference to an agreement or document (including a reference to this Notice of Meeting or the Explanatory Memorandum) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to time is the time in Sydney, Australia.

Notice of Meeting and Explanatory Memorandum

**Generic Proxy Form**



#### All Correspondence to:

- By Mail** Boardroom Pty Limited  
GPO Box 3993  
Sydney NSW 2001 Australia
- By Fax:** +61 2 9290 9655
- Online:** [www.boardroomlimited.com.au](http://www.boardroomlimited.com.au)
- By Phone:** (within Australia) 1300 737 760  
(outside Australia) +61 2 9290 9600

## YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 10:00am on Tuesday 22nd March 2022.**

### TO VOTE ONLINE

- STEP 1:** VISIT <https://www.votingonline.com.au/agefgm22>
- STEP 2:** Enter your Postcode OR Country of Residence (if outside Australia)
- STEP 3:** Enter your Voting Access Code (VAC):

### BY SMARTPHONE



Scan QR Code using smartphone  
QR Reader App

### TO VOTE BY COMPLETING THE PROXY FORM

#### STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

If you wish to appoint Linda Matthews, company secretary of Fidante Partners Limited (Company Secretary) as your proxy, mark the box. If you wish to appoint someone other than the Company Secretary as your proxy please write the full name of that individual or body corporate. If you leave this section blank, or your named proxy does not attend the meeting, the Company Secretary will be your proxy. A proxy need not be a unitholder in the Alphinity Global Equity Fund (Fund). Do not write the name of Fidante Partners Limited or the registered unitholder in the space.

##### Appointment of a Second Proxy

You are entitled to appoint up to two proxies to attend the meeting and vote. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by contacting the Fund's registry or you may copy this form.

To appoint a second proxy you must:

- (a) complete two Proxy Forms. On each Proxy Form state the percentage of your voting rights or the number of units applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- (b) return both forms together in the same envelope.

#### STEP 2 VOTING DIRECTIONS TO YOUR PROXY

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

##### Proxy which is a Body Corporate

Where a body corporate is appointed as your proxy, the representative of that body corporate attending the meeting must have provided a "Certificate of Appointment of Corporate Representative" to Boardroom by 5:00pm 23 March 2022 by mail, fax or e-mail (specified below). A Certificate of Appointment of Corporate Representative form can be obtained by contacting Fidante Partners during business hours.

#### STEP 3 SIGN THE FORM

The form **must** be signed as follows:

**Individual:** This form is to be signed by the unitholder.

**Joint Holding:** where the holding is in more than one name, all the unitholders should sign.

**Power of Attorney:** to sign under a Power of Attorney, you must have already lodged it with the registry. Alternatively, attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** this form must be signed by a Director jointly with either another Director or a Company Secretary. Where the company has a Sole Director who is also the Sole Company Secretary, this form should be signed by that person. **Please indicate the office held by the person(s) signing in the appropriate place.**

#### STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **10:00am on Tuesday 22 March 2022**. Any Proxy Form received after that time will not be valid for the scheduled meeting.

Proxy forms may be lodged using the enclosed Reply Paid Envelope or:

**Online** <https://www.votingonline.com.au/agefgm22>

**Email** [proxy@boardroomlimited.com.au](mailto:proxy@boardroomlimited.com.au)

**By Fax** + 61 2 9290 9655

**By Mail** Boardroom Pty Limited  
GPO Box 3993,  
Sydney NSW 2001 Australia

**In Person** Boardroom Pty Limited  
Level 12, 225 George Street,  
Sydney NSW 2000 Australia

**Email** [proxy@boardroomlimited.com.au](mailto:proxy@boardroomlimited.com.au)

**By Fax** + 61 2 9290 9655

**By Mail** Boardroom Pty Limited  
GPO Box 3993  
Sydney NSW 2001 Australia

# Fidante Partners Limited

ABN 94 002 835 592

## Generic Proxy Voting Form

Insert Account Number:

Insert Account Name:

☐

### Your Address

This is your address as it appears on the Fund's unit register. If this is incorrect, please mark the box with an "X" and make the correction in the space to the left. Unitholders sponsored by a broker should advise their broker of any changes.

**Please note, you cannot change ownership of your units using this form.**

## PROXY FORM

### STEP 1 APPOINT A PROXY

I/We being a Unitholder/s of the Alphinity Global Equity Fund ARSN 609 473 127 (Fund) and entitled to attend and vote hereby appoint:

☐

**Linda Matthews, company secretary of Fidante Partners Limited (ABN 94 002 835 592) (Company Secretary) (mark box)**

**OR** if you are **NOT** appointing the Company Secretary as your proxy, please write the name of the person or body corporate you are appointing as your proxy below. **Note, do not write the registered unitholders name in the box.**

or failing the individual or body corporate named, or if no individual or body corporate is named, the Company Secretary as my/our proxy at the Meeting of the Fund to be held virtually **on Thursday, 24 March 2022 at 10:00 am** and at any adjournment of that Meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

The Company Secretary intends to vote undirected proxies in favour of the Resolution.

### STEP 2 VOTING DIRECTIONS

If you have appointed a proxy in Step 1, you should mark the appropriate box next to the Resolution with your voting direction. If you are not allocating 100% of your units to a particular box (i.e. you are allocating votes to multiple voting options), please record the percentage or number of units to be allocated to each voting option in the appropriate box.

\*If you appoint the Company Secretary as your proxy (or the Company Secretary becomes your proxy by default) in relation to the Resolution but you do not complete any of the boxes opposite the Resolution, you will be directing the Company Secretary to vote in favour of the Resolution. If you want to appoint the Company Secretary and want the Company Secretary to vote against or abstain from voting on the Resolution you should mark the appropriate box.

\*\*If you mark the Abstain box for a particular item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your vote will not be counted in calculating the required majority if a poll is called.

Resolution\* That the Constitution be amended in accordance with the provisions of the Supplemental Deed in the form tabled at the Meeting and signed by the Chairperson at the Meeting for the purposes of identification and that Fidante Partners in its capacity as responsible entity of the Fund be authorised to:

- (a) execute the Supplemental Deed and lodge it with ASIC; and
- (b) upon the Supplemental Deed coming into effect, apply for, and do all things and take all steps that it reasonably considers to be necessary or incidental to obtain quotation of the Class A Units on the Australian Securities Exchange.

For Against Abstain\*\*

☐☐☐

### STEP 3 SIGNATURE OF UNITHOLDERS

This form must be signed to enable your directions to be implemented.

Individual or Unitholder 1

Sole Director and Sole Company Secretary

Unitholder 2

Director

Name of Unitholder 1:.....

Name of Unitholder 2:.....

Contact Name:.....

Contact Daytime Telephone:.....

Date / / 2022



Notice of Meeting and Explanatory Memorandum

**Annexure – Supplemental Deed**

# Supplemental Deed

Alphinity Global Equity Fund

ARSN 609 473 127

Fidante Partners Limited (**Responsible  
Entity**)

ABN 94 002 835 592

# Supplemental Deed

## Alphinity Global Equity Fund

~\*~

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<b>Details</b>	<b>3</b>
<b>Agreed terms</b>	<b>4</b>
1. Defined terms	4
2. Amendments to the Constitution	4
3. Operation of amendments	4
4. Remaining provisions unaffected	4
5. No resettlement	4
6. Binding provisions	4
7. Electronic signing	5
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# Details

Date

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## Parties

Name	<b>Fidante Partners Limited</b>
ABN	94 002 835 592
Short form name	<b>Responsible Entity</b>

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## Background

- A The Alphinity Global Equity Fund (**Fund**) is governed by a constitution dated 19 November 2015 as amended from time to time (**Constitution**).
- B The Responsible Entity is the responsible entity of the Fund.
- C Pursuant to clause 45 of the Constitution, the Responsible Entity may by supplemental deed, make any modification, addition or deletion to the Constitution, subject to the *Corporations Act 2001* (Cth) (the **Act**).
- D The Fund is registered as a registered managed investment scheme under the Act.
- E On 24 March 2022, the Holders resolved that the Constitution be amended in accordance with this deed. Accordingly, this deed amends the Constitution to give effect to the resolution of the Holders.
- F In accordance with section 601GC(2) of the Act, the amendments to the Constitution set out in this deed do not take effect until a copy has been lodged with the Australian Securities and Investments Commission.

# Agreed terms

## 1. Defined terms

Terms defined in the Constitution have the same meaning in this deed unless otherwise stated or the context requires otherwise.

## 2. Amendments to the Constitution

Subject to **clause 3**, pursuant to clause 45 of the Constitution, the Constitution is amended in the form of the **Schedule** to this deed, so that the words, numbers and symbols which are:

- (a) underlined are inserted into the Constitution; and
- (b) struck through are deleted from the Constitution.

## 3. Operation of amendments

The amendments to the Constitution contained in this deed take effect on and from the date on which a copy of the amendments is lodged with the Australian Securities & Investments Commission (**Effective Time**).

## 4. Remaining provisions unaffected

Except as amended by this deed, all terms and conditions of the Constitution remain in full force and effect. With effect from the Effective Time, the Constitution as amended by this deed is to be read as a single integrated document incorporating the amendment effected by this deed.

## 5. No resettlement

The Responsible Entity confirms that it is not, by **clause 2** of this deed:

- (a) resettling the Trust;
- (b) re-declaring the Trust;
- (c) causing the transfer, vesting or accruing of property in any person; or
- (d) entering into a new constitution.

Other than the amendments made in this deed, the Constitution continues in full force and effect.

## 6. Binding provisions

The provisions of this deed are binding on the Responsible Entity, each Holder and all persons claiming through them as if each party were a party to this deed.

## 7. Electronic signing

The Responsible Entity may sign electronically a soft copy of this deed through DocuSign or by signing this deed by some other electronic method (including signing by stylus or pasting of the signatory's signature), and bind itself accordingly. This will satisfy any statutory or other requirements for this deed to be in writing and signed by the Responsible Entity. The signatories intend that:

- (a) any soft copy so signed will constitute an executed original counterpart, and any print-out of the copy with the relevant signatures appearing will also constitute an executed original counterpart; and
- (b) where a signatory prints out this deed after all signatories that are signing electronically have done so, the first print-out by that party after all signatories who are signing through DocuSign (or other electronic method or signature) will also be an executed original counterpart of this deed. Each signatory confirms that their signature appearing in this deed, including any such print-out (irrespective of which party printed it), is their personal signature authenticating it.

## 8. Governing law and jurisdiction

This deed is governed by the law of the State of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.

# Signing page

**EXECUTED AND DELIVERED** as a deed.

Each attorney executing this deed states that they have no notice of revocation or suspension of their power of attorney.

**Signed Sealed and Delivered** for **Fidante Partners Limited** by its attorney under power of attorney dated 27 October 2017 in the presence of:

_____	←	_____	←
Signature of attorney		Signature of witness	

_____	_____
Name of attorney (print)	Name of witness (print)

Each of the authorised signatories and the witnesses state that this deed was signed in counterpart and witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW).

# Schedule 1 – Constitution



# Constitution

## **Alphinity Global Equity Fund**

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Fidante Partners Limited (**Responsible Entity**)  
ABN 94 002 835 592

**Dated: 19 November 2015**

Date

## Parties

Name	Fidante Partners Limited
ABN	94 002 835 592
Short form name	Responsible Entity
Notice details	Level 2, 5 Martin Place, SYDNEY, NSW 2000

1. **CONSTITUTION** By this deed (**Constitution**) the Responsible Entity constitutes the unit trust (**Trust**) called the Alphinity Global Equity Fund. The Responsible Entity may change the name of the Trust in accordance with the Act.

The Responsible Entity is the responsible entity of the Trust for the purposes of the Act and the trustee of the Trust. The Trust is constituted for the benefit of ~~holders~~ (Holders) of units in the Trust (**Units**). This Constitution is the constitution of the Trust for the purposes of the Act and is binding upon the Holders (including former and ~~further~~future Holders) and the Responsible Entity as if each were a party to this Constitution.

For the purposes of this Constitution, if the provisions of the Act and this Constitution conflict on the same matter, the provisions in the Act prevail.

2. **VESTING** All property, rights and income of the Trust (**Trust Property**) vest in the Responsible Entity on trust for the Holders.
3. **FUND** The Responsible Entity must hold all Trust Property as a separate fund (**Fund**) which is not available to meet Trust Liabilities of any other trust. The Responsible Entity may mingle Trust Property with other property, except to the extent that the law or this Constitution may prohibit. **Trust Liabilities** include borrowings, accrued costs, charges, expenses and outgoings, contingent liabilities, provisions the Responsible Entity decides to make (including, but not limited to, a provision for accrued fees), unpaid distributions due to Holders and other unpaid remuneration (if any) due to the Responsible Entity, determined in accordance with generally accepted accounting principles.
4. **UNITS** The beneficial interest in the Fund is divided into Units. A Unit confers on its Holder an undivided beneficial interest in the Fund as a whole, subject to Trust Liabilities, not in parts or single assets. All Units in the Fund confer identical interests and rights except as otherwise provided in this Constitution or by their respective terms of issue.

### Consolidation, division and issue of Units

~~Subject to the Act (and, while a Class is Quoted, the Operating Rules), the Responsible Entity may at any time consolidate, divide, or issue Units, create and issue Units of different ~~classes~~ ~~(Class)~~Classes (including reclassifying a Class as being the same as another Class), or grant options to subscribe for Units. ~~Classes do constitute separate trust funds. Where required by the Act and subject to the Act, the Responsible Entity shall amend this Constitution to include the terms of any Class to the extent that such terms are required by the Act to be contained in this Constitution. Without limiting this Clause, the Responsible Entity may at any time issue Units in a Class called the Seed Class.~~~~

### Holder not to interfere

A Holder may not interfere with, or exercise powers of, the Responsible Entity in respect of any Trust Property, Trust Liability or obligation and has no right to lodge any caveat affecting any Trust Property.

### Rounding

- (a) Except where this Constitution provides otherwise, all calculations under this Constitution may be rounded up or down to the number of decimal places (or nearest whole number) determined by the Responsible Entity.
- (b) Except where this Constitution provides otherwise, where total amounts payable to or by a person includes a fraction of a cent, that amount may be rounded up or down to the nearest cent as determined by the Responsible Entity.

### Parts of Units

Parts of Units (**Parts**) may be created and issued, calculated to the fourth decimal place (or other decimal place determined from time to time by the Responsible Entity) and rounded or cancelled

(including following their creation and issue) as determined by the Responsible Entity, and will be dealt with in the proportion that the Part bears to a whole Unit.

While a Class is Quoted:

- (a) the creation and issue of Parts of Units is subject to the Operating Rules; and
- (b) the Responsible Entity may round down any such Units that are to be recorded on any subregister required by the Settlement Rules to the nearest whole Unit as required by the Settlement Rules and Operating Rules.

#### **Responsible Entity may hold Units in the Trust**

Subject to the Act (and, while a Class is Quoted, the Operating Rules), the Responsible Entity may hold Units in a Class from time to time and trade them as the Responsible Entity determines.

### **4A. CLASSES**

If a Class is created in accordance with this Constitution, the Class does not constitute a separate trust fund. At any time, all the Units of a Class are of equal value.

#### **Terms**

Where required by the Act and subject to the Act, where Units of different Classes are issued in accordance with clause 4 ('Units'), the Responsible Entity shall incorporate any or all of the Terms in this Constitution or in a schedule to this Constitution to the extent that such Terms are required by the Act to be contained in this Constitution. For the avoidance of doubt, to the extent that the Responsible Entity has not incorporated a Term attaching to a Unit into this Constitution or a schedule to the Constitution, in respect of a matter required by section 601GA of the Act, this Constitution will prevail to the extent of any inconsistency. Subject to the Operating Rules (while a Class is Quoted), if the Responsible Entity determines in relation to particular Units, the Terms of those Units may:

- (a) provide for an issue price or redemption price that is specified or calculated in a way that is different from the prices or methods set out in clauses 6 ('Applications') and 13 ('Redemptions') respectively; entitle the Holder to a share of the Units fully (or as fully as they would otherwise participate according to their Terms) in income in respect of the Distribution Period in which they are issued;
- (b) not entitle the Holder of the Units to a share of income in respect of the Distribution Period in which the Units are issued; or
- (c) entitle the Holder of the Units to such share of income as determined by the Responsible Entity:
  - (i) in respect of the Distribution Period in which the Units are issued;
  - (ii) in respect of the Distribution Period in which the Units are redeemed; or
  - (iii) both,

where, for each of subparagraphs (c)(i), (ii) or (iii), the distributions are not greater than the proportion of the income to which a Holder holding a Unit during the whole of the relevant Distribution Period would be entitled, multiplied by the number of days on which the Holder was recorded on the Register as holding the Units during the Distribution Period divided by the total number of days in that Distribution Period.

The Responsible Entity in making any determination, allocation, calculation, distribution or determination of a variable pursuant to this Constitution in relation to a Class shall -make such determination, allocation, calculation or distribution having regard to the terms of the relevant Class and, where applicable, to ensure that any item or variable is determined, allocated, calculated or distributed based on what is properly referable to the relevant Class.

### **Variation of Class rights**

Subject to the Act, if there are different Classes of Units, the rights attached to a Class may, unless otherwise provided by the Terms of that Class, only be varied or cancelled where a resolution under section 601GC(1)(a) of the Act is required, if the following is also obtained:

- (a) the consent in writing of the Holders of at least three-quarters of the issued Units of that Class; or
- (b) approval by way of a special resolution passed at a separate meeting of the Holders of the issued Units of that Class.

### **ETF Class Units**

Without limiting any provisions of, or powers under, this Constitution, the Responsible Entity may establish and issue a separate Class of Units in the Register to be ETF Class Units, with the rights and obligations attaching to such Units as provided for in accordance with this Constitution.

### **Quotation of a Class**

Without limiting any provision of, or powers under this Constitution (but subject to the Terms of a Class), the Responsible Entity may, at any time, apply for Quotation of a Class. The Responsible Entity must notify Holders in that Class of the decision to seek Quotation of Units in that Class prior to Quotation on the Securities Exchange. Upon Quotation, the Units in that Class will, for all purposes under this Constitution, be a Class that is Quoted and the provisions of this Constitution will apply accordingly.

5. **TIME** Subject to the Act (and, while a Class is Quoted, the Operating Rules), the Responsible Entity may nominate (and whenever it elects, vary) one or more days or times (including Times) during each Business Day) for the purposes of Applications, issue of Units or Redemption Requests, different Times being applicable to different locations or methods of communication or payment. The Times relevant to Applications, issue of Units and to Redemption Requests may differ.

## **5A. MARKET MAKING**

While a Class is Quoted, subject to the Operating Rules, the Act and the Terms of a Unit or a Class, the Responsible Entity may make a market and provide liquidity in respect of that Class on-market as contemplated by this clause 5A ('Market Making') for so long as the Responsible Entity is required to do so under the Operating Rules. The Responsible Entity may make a market and provide liquidity in respect of the relevant Class at other times in its absolute discretion. The Responsible Entity may engage or appoint service providers (including market participants and security registrars) to facilitate the execution and settlement of its market making activities as set out in this clause 5A ('Market Making').

### **Responsible Entity may sell Units on-market**

- (a) While a Class is Quoted and subject to the Operating Rules, the Responsible Entity may from time to time in relation to that Class:
  - (i) offer and/or agree to sell the Units in that Class on-market; and
  - (ii) issue Units in that Class to itself as determined by the Responsible Entity for the purposes of fulfilling the sale of Units in that Class on-market in accordance with clause 5A(a)(i) ('Market Making').
- (b) Where the Responsible Entity sells Units in the relevant Class on-market to facilitate the on-market acquisition of Units in that Class by a Holder in accordance with paragraph 'Acquiring Units via on-market acquisition' in clause 6 ('Applications'), the Responsible Entity will honour any contract to sell Units in that Class it enters into in accordance with the applicable settlement procedures under the Settlement Rules and Operating Rules.

- (c) The price at which the Responsible Entity offers or agrees to sell Units in the relevant Class on-market in accordance with clause 5A(a)(i) ('Market Making') is at the absolute discretion of the Responsible Entity, subject to its obligations under the Act and the Operating Rules.
- (d) Any offers for the sale of Units in the relevant Class that the Responsible Entity places on-market will be subject to the Operating Rules and any interventions by the Operator.
- (e) Where the Responsible Entity offers and/or agrees to sell Units in the relevant Class on-market pursuant to clause 5A(a)(i) ('Market Making'), it has a presently exercisable and unconditional power and right to issue to itself, and vest title in, the corresponding number of Units in the relevant Class and take any other action necessary so that it has the absolute ability to issue to itself, and vest title in, the corresponding number of Units in the relevant Class.
- (f) Without limiting clause 5A(e) ('Market Making'), at the end of each Business Day where the number of Units in the relevant Class which the Responsible Entity has sold on-market during that Business Day in accordance with clause 5A(a)(i) ('Market Making') (excluding any Units in the relevant Class sold on-market during that Business Day in respect of which the Responsible Entity has previously issued and/or vested title in pursuant to clause 5A(e) ('Market Making')) exceeds the number of Units in the relevant Class which the Responsible Entity has acquired on-market during that Business Day in accordance with clause 5A(g) ('Market Making') (such excess number being the Excess Sold Units), the Responsible Entity must issue to itself the Excess Sold Units as soon as reasonably practicable for the purposes of enabling the Responsible Entity to fulfil its obligations under settlement of the sale of those Excess Sold Units at the Issue Price calculated in accordance with clause 10(a) ('Issue').

**Responsible Entity may purchase Units on-market**

- (g) While a Class is Quoted and subject to the Operating Rules, the Responsible Entity may from time to time offer and/or agree in relation to the relevant Class, to purchase Units in that Class on-market.
- (h) Where the Responsible Entity acquires Units in the relevant Class on-market to facilitate the on-market withdrawal of Units in that Class by a Holder in accordance with paragraph 'Withdrawing Units via on-market disposal' in clause 13 ('Redemptions'), the Responsible Entity will honour any contract to buy Units in that Class it enters into in accordance with an applicable settlement procedures under the Settlement Rules and Operating Rules.
- (i) The price at which the Responsible Entity offers or agrees to purchase Units in the relevant Class on-market in accordance with clause 5A(g) ('Market Making') is at the absolute discretion of the Responsible Entity subject to its obligations under the Act and the Operating Rules.
- (j) Any offers for the purchase of Units in the relevant Class that the Responsible Entity places on-market will be subject to the Operating Rules and any interventions by the Operator.
- (k) For each Business Day where the number of Units in the relevant Class which the Responsible Entity has acquired on-market during that Business Day in accordance with clause 5A(g) ('Market Making') exceeds the number of Units in the relevant Class which the Responsible Entity has sold on-market during that Business Day in accordance with clause 5A(a)(i) ('Market Making') (excluding any Units in the relevant Class (as applicable) sold on-market during that Business Day in respect of which the Responsible

Entity has previously issued and/or vested title in pursuant to clause 5A(e) ('Market Making')) (such excess number being the Excess Acquired Units), the Excess Acquired Units for that Business Day are cancelled by the Responsible Entity upon settlement of the relevant market transactions at the Redemption Price calculated in accordance with clause 13 ('Redemptions') and the Responsible Entity may do anything reasonably necessary to give effect to such cancellation of those Excess Acquired Units.

(l) For the avoidance of doubt, the price of any Units in the relevant Class purchased pursuant to clause 5A(g) ('Market Making') is payable or reimbursable out of Trust Property.

(m) For the avoidance of doubt, nothing in this clause 5A ('Market Making') prevents the Responsible Entity from issuing Units in the relevant Class (as applicable) pursuant to an Application in accordance with clauses 4 ('Units'), 6 ('Applications') and 10 ('Issue').

## 6. APPLICATIONS

This clause 6 ('Applications') has effect in respect of each Unit or Class, but is subject to the Terms of that Unit or Class, the Act (including any Relief), and while a Class is Quoted, the relevant procedures set out in the Operating Rules.

### Application for Units

Except as otherwise provided in this Constitution, a person intending to subscribe for Units in the Trust must give the Responsible Entity an application (**Application**) in a form and manner approved by the Responsible Entity and pay the application monies (**Application Monies**) or provide property other than money (**Property**) (only if permitted by, and in a form and accompanied by a valuation acceptable to, the Responsible Entity) as equal to the amount of Application Monies payable to the Responsible Entity or custodian (where there is one) in payment of the Entry Fee and by way of subscription for Units (Application Monies and Property both being **Consideration**). The Responsible Entity may treat a binding commitment to provide Application Monies or Property as Consideration, where the Responsible Entity is satisfied that it will receive the Application Monies or Property.

### Responsible Entity may deduct

The Responsible Entity or custodian (where there is one) may deduct Taxes and costs incurred in receiving, and in calculating the value of, the Consideration.

### Separate bank account

The Responsible Entity or custodian (where there is one) may pay Application Monies into a single account containing application monies for one or more trusts, and must then transfer the Application Monies to an account for the Trust.

### Responsible Entity may set investment minimums

The Responsible Entity from time to time may determine and may vary amounts as the current **Initial Minimum Investment**, **Subsequent Minimum Investment** and **Minimum Balance** for the Trust.

The amount paid as, or value of, the Consideration must equal or exceed the Initial Minimum Investment (or in the case of a subsequent investment, Subsequent Minimum Investment) except for Consideration received under a Savings Plan or Distribution Reinvestment or paid by the Responsible Entity on behalf of a Holder, or where the Responsible Entity elects in respect of the Initial Minimum Investment to accept a lower amount or value as Consideration.

The Responsible Entity may reject or suspend the processing of any Application without giving any reason.

### Issue of Units

Other than as contemplated by the applicable Terms of a Unit or a Class, Units are created and issued when:



(a) the Responsible Entity accepts the Application (if relevant) and enters the Holder on the Register; and

(b) the Consideration becoming or commitment in a form acceptable to the Responsible Entity to provide the Consideration becomes Trust Property;

and while a Class is Quoted, in any other way the Settlement Rules or the Operating Rules contemplate.

Subject to the applicable Terms of a Unit or a Class, Units paid for by cheque subsequently dishonoured, are void. Where the Responsible Entity relies on a binding commitment to provide Application Monies or Property as Consideration for the issue of Units and the Application Monies or the Property that relate to that commitment is not received by the Responsible Entity within a time specified by the Responsible Entity, then the Units so issued are void. Such Units may not be redeemed or transferred until such time as the Application Monies or the Property is received by the Responsible Entity.

7. **DURATION** ~~The Trust ends 80 years (less one Day) after it begins or at such earlier time as provided by this Constitution or by law.~~

The Responsible Entity cannot issue or redeem any Units from the 80th anniversary of the commencement of the Trust if that issue or redemption would cause a contravention of the rule against perpetuities or any other law or equity.

8. **VALUATIONS** The Responsible Entity is not to be regarded as having any special expertise in valuation. The Responsible Entity may cause Trust Property to be revalued whenever it sees fit, however the Responsible Entity must do so when required by the Act and must do so in order to ensure that the valuation is reasonably current as at the time of calculation of the Issue Price of Units and the Redemption Price of Units (as applicable).

The value of any property will be the market value, the net fair value, or such other value as may be appropriate to the nature of the property and the nature of the Trust and meet Australian Accounting Standards from time to time, and shall be determined by, or by a method determined by, a valuer who is independent of the Responsible Entity, or any other appropriate method which the Responsible Entity may decide to adopt which must be consistent with the range of ordinary commercial practice for valuing that type of Trust Property and be reasonably current. Property acquired must be valued at cost until revalued.

9. **NET TRUST VALUE** The total value of all Trust Property less all Trust Liabilities is the **Net Trust Value**. However, where more than one Class is on issue and the Net Trust Value referable to a particular Class is being calculated, reference to each of Trust Property and Trust Liabilities are references to that proportion of those variables that the Responsible Entity considers are properly referable to each Class.

The Responsible Entity may calculate Net Trust Value as at any time (**Valuation Time**) (not limited to once a Day) and must do so as at a time determined by the Responsible Entity each month on the basis of the most recent valuation of each item of Trust Property and determination of Trust Liabilities, as at the Valuation Time other than when Redemption is suspended.

10. **ISSUE**

#### Initial Units

All Units of a particular Class issued on the first Business Day on which Units in that Class are first issued (**Initial Class Units**) shall be created and issued at the price of \$1 per Unit. However, where there is, or would be, more than one Class on issue following the issue of the Initial Units, the Responsible Entity must determine the proportion of the Net Trust Value of the Trust that is properly referable to Units in that new Class as nearly as practicable as if that Class were a separate fund investing in the Trust, for the purposes of determining amounts properly referable to that Class under this Constitution.

#### Subsequent Units



~~The price~~ Subject to clause 5A ('Market Making'), this clause 10 ('Issue') and the Terms of a Unit or a Class, the Issue Price at which Units, other than Initial Class Units, may be sold or created and ~~units~~ issued (**Issue Price**) is the amount calculated as follows:

(a) ~~subject to paragraphs (c) and (d) of this paragraph 'Subsequent Units', where the Responsible Entity issues Units to itself in part or full satisfaction of its~~ the circumstances set out in clause 5A(e) ('Market Making'), derived by:

(i) ~~dividing the sum of Net Trust Value as at the first Valuation Time immediately before the next applicable Time after receipt of both the Application and (unless the Responsible Entity waives this requirement) the Consideration; by~~

~~(+)(ii) the sum of the number of Units on issue and the number of Units represented by the Accrued Responsible Entity's Unit Entitlement, may be sold or created and issued (Issue Price) is the amount, either: at that Valuation Time (Application Unit Sum),~~

~~(a) — derived by:~~

~~then adjusting for Application Transaction Costs (if any);~~

(b) ~~subject to paragraphs (c) and (d) of this paragraph 'Subsequent Units', in any other case, derived by:~~

(i) ~~dividing the sum of Net Trust Value as at the first Valuation Time after the next applicable Time after receipt of both the Application and (unless the Responsible Entity waives this requirement) the Consideration; by~~

(ii) ~~the sum of the number of Units on issue and the number of Units represented by the Accrued Responsible Entity's Unit Entitlement at that Valuation Time (Application Unit Sum),~~

~~then adjusting for Application Transaction Costs (if any); or~~

~~(a)(c)~~ subject to the terms of the Act as modified by Australian Securities and Investments Commission (**Commission**) Relief instrument CO 13/655 or any other applicable Relief as amended or replaced from time to time, such other price as the Responsible Entity determines in its discretion ~~in accordance with such Relief; and~~

~~(d) while a Class is Quoted, the Responsible Entity will comply with the Operating Rules applicable to the issue and the conditions and restrictions of any applicable Relief.~~

### Application Transaction Costs

Application Transaction Costs are:

(a) an estimate by the Responsible Entity of the total transaction costs the Trust would incur to acquire afresh the Trust Property; or

(b) if appropriate, having regard to the actual cost which would be incurred because of the issue or sale of the Units (including in relation to Units issued by way of Distribution Reinvestment), the Responsible Entity's estimate of the total transaction costs or a portion of the total transaction costs, which may be zero, including (but not limited to) in the case of Distribution Reinvestment;

divided by the Application Unit Sum, unless the Responsible Entity (in its absolute discretion) makes no estimate, in which case Application Transaction Costs are zero.

### Classes

For the purposes of this clause 10 ('Issue'), 'Net Trust Value', 'number of Units on issue', 'Application Unit Sum', 'number of Units represented by the Accrued Responsible Entity's Unit Entitlement' and 'Application Transaction Costs' are each that proportion of those variables that the Responsible Entity determines is properly referable to the Class to which the Unit for which the Issue Price is being calculated belongs. ~~Where there is one Class in on~~ issue, the entire Net Trust Value of the ~~Fund~~ Trust is taken to be properly referable to that Class. ~~Where there is more than one Class in on~~ issue, the proportion of the Net Trust Value of the ~~Fund~~ Trust that is properly

referable to a particular Class is to be determined as nearly as practicable as if that Class were a separate fund investing in the ~~Fund~~Trust.

## 11. SAVINGS PLAN

(a) This clause 11 ('Savings Plan') has effect in respect of each Unit or Class, but is subject to the Terms of that Unit or Class, the Act (including any Relief), and while a Class is Quoted, the relevant procedures set out in the Operating Rules.

(b) A Holder may acquire Units under any savings plan (**Savings Plan**) the Responsible Entity elects to offer, by lodging an application in a form approved by, and a direction for future amounts to be subscribed in a manner acceptable to, the Responsible Entity and (unless the Responsible Entity otherwise decides) for reinvestment of distributions into the Trust.

~~(a)(c)~~ The Responsible Entity may at any time terminate any Savings Plan or any Holder's participation in a Savings Plan.

## 12. REDEMPTION

This clause 12 ('Redemption') has effect in respect of each Class but is subject to the Terms of that Class. Except for paragraph 'Withdrawals via on-market disposal', this clause 12 ('Redemption') does not apply in respect of ETF Class Units unless, and to the extent that, the circumstances described in paragraph 'Situation where Trust has been suspended from Quotation' apply.

### Holder may redeem Units

A Holder may request the Responsible Entity to redeem the Holder's Units (**Redemption Request**) (communicated to the Responsible Entity by any means the Responsible Entity approves but subject to this clause 12). The Responsible Entity may require a Holder who holds its Units on a Settlement Facility sub-register to have their Units the subject of a Redemption Request moved to an issuer sponsored sub-register and also to provide such information as the Responsible Entity determines prior to processing a Redemption Request.

### Withdrawals via on-market disposal

While a Class is Quoted, and subject to the Operating Rules and the applicable Terms of that Unit or Class (as applicable), Holders have the right to withdraw Units in the relevant Class where they contract to sell their Units on-market to the Responsible Entity in the circumstances contemplated in clause 5A(g) ('Market Making') for a price determined in accordance with clause 5A(i) ('Market Making').

### Redemption while Trust is Liquid

Subject to paragraph 'Situation where Trust has been suspended from Quotation', paragraph 'Compulsory redemption' and clause 13 ('Suspension'), Units the subject of a Redemption Request will be redeemed by the Responsible Entity (**Redemption**) while the Trust is Liquid if the Responsible Entity so elects, out of cash available from the ~~Fund~~Trust corpus, or Distributable Income, referable to the Class of Units to be redeemed. The Responsible Entity may have regard to the Application Monies contributed in respect of the Units the subject of a Redemption Request in making this allocation.

### Character of Redemption Price and notification to Holder

Subject to its duties, ~~and clause 50 ('AMIT Regime'),~~ the Responsible Entity may, prior to the end of the Financial Year in which the Redemption occurs, determine that some or all of the Redemption Price consists of Distributable Income determined under clause 33~~33~~, of the Financial Year in which the Redemption occurs rather than ~~Fund~~Trust corpus~~;~~. The Responsible Entity must advise the Holder of such determination as soon as practicable after the end of the Financial Year in which the Redemption occurred.

### The priceRedemption Price

Subject to the Terms of a Unit or a Class, the Redemption Price payable on Redemption of a Unit (~~Redemption Price~~) is calculated as follows:

- (a) subject to paragraphs (c) and (d) of this paragraph 'Redemption Price', where the Responsible Entity cancels Units that are acquired on-market in the circumstances set out in clause 5A(k) ('Market Making'), the amount derived by:-
- (i) dividing the sum of Net Trust Value as at the first Valuation Time immediately before the next applicable Time after communication to the Responsible Entity of a Holder's Redemption Request; by
  - (ii) the sum of the number of Units on issue and the number of Units represented by the Accrued Responsible Entity's Unit Entitlement at that Valuation Time (**Redemption Unit Sum**),
- then adjusting for Redemption Transaction Costs (if any);
- (b) subject to paragraphs (c) and (d) of this paragraph 'Redemption Price', in any other case, the amount derived by:
- (i) dividing Net Trust Value as at the first Valuation Time after the next applicable Time following communication to the Responsible Entity of a Holder's Redemption Request; by
  - (ii) the sum of the number of Units on issue at that Valuation Time, and the Accrued Responsible Entity's Unit Entitlement (**Redemption Unit Sum**),
- then adjusting (or where the Redemption Price is satisfied by an in specie transfer of assets, adjusting the cash portion of the Redemption Price) for Redemption Transaction Costs (if any). The);
- (c) while a Class is Quoted, the Responsible Entity will comply with the Operating Rules applicable to the redemption and the conditions and restrictions in any applicable Relief; and
- ~~(b)~~(d) the Responsible Entity may however, if it considers it to be fair to all Holders, determine (but subject to clause ~~14~~15 ('Powers')) that a subsequent Time or Times apply to some or all of the Units the subject of a Redemption Request, and such Units will be redeemed over those Times in such proportions as the Responsible Entity determines. The Holder must meet the actual costs applicable where the Redemption Price is satisfied by an in specie transfer.

The Responsible Entity may deduct any applicable Exit Fee or Taxes from the Redemption Price.

The Responsible Entity will pay the Redemption Price within **21** Days of the date of the Redemption of the relevant Units (or the deemed date of such Redemption) or such longer period as allowed by clause 13 or 14.

The Units the subject of the Redemption Request are deemed to be redeemed at the time at which both:

- (a) the applicable Redemption Price is calculated; and
- (b) the Redemption Request is processed.

From that time until payment, the former Holder of the redeemed Units ceases to be a Holder in respect of those Units and is a creditor of the Trust in respect of the redemption proceeds.

### **Redemption Transaction Costs**

**Redemption Transaction Costs** are:

- (c) an estimate by the Responsible Entity of the total transaction costs the Trust would incur to sell the Trust Property; or
- (d) if appropriate having regard to the actual cost which would be incurred because of the Redemption, the Responsible Entity's estimate of the total transaction costs or a proportion of the total transaction costs, which may be zero~~;~~

divided by the Redemption Unit Sum, unless the Responsible Entity makes no estimate, in which case Redemption Transaction Costs are zero.

## Classes

For the purposes of this clause, 'Net Trust Value', 'number of Units on issue', 'Accrued Responsible Entity's Unit Entitlement', 'Redemption Unit Sum' and 'Redemption Transaction Costs' are each that proportion of those variables that the Responsible Entity determines is properly referable to the Class to which the Unit for which the Redemption Price is being calculated belongs. Where there is one Class ~~in~~ issue, the entire Net Trust Value of the ~~Fund~~Trust is taken to be properly referable to that Class. Where there is more than one Class ~~in~~ issue, the proportion of the Net Trust Value of the ~~Fund~~Trust that is properly referable to a particular Class is to be determined as nearly as practicable as if that Class were a separate fund investing in the ~~Fund~~ Trust.

## Minimum Redemption Amount

This paragraph 'Minimum Redemption Amount' applies subject to the Operating Rules while a Class is Quoted, and the conditions and restrictions of any applicable Relief. If there is more than one Class on issue, this paragraph only applies to Units in the same Class.

The Responsible Entity may reject a Redemption Request if the sum payable to the Holder is less than the current **Minimum Redemption Amount** (as determined from time to time by the Responsible Entity in relation to the relevant Class) for the Trust (unless the Redemption Request relates to all Units of that type held by the Holder). If a Redemption Request would leave a holding worth, at the Redemption Price, less than the current Minimum Balance, the Responsible Entity may treat the request as applicable to all Units held by that Holder.

## Transfer of assets on redemption

Generally, the amount payable on a redemption of Units will be paid in cash. However, except in relation to a Redemption contemplated in paragraph 'Redeeming Units via on-market disposal' of this clause 12 ('Redemption'), the Responsible Entity may elect to satisfy the amount payable on any Redemption (partly or fully) by a transfer of such assets in specie as the Responsible Entity in its discretion may select, to be credited at asset values determined in a manner consistent with clause 8 (in order to ensure that such values are consistent with the range of ordinary commercial practice for valuing assets of that type and are reasonably current) as at the same time as at which the Redemption Price is determined, without any deduction for any costs or Taxes payable by the Holder in respect of the transfer unless the Responsible Entity determines otherwise.

## Redemption where the Trust is not Liquid

If the Trust is not Liquid, a Holder may withdraw from the Trust only in accordance with the terms of any current withdrawal offer made by the Responsible Entity in accordance with the provisions of the Act regulating offers of that kind. If there is no withdrawal offer currently open for acceptance by Holders, a Holder has no right to make a Redemption Request.

The Responsible Entity is not at any time obliged to make a withdrawal offer.

## Compulsory Redemption

The Responsible Entity has the right in its discretion to compulsorily redeem some or all the Units ~~in~~ issue (including some or all of the Units of a particular Class), provided that the Responsible Entity gives at least **30** Days prior written notice to the Holders whose Units are to be redeemed.

## Situation where Trust has been suspended from Quotation

While a Class is Quoted and without limiting paragraph 'Holder may redeem Units' and paragraph 'Redemption where the Trust is not Liquid', where the Trust is Liquid and trading in the Units in the relevant Class on the Securities Exchange has been suspended, for any reason, for five consecutive Business Days, then the Responsible Entity will facilitate direct redemptions of Units in the relevant Class the subject of a Redemption Request at the Redemption Price.

## 13. **SUSPENSION**

Subject to any other provisions in this Constitution, ~~T~~he Responsible Entity at any time may suspend the Redemption of Units in the Trust for up to **60** Days, where:

- (a) it is impracticable for the Responsible Entity to calculate the Net Trust Value, for example because of closure of, or trading restrictions on, stock or securities exchanges, an emergency or other state of affairs, or on declaration of a moratorium in a country where the Trust invests or under the Act;
- (b) the Responsible Entity reasonably estimates that it must sell 5% or more (by value) of all Trust Property to meet current unmet Redemption Requests;
- (c) there have been, or the Responsible Entity anticipates that there will be, Redemption Requests which will involve realising a significant amount of the Trust Property and the Responsible Entity considers that if those requests are all met immediately, Holders who continue to hold Units may bear a disproportionate burden of capital gains tax or other expenses, or the meeting of those Requests would otherwise be to the existing Holders' disadvantage including (but not limited to) a material diminution in the value of the Trust Property;
- (d) the Responsible Entity reasonably considers that it is in the interests of the Holders; ~~or~~
- (e) the Quotation of any Units or Units in a Class is suspended or the trading of any Units or Units in a Class is otherwise halted, interrupted or restricted by the Securities Exchange, or the trading of any Units or Units in a Class on the Securities Exchange is subject to a period of deferred settlement trading, or there is a period during which Units are subject to a consolidation or division;
- (f) the Units or Units in a Class cease to be Quoted; or
- (g) the law otherwise permits.

For the purposes of the Act, where this clause 13 ('Suspension') applies, the period specified in this Constitution for satisfying withdrawal requests shall be 81 Days being the period of 21 Days as provided for by clause 12 ('Redemption') together with the period of 60 Days as provided for by this clause.

If any of the circumstances set out in paragraphs (a), ~~(b), (c), (d) or (e)~~ to (g) above should arise, the Responsible Entity may also suspend payment of the Redemption Price (in respect of Units redeemed before the commencement of a period of suspension) for so long as the Redemption of Units has been suspended.

A Holder's Redemption Request lodged either:

- (a) before a period of suspension, but in relation to which the relevant Units have not been redeemed at the commencement of the period of suspension; or
  - (b) during any period of suspension,
- is deemed lodged immediately after the end of the period.

## 14. SPREADING REDEMPTION

Without limiting clause 13 ('Suspension') and subject to the Terms of a Unit or a Class, where:

- (a) in respect of any Business Day, Holders request the redemption of a number of Units that in aggregate represents 10% or more of the number of Units ~~in~~ issue; or
- (b) in any one Redemption Request a Holder requests the redemption of a number of Units that have an aggregate value of 5% or more of the number of Units ~~in~~ issue on the date of receipt of the request by the Responsible Entity; or
- (c) there have been, or the Responsible Entity anticipates that there will be, Redemption Requests for 10% or more of the total Units in the Trust and the Responsible Entity considers that if those requests are all met immediately (or within a short period of time after receipt), Holders who continue to hold Units may bear a disproportionate burden of capital gains tax or other expenses, or the meeting of those Requests would otherwise be to the existing or continuing Holders' disadvantage including (but not limited to) a material diminution in the value of the Trust Property,



the Responsible Entity may determine that each relevant Redemption Request is to be deemed four separate requests, each for a quarter (or as close to a quarter as the Responsible Entity determines) of the total number of Units in the original request, and that the four requests are to be deemed lodged and received respectively by the Responsible Entity on the same Day (or next Business Day if the Day is not a Business Day, or the Day is not a Business Day and the Day does not occur in the relevant month) in each of the four succeeding months following the date on which the Responsible Entity received the original request.

## 15. POWERS

Subject to this Constitution, and subject to the Act, the Responsible Entity has within and outside Australia all the powers in relation to the Trust, its Trust Property and Trust Liabilities, that it is legally possible for a natural person, corporation, trustee or responsible entity to have, including (but not limited to) ~~to invest in real or personal property of any nature, to borrow or raise money, give guarantees and incur liabilities and obligations of any kind, and to fetter its own discretion, as if it were the absolute and beneficial owner of all Trust Property~~;

- (a) invest in real or personal property of any nature (including all financial instruments, derivatives and forward rate and currency exchange agreements for speculative or other purposes) (and may vary any investment at any time in its absolute discretion);
- (b) borrow or raise money, give guarantees and incur liabilities and obligations of any kind;
- (c) do all things required in the Responsible Entity's absolute discretion to give effect to clause 5A ('Market Making') (including but not limited to executing any documents or exercising any discretion for the purposes of clause 5A);
- (d) apply for the Quotation of the Trust or a Class on a Securities Exchange (including the ASX or CHI-X), remove the Trust or a Class from Quotation or suspend the Trust or a Class from trading on a Securities Exchange, and for each such purpose, the Responsible Entity is authorised on its own behalf and on behalf of each Holder as the Holder's agent or attorney to do all things necessary to effect a quotation; and
- (e) fetter its own discretion, as if it were the absolute and beneficial owner of all Trust Property.

The Responsible Entity, by power of attorney or otherwise, may authorise one or more persons whether or not related to or associated with it, to do anything that it may lawfully delegate, including, but not limited to, holding any Trust Property and executing documents on its behalf.

16. **MANAGEMENT** The Responsible Entity will manage the Trust and its Trust Property and Trust Liabilities while any remain. The Responsible Entity may, as it sees fit, in connection with performance of its duties, engage (whether or not related to or associated with the Responsible Entity) investment managers, administrators, custodians and any advisers, agents, brokers, contractors, underwriters or other persons.

17. **DISCRETION** The Responsible Entity may determine whether to exercise, and in the manner, mode and time of exercise of its powers, authorities and duties conferred on it, including under this Constitution, the Act or the Operating Rules, in its absolute discretion.

18. **INDEMNITY** To the extent permitted from time to time by the Act, the Responsible Entity is entitled to be indemnified out of the Trust Property for any liability incurred by it in performing properly any of its duties or exercising any of its powers in relation to the Trust or attempting to do so. The Responsible Entity is not required to do anything for which it does not have a full right of indemnity out of Trust Property available for that purpose. Any indemnity to which the Responsible Entity is entitled under this Constitution is in addition to any indemnity allowed by law. If the Responsible Entity is entitled to a reimbursement or indemnity out of the Trust Property under this Constitution, the amount of the reimbursement or indemnity shall be reduced by the amount of any input tax credit to which the Responsible Entity is entitled for the relevant acquisition. This clause 18 is to be read subject to the Act. Without limitation, the right of the Responsible Entity to be indemnified out of the Trust Property pursuant to this clause 18 is only

available in relation to the proper performance by the Responsible Entity of its duties in relation to the Trust.

19. **INVESTMENT POLICY** Subject to the Act and the Operating Rules (if applicable), ~~The~~ Responsible Entity will determine, and from time to time may vary, its investment policy for the Trust.
20. **NOTICES** Any notice, material or cheque may be sent to a Holder by prepaid post to the address of the Holder, or of the first named of joint Holders, shown in the Register and will be deemed received on the next Business Day after posting.
- Any consent, notice, report or statement given or required to be given in writing may, where the Holder has given its electronic address or facsimile number to the Responsible Entity for such purposes, be sent to the Holder electronically at the address or number notified to the Responsible Entity from time to time, and will be deemed received on the Business Day it was sent, if sent before or during Business Hours, or otherwise, on the following Business Day.
21. **REGISTER** The Responsible Entity will establish a unit register (**Register**). The Responsible Entity may establish branch registers anywhere in Australia. The Register must record details of each Class on issue. The Responsible Entity need not enter notice of any trust on the Register. The Responsible Entity may treat the registered Holder as the holder and absolute owner of Units registered in that Holder's name and will not be bound to take notice of any trust or equity affecting any Unit. Entry on the Register is conclusive evidence of a Holder's title to Units.
22. **CERTIFICATES**
- (a) Subject to paragraph (b), ~~No~~ certificates will be issued for Units. The Responsible Entity at any time may send any Holder details of Units held by, Unit transactions of, or distributions to that Holder.
- (b) Subject to the Act, while the Trust is admitted to an uncertificated trading system, a holding statement in accordance with the requirements of the Operating Rules may be issued to evidence the holding of Units.
23. **TRANSFERS**
- This clause 23 ('Transfers') has effect in respect of each Class but is subject to the Terms of each Class.
- (Transfer other than if Quoted) Subject to the Act, Holders may transfer Units or Units in a Class (as applicable) in such manner and subject to such conditions as the Responsible Entity from time to time prescribes. A transfer of Units or Units in a Class (as applicable) takes effect only when recorded in the Register. The Responsible Entity is not obliged to register a transfer where the transferee does not meet the Responsible Entity's criteria for a Holder, the transfer is not duly stamped (where required), or any amount is payable by the transferor or the transferee to the Responsible Entity in respect of any of the transferor's Units.
- (Transfer if Quoted) Subject to this Constitution and the Operating Rules, while a Class is Quoted, Holders may transfer Units or Units in that Class:
- (a) as provided by the Operating Rules; or
- (b) by any other method of transfer which is required or permitted by the Act and the Operator as applicable.
- If a duly completed instrument or transfer:
- (c) is used to transfer a Unit or a Unit in the relevant Class (as applicable) in accordance with paragraph (b); and
- (d) is left for recording in the Register at the Trust's registry, duly stamped if required and accompanied by any information that the Responsible Entity properly requires to show the right of the transferor to make the transfer,

the Responsible Entity must, subject to the Responsible Entity's powers, register the transferee as the Holder of the Units. Except as provided by any applicable Operating Rules, a transfer is not effective until the transferee's name is entered into the Register as the Holder of the Units.

(Responsible Entity may request holding lock or refuse to register transfer) In respect of Units or a Class of Units which is Quoted, and if permitted to do so by the Operating Rules, the Responsible Entity may:

- (e) request the operator of the Settlement Facility or any other person appointed to maintain the Register, as the case may be, to apply a holding lock to prevent a transfer of such Units from being registered on the Settlement Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
- (f) refuse to register a transfer of such Units to which paragraph (e) does not apply.

(Responsible Entity must request holding lock or refuse to register transfer) In respect of Units or a Class of Units which is Quoted, the Responsible Entity must:

- (g) request the operator of the Settlement Facility or any other person appointed to maintain the Register, as the case may be, to apply a holding lock to prevent a transfer of such Units from being registered on the Settlement Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
- (h) refuse to register any transfer of Units to which paragraph (g) does not apply,

if the Act or Operating Rules requires the Responsible Entity to do so.

(Notice of holding locks and refusal to register transfer) If, in the exercise of its rights under paragraphs 'Responsible Entity may request holding lock or refuse to register transfer' and 'Responsible Entity must request holding lock or refuse to register transfer', the Responsible Entity requests the application of a holding lock to prevent a transfer of Units or refuses to register a transfer of Units, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to:

- (i) the Holder of the Units;
- (j) the purported transferee; and
- (k) the broker lodging the transfer, if any.

Failure to give notice does not, however, invalidate the decision of the Responsible Entity.

- 24. **MORTGAGE** On the Holder's written request, the Responsible Entity may record a **Mortgagee** (sole or joint) of Units in the Register and on the Mortgagee's written request may delete that record. Redemption proceeds of Units, capital distributions (not representing part of Distributable Income) and distributions after Termination must be paid to the recorded Mortgagee (unless in writing the recorded Mortgagee directs otherwise). Any transfer of Units is subject to any existing Mortgagee record so that Units in respect of which a Mortgagee is recorded on the Register are not able to be transferred without the written consent of the Mortgagee. The Responsible Entity will not be taken to have notice of the terms of any mortgage or charge and has no liability to any Mortgagee.
- 25. **DEATH AND INSOLVENCY** The Responsible Entity will only recognise surviving joint Holders, the legal personal representatives of a deceased Holder or a Holder who becomes subject to a legal disability, and the person legally entitled to Units consequent on bankruptcy or liquidation, respectively, as having rights or title to the Units in those circumstances.
- 26. **TERMINATION** Subject to the Act (and without limiting the circumstances in which the Trust may be terminated in accordance with Part 5C.9 of the Act), the Responsible Entity at any time may terminate the Trust by written notice to the Holders with effect as at the time (**Termination Date**) specified in the notice (**Termination**). From the date on which the notice is given, the issue, switching and redemption of Units ceases. From the Termination Date, the Responsible Entity will, subject to the Terms of any Unit or Class:
  - (a) realise all Trust Property;



- (b) pay, discharge or provide for all Trust Liabilities and expenses of ~~termination~~ Termination and winding up pursuant to this clause 26 from the Trust Property; and
- (c) distribute the net proceeds referable to each Class among Holders in the Class pro rata to the number of Units held within the relevant Class of Units on the Termination Date.

Payments by the Responsible Entity pursuant to clause 26(b) shall be made in priority to any payments to be made by the Responsible Entity pursuant to clause 26(c).

Unless otherwise specified in this Constitution, the Responsible Entity must determine the proportion of the net proceeds of realisation under this clause that is properly referable to each Class and each proportion referable to each Class must be distributed in accordance with this clause.

The Responsible Entity may agree to distribute assets to be credited at asset values determined in a manner consistent with clause 7 as at the Termination Date in specie in full or part satisfaction of any Holder's entitlement on winding up and to pass on to the Holder the benefit of any costs saved in so doing.

Each Holder registered on the Termination Date will continue to be entitled to their proportionate share of Distributable Income during the winding up period. The Responsible Entity may make partial distributions of Trust proceeds during the winding up period.

The Responsible Entity must cause the final accounts of the winding-up to be independently audited by a registered company auditor or firm of chartered accountants of which at least one partner or member is a registered company auditor. Subject to the ~~Corporations~~ Act, the Responsible Entity may postpone realisation of Trust Property and will not be responsible for any resulting loss unless caused by its negligence or breach of trust.

The Responsible Entity at any time may terminate a particular Class by written notice to the Holders in such Class with effect as at the time specified in the notice and this clause 26 ('Termination') shall apply to the termination of such Class as if a reference to the Trust were a reference to the applicable Class and any reference in this clause 26 ('Termination') to a term, definition or variable shall be defined, calculated and/or determined in respect of the applicable Class.

## 27. INDEPENDENT RIGHTS

The Responsible Entity, and any related company or associate of the Responsible Entity, may, subject to the Act and subject always to acting in good faith to Holders:

~~(a) — hold Units;~~

~~(a)~~ be issued, hold and/or trade Units in the Trust in any capacity as the Responsible Entity may determine from time to time (for the avoidance of doubt, including in its capacity as responsible entity of the Trust);

~~(b)~~ represent or act for, or contract with, individual Holders;

~~(c)~~ deal in any capacity with the Responsible Entity or with any related body corporate or associate of the Responsible Entity or with any trust;

~~(d)~~ act in any capacity in relation to any other trusts; or

~~(e)~~ receive and retain profits or benefits of any nature, in connection with the Trust or otherwise other than rights or benefits to which the rights of Holders are specified in this Constitution, including buying or selling Trust Property from or to itself in another capacity,

without in any such case being liable to account to ~~any trust~~ the Trust, to the Responsible Entity, or to any Holder.

## 28. RESPONSIBLE ENTITY'S LIABILITY

To the extent only permitted by law (and in no way limiting or purporting to exclude, or reduce liability under, the Act in particular), where the Responsible Entity acts without fraud, negligence or a breach of trust which involves a failure to show the degree of care and diligence required of it having regard to the powers, authorities or discretions conferred on it by this Constitution, the Responsible Entity will not be liable to any future responsible entity, any Holder or any other person:

- (a) for loss caused by:
  - (i) the Responsible Entity's acts or omissions in reliance on:
    - (A) the Register;
    - (B) the authenticity of any document;
    - (C) the opinion, advice or information of any barrister, solicitor, accountant, valuer or other expert instructed by the Responsible Entity; or
    - (D) information from any banker or the Trust Auditor;<sup>7.1</sup>  
provided the Responsible Entity has no reason to believe the relevant material not to be authentic, the instructions not to be authorised, or the expert not to have the relevant expertise;
  - (ii) any act, omission, neglect or default of any other person;
  - (iii) any act or omission required by law or by any court of competent jurisdiction;
  - (iv) any particular price or reserve not having been realised;
  - (v) any unnecessary payment having been made to any fiscal authority;
  - (vi) any act or omission of an operator of any securities title, transfer or holding system;
  - (vii) any other reason; or
- (b) in any event, to any greater extent than the investments, cash and other property to which the Responsible Entity is entitled and does recover through its right of indemnity from Trust Property actually vested in the Responsible Entity in accordance with this Constitution.

**29. RESPONSIBLE ENTITY'S FEES** Before and after termination of the Trust and subject to the proper performance of its duties and the Act, the Responsible Entity is entitled to (but for any Holder or Holders within a particular Class, may elect to receive less than):

- (a) in relation to the processing of an application for Units, an entry fee (**Entry Fee**) of 5% of the Consideration payable on an application for Units or, if the application is made by a person who is or was a holder of units in another trust of which the Responsible Entity (or a related body corporate) is also the responsible entity and the Consideration is an amount payable to that person on redemption of those units (**Switch**), the Entry Fee, and \$50 CPI Adjusted each year. The Entry Fee is calculated and payable after the Responsible Entity has determined to process the relevant application for Units;
- (b) in relation to the management of the Trust, a management fee (**Management Fee**) of 3% per annum of Net Trust Value, calculated and accrued daily and payable on the last Business Day of each calendar month or calendar quarter or at other times as the Responsible Entity in its discretion may determine out of Trust income, but if Trust income is insufficient then out of Trust capital;
- (c) a performance fee for all unit classes except the Seed Class (**Performance Fee**) calculated as follows:
  - (i) Subject to paragraph (iv) and paragraph (v), the Responsible Entity is entitled to a Performance Fee in respect of each Class for each period (or part thereof which

the relevant Class is in existence) of 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December (**Performance Fee Period**).

The Performance Fee for a Class for a Performance Fee Period is equal to the aggregate of the Daily Performance Fees for that Class for all Business Days in that Performance Fee Period.

The Daily Performance Fee for a Class in relation to a Business Day in a Performance Fee Period (**Calculation Date**) is calculated in accordance with the following formula:

Daily Performance Fee for the Class = 20% x (Value Movement Amount - Performance Hurdle Value per Unit) x Class Unit Number

where:

**Value Movement Amount** = the actual performance amount measured by:

- calculating the Redemption Price for a Unit in the Class as at the First Valuation Time (**Opening Value per Unit**); and
- calculating the Redemption Price for a Unit in the Class as at the Second Valuation Time and adding the amount of any income or capital Distribution which ceased to be Trust Property after the First Valuation Time and before the Second Valuation Time for each Unit in that Class in issue as at the Second Valuation Time (**Closing Value per Unit**); and
- subtracting Opening Value per Unit from Closing Value per Unit.

**Performance Hurdle Value per Unit** = the amount of the increase (or decrease) in Opening Value per Unit on the assumption that the Opening Value per Unit increased (or decreased) by the same percentage as the aggregate of the Additional Hurdle Percentage and the percentage change in the value of the MSCI World Net Total Return Index (AUD) (or, if the Responsible Entity reasonably determines that such index is no longer applicable or appropriate, such other similar index as the Responsible Entity may determine from time to time) from the First Valuation Time to the Second Valuation Time.

**Class Unit Number** = the total number of Units in the Class in issue as at the Second Valuation Time.

- (ii) The aggregate Daily Performance Fees for a Class since the first Business Day of the Performance Fee Period to the First Valuation Time (if a positive amount) must be treated as a provision for the purposes of calculating Net Trust Value referable to the Second Valuation Time.
- (iii) Subject to paragraph (iv), if the aggregate Daily Performance Fees and the Overall Class Performance for the Performance Fee Period are positive amounts, the Performance Fee relating to the Performance Fee Period must be paid to the Responsible Entity, after the end of the Performance Fee Period, from Trust Property that the Responsible Entity determines is properly referable to the relevant Class.
- (iv) Where:
  - (A) the Overall Class Performance for the Performance Fee Period is less than the Cash Rate Target per Unit; and
  - (B) the aggregate Daily Performance Fees of a Class for a Performance Fee Period is positive,

then the Performance Fee for the Class is not payable but instead the aggregate Daily Performance Fees for the Class is added to the Daily Performance Fee for that Class on the first Business Day in the next Performance Fee Period.

- (v) If the aggregate Daily Performance Fees for a Class for a Performance Fee Period is a negative amount:

- (A) no Performance Fee in respect of that Class is payable to the Responsible Entity for that Performance Fee Period; and
- (B) the amount must be subtracted from the Daily Performance Fee for that Class for the first Business Day in the next Performance Fee Period.

For the purposes of this paragraph (c):

**Additional Hurdle Percentage** means 0% divided by the number of Business Days in the relevant financial year.

**Redemption Price** means the Redemption Price of a Unit as determined in accordance with clause 12.

**First Valuation Time**, in relation to a Calculation Date, means the next Valuation Time following the closing Time for Applications on the Business Day preceding the Calculation Date.

**RBA Cash Rate** means the cash rate target calculated and published by The Reserve Bank of Australia or if that cash rate target ceases to be calculated and published by The Reserve Bank of Australia, any other similar rate calculated and published by The Reserve Bank of Australia that the Responsible Entity reasonably determines is substantially equivalent to the cash rate that it replaces.

**Overall Class Performance for the Performance Fee Period**, in relation to a Performance Fee Period, is the Redemption Price as at the last Valuation Time on the first Business Day of the Performance Fee Period deducted from the sum of the Redemption Price as at the last Valuation Time on the last Business Day of the Performance Fee Period and the amount being the aggregate amount of any income or capital Distribution for a Unit in each Class in issue at the time of the Distribution which ceased to be Trust Property during the Performance Fee Period.

**Cash Rate Target per Unit**, means, in relation to a Performance Fee Period, the quarterly nominal RBA Cash Rate at the last Valuation Time on the first Business Day of the Performance Fee Period.

**Second Valuation Time**, in relation to a Calculation Date, means the next Valuation Time following the closing Time for Applications on the Calculation Date.

(d) a performance fee [for](#) the Seed Class (**Performance Fee**) calculated as follows:

- (i) Subject to paragraph (iv), paragraph (c)(v) and paragraph (c)(vi), the Responsible Entity is entitled to a Performance Fee in respect of such Class for each period (or part thereof which the relevant Class is in existence) of 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December (**Performance Fee Period**).

The Performance Fee for such Class for a Performance Fee Period is equal to the aggregate of the Daily Performance Fees for that Class for all Business Days in that Performance Fee Period.

The Daily Performance Fee for such Class in relation to a Business Day in a Performance Fee Period (**Calculation Date**) is calculated in accordance with the following formula:

Daily Performance Fee for the Class = 20% x (Value Movement Amount - Performance Hurdle Value per Unit) x Class Unit Number

where:

**Value Movement Amount** = the actual performance amount measured by:

- calculating the Redemption Price for a Unit in the Class as at the First Valuation Time (**Opening Value per Unit**); and

- calculating the Redemption Price for a Unit in the Class as at the Second Valuation Time and adding the amount of any income or capital Distribution which ceased to be Trust Property after the First Valuation Time and before the Second Valuation Time for each Unit in that Class in issue as at the Second Valuation Time (**Closing Value per Unit**); and
- subtracting Opening Value per Unit from Closing Value per Unit.

**Performance Hurdle Value per Unit** = the amount of the increase (or decrease) in Opening Value per Unit on the assumption that the Opening Value per Unit increased (or decreased) by the same percentage as the aggregate of the Additional Hurdle Percentage and the percentage change in the value of the MSCI World Net Total Return Index (AUD) plus 1% (or, if the Responsible Entity reasonably determines that such index is no longer applicable or appropriate, such other similar index as the Responsible Entity may determine from time to time) from the First Valuation Time to the Second Valuation Time.

**Class Unit Number** = the total number of Units in such Class in issue as at the Second Valuation Time.

- (ii) The aggregate Daily Performance Fees for such Class since the first Business Day of the Performance Fee Period to the First Valuation Time (if a positive amount) must be treated as a provision for the purposes of calculating Net Trust Value referable to the Second Valuation Time.
- (iii) Subject to paragraph (vi), if the aggregate Daily Performance Fees and the Overall Class Performance for the Performance Fee Period are positive amounts, the Performance Fee relating to the Performance Fee Period must be paid to the Responsible Entity, after the end of the Performance Fee Period, from Trust Property that the Responsible Entity determines is properly referable to the relevant Class.
- (iv) Where:
  - (A) the Overall Class Performance for the Performance Fee Period is less than the Cash Rate Target per Unit; and
  - (B) the aggregate Daily Performance Fees of a Class for a Performance Fee Period is positive,
 then the Performance Fee for such Class is not payable but instead the aggregate Daily Performance Fees for the Class is added to the Daily Performance Fee for that Class on the first Business Day in the next Performance Fee Period.
- (v) If the aggregate Daily Performance Fees for such Class for a Performance Fee Period is a negative amount:
  - (A) no Performance Fee in respect of that Class is payable to the Responsible Entity for that Performance Fee Period; and
  - (B) the amount must be subtracted from the Daily Performance Fee for that Class for the first Business Day in the next Performance Fee Period.

Performance Fee for that Class on the first Business Day in the next Performance Fee Period.

For the purposes of this paragraph (c):

**Additional Hurdle Percentage** means 0% divided by the number of Business Days in the relevant financial year.

**Redemption Price** means the Redemption Price of a Unit as determined in accordance with clause 12.

**First Valuation Time**, in relation to a Calculation Date, means the next Valuation Time following the closing Time for Applications on the Business Day preceding the Calculation Date.

**Overall Class Performance for the Performance Fee Period**, in relation to a Performance Fee Period, is the Redemption Price as at the last Valuation Time on the first Business Day of the Performance Fee Period deducted from the sum of the Redemption Price as at the last Valuation Time on the last Business Day of the Performance Fee Period and the amount being the aggregate amount of any income or capital Distribution for a Unit in such Class in issue at the time of the Distribution which ceased to be Trust Property during the Performance Fee Period.

**RBA Cash Rate** means the cash rate target calculated and published by The Reserve Bank of Australia from time to time or if that cash rate target ceases to be calculated and published by The Reserve Bank of Australia, any other similar rate calculated and published by The Reserve Bank of Australia that the Responsible Entity reasonably determines is substantially equivalent to the cash rate that it replaces.

**Second Valuation Time**, in relation to a Calculation Date, means the next Valuation Time following the closing Time for Applications on the Calculation Date.

**Cash Rate Target per Unit**, means, in relation to a Performance Fee Period, the quarterly nominal RBA Cash Rate at the last Valuation Time on the first Business Day of the Performance Fee Period.

- (e) in relation to the processing of a redemption of Units, an exit fee (**Exit Fee**) of 5% of the Redemption Price, payable on Redemption. The Exit Fee is calculated and payable after the processing of the relevant redemption of Units.

The Responsible Entity in its discretion may from time to time waive a fee or elect to receive less than such fees set out in this clause 29 in respect of all or any Units or Classes (whether determined by reference to a minimum balance or on any other basis and whether for the life of a particular offer document or otherwise) and may pay to any Holder or Class, from its own resources, any amounts which it in its discretion so determines by way of offset or rebate of fees.

If the Responsible Entity is liable for GST on any Supply made under or in connection with this Constitution (including, without limitation, the supply of any goods, services, rights, benefits or things), the Responsible Entity is entitled to receive, unless otherwise provided, in addition to the Management Fee, Exit Fee or any other fee, amount or consideration, an additional amount on account of GST, equal to the GST payable, and the Responsible Entity shall be entitled to be reimbursed or indemnified for such amount out of the relevant Trust Property provided that the Responsible Entity issues a tax invoice to the Trust.

Where more than one Class is on issue, the Responsible Entity may make a determination that any particular fee (or part or class of fee) is referable to a particular Class.

This clause 29 is to be read subject to the Act. Without limitation, the right of the Responsible Entity to be paid any fees out of the Trust Property pursuant to this clause 29 is only available in relation to the proper performance by the Responsible Entity of its duties in relation to the Trust.

- 30. **RE UNITS** The Responsible Entity at any time may elect that as at the last Day of any calendar month, or at such other times as the Responsible Entity in its discretion may determine, in lieu of all or part of any amount (**Amount**) to which it would otherwise be entitled as Management Fee (plus any applicable GST), it will be issued with that number (the **Accrued Responsible Entity's Unit Entitlement**) of Units in the Class to which the Management Fee is properly referable (**RE Units**) which equals the Amount divided by the Redemption Price for that Class as at the close of business on that Day. No amount on account of RE Units (issued to the Responsible Entity in accordance with this Constitution, in lieu of any Amount to which it would otherwise be entitled as Management Fee), shall be treated as a cost, charge, expense or outgoing of the ~~Fund~~Trust nor as a Trust Liability.

- 31. OUTGOINGS** All costs, charges, expenses and outgoings reasonably and properly incurred by the Responsible Entity in the proper performance of its duties in connection with the following matters or of the following nature in relation to the Trust are payable or reimbursable out of Trust Property (and if referable to more than one trust, apportioned in a manner determined by the Responsible Entity):
- (a) preparation, approval, stamping, execution and printing of this Constitution and any deed amending this Constitution;
  - (b) retirement and appointment of the Responsible Entity and any custodian;
  - (c) institution, prosecution, defence and compromise of any court proceedings, arbitration or dispute resolution proceedings in relation to the Constitution or the Trust (but the Responsible Entity must repay to the Fund any amount which the Responsible Entity has been advanced in respect of outgoings in connection with proceedings in which it is found by a court to be liable for its own negligence, fraud, breach of trust or breach of duty);
  - (d) convening and holding any meeting of Holders and implementing any resolution of the meeting;
  - (e) bank fees, interest, discount and acceptance fees for bill facilities and like amounts;
  - (f) all Taxes;
  - (g) any actual or proposed investment, acquisition, realisation, disposal, valuation, maintenance, alteration, improvement, enhancement, receipt, collection or distribution of any Trust Property;
  - (h) fees payable to any person authorised by the Responsible Entity to hold Trust Property;
  - (i) all expenses in connection with the establishment and conduct of any compliance committee including, but not limited to:
    - (i) remuneration of committee members~~;~~<sup>2</sup>;
    - (ii) the expenses of independent legal, accounting or other professional advice or assistance properly commissioned by the compliance committee~~;~~<sup>2</sup>;
    - (iii) to the extent permitted by the Act, directly or indirectly:
      - (A) indemnifying a person who is or has been a compliance committee member~~;~~<sup>2</sup> and/or
      - (B) paying premiums under a contract insuring such a person against a liability~~;~~<sup>2</sup>including for costs, expenses and liabilities incurred by that person in defending civil or criminal proceedings;
  - (j) establishing and maintaining the Register, the Trust accounting system and records and the investment register (including operation and development of computer facilities, both software and hardware, salaries and on-costs);
  - (k) fees payable to ~~the Commission~~ASIC or any other regulatory authority;
  - (l) preparing, printing and posting accounts, cheques and documents, or making payments, to Holders;
  - (m) any offer or invitation in respect of Units, including preparation, lodgement, registration, distribution and promotion of Trust prospectuses, information memoranda or product disclosure statements;



- (n) amounts payable to administrators, advisers, agents, brokers, contractors, custodians, investment managers, underwriters or other persons engaged by the Responsible Entity under the Constitution (including legal costs on a full indemnity basis);
- (o) fees incurred by any auditor of any Trust or the compliance plan;
- (p) preparation and lodgement of Trust taxation and other returns;
- (q) termination and winding up of the Trust;
- (r) entering the Trust in any survey;
- (s) fees payable to any ratings organisation;
- (t) fees payable to any securities system authorised by the Responsible Entity to hold Trust Property;
- (u) performance of the Responsible Entity's duties, exercise of the Responsible Entity's rights or powers, compliance with the law or administration of the Trust;
- (v) establishment, development, maintenance and operation of computer facilities, both software and hardware for the administration of the Trust; ~~and~~
- (w) dealing with applications for and redemption of, and determining the Issue Price and Redemption Price of, Units;
- (x) costs of quoting or listing the Units on a Securities Exchange;
- (y) the continuing compliance with the rules of the Securities Exchange, or in relation to any removal of the Trust from the official list of the exchange or the suspension of any Units from trading by the Operator;
- (z) any fees, costs or expenses in connection with the engagement of market makers, market making agents or other market participants or parties in respect of the Trust (including, for the avoidance of doubt, any fees, costs or expenses in connection with the Responsible Entity conducting market making activities in respect the Trust);
- (aa) any fees, costs or expenses in connection with the engagement of any third party service providers in connection with the operation of a Class which is Quoted, including without limitation, the creation, calculation, dissemination of information such as that relating to portfolio composition and indicative net asset value;
- (bb) any fees payable to any person for subscribing or agreeing to subscribe for Units, or procuring or agreeing to procure subscription for Units, on market making services in connection with Units (including, for the avoidance of doubt, services provided by a market making agent or Registrar); and
- (cc) any fees payable to the Operator.

Where more than one Class is on issue but subject to the Terms of a Class, the Responsible Entity may make a determination that any particular cost, charge, expense or outgoing (or part or class of cost, charge, expense or outgoing) is referable to a particular Class.

This clause 31 is to be read subject to the Act. Without limitation, the right of the Responsible Entity to be paid or reimbursed out of the Trust Property pursuant to this clause 31 is only available in relation to the proper performance by the Responsible Entity of its duties in relation to the Trust.

- 32. RECOVERIES** Each Holder is liable for all fees, Taxes and costs in relation to that Holder's entitlement to, or payment of, income or capital to, or any act requested by, that Holder and for unpaid amounts payable by the Holder. The Responsible Entity may withhold payment of any



money payable to a Holder until the liability is discharged, or may meet the liability and recover the amount from any money or property held for, or distribution payable to, the Holder or by Redemption of any or all of the Holder's Units.

**33. DISTRIBUTIONS** In this clause:

**Trust Income** for any Financial Year is the amount specified below unless the Responsible Entity determines in its absolute discretion before the end of the Financial Year that it is some other amount:

For a Financial Year Trust Income is:

- (a) the net income of the Trust, including net capital gains after applying any relevant capital gains tax discount, for the purposes of the Tax Act, less
- (b) any amount of deemed assessable income (for example amounts of foreign income that are attributed under controlled foreign corporation rules), less
- (c) other gross up amounts for tax purposes (such as franking credit gross ups and withholding taxes) .

A Financial Year shall commence on 1 July and end on the following 30 June, unless a Financial Year otherwise ends on a Termination Date.

A **Distribution Period** is each calendar quarter period ending 31 March, 30 June, 30 September and 31 December or such other period not exceeding 12 months as determined by the Responsible Entity. Where the termination of the Trust occurs during a Distribution Period, the last Distribution Period will end on the Termination Date. The Responsible Entity may change the duration or dates of the commencement or end of Distribution Periods.

**Redemption Proceeds Income** is the aggregate of the amounts that form part of the Redemption Price of Units redeemed during the relevant Financial Year that the Responsible Entity determines consists of Distributable Income determined under this clause 32 rather than capital under clause 12.

The distributable income (**Distributable Income**) of the Trust for a Distribution Period or Financial Year will be the Trust Income for that Distribution Period or Financial Year unless the Responsible Entity determines that the distributable income is any other amount (**Distributable Income**) before the end of the relevant Financial Year. Where more than one Class is ~~in~~on issue, the Distributable Income referable to each particular Class will be the proportion of Distributable Income, properly referable to that Class, including after deducting any Responsible Entity ~~Fees~~fees, costs, charges, expenses or outgoings properly referable to that Class.

Subject to the terms of issue of any Units, the Distributable Income of the Trust for each Distribution Period that remains after any distributions of Redemption Proceeds Income will be credited to a distribution account and after payment of all Taxes will be allocated between Classes in proportion to the Distributable Income properly referable to that Class and then distributed, to registered Holders in each particular Class as at the close of business on the last Day of the Distribution Period (the **Accrual Time**), in proportion to the number of Units in the relevant Class of which they are the registered holders at such time (**Distribution**).

Persons who are registered ~~holders~~Holders at the end of the Financial Year shall have a vested and indefeasible interest in the Distributable Income of the Trust for that Financial Year that remains after deducting any distributions of Distributable Income already made in relation to that Financial Year either as Redemption Proceeds Income for the Financial Year or as Distributable Income in respect of a previous Distribution Period in proportion to the number of Units ~~in the relevant Class of which they are the registered holders~~of which they are the registered Holders at such time, or, if more than one Class is on issue, so much of the Distributable Income properly referable to each Class in which they hold Units in proportion to the number of Units in that Class of which they are registered Holders at such time.

Persons who were entitled to Distributable Income as part of Redemption Proceeds Income in respect of a Financial Year will be presently entitled to that share of Distributable Income of the Trust for that Financial Year as the Responsible Entity determines in accordance with this clause and clause 12.

The Distributable Income of the Trust to which Holders, in aggregate, are either presently entitled to or have a vested and indefeasible interest in under this clause equals the Trust Income of the Trust for that Financial Year.

If the Responsible Entity does not make a distribution, or a determination to distribute, for the last Distribution Period in a Financial Year, then persons who are registered Holders at the close of business on the last Day of the Financial Year shall have a vested and indefeasible interest in any Distributable Income of the Trust for that Financial Year that has not otherwise been distributed under this clause in respect of a previous Distribution Period or as Redemption Proceeds Income (**Residual Amount**) in proportion to the number of Units of which they are registered holders at the close of business on the last Day of the Financial Year or the Residual Amount properly referable to each Class in which they hold Units in proportion to the number of Units in that Class of which they are registered holders at such time.

Should there be a change in a law in respect of Taxes that results in the Trust or the Responsible Entity becoming subject to Tax on income and gains derived by the Trust even where all available income is distributed to Holders, or regardless of the present entitlement of the Holders, then it will no longer be necessary for the Responsible Entity to make distributions in accordance with this clause and instead the Responsible Entity, at its discretion, may choose when to make distributions of profits, income, capital or any taxation or imputation credits that have become available in relation to the Trust.

Subject to the Responsible Entity's duty under the Act to treat Holders within the same Class equally and Holders within different Classes fairly, the Responsible Entity may in its discretion decide the classification of any item as being on income or capital account and the extent to which any reserves or provisions need to be made. The Responsible Entity may keep separate accounts of different categories or sources of income, or deductions or credits for tax purposes.

Before and after Termination, the Responsible Entity may at any time distribute any amount of capital or income to Holders pro rata according to the number of Units held, or, after determining the proportion of the total capital or income that the Responsible Entity considers is properly referable to each Class, to Holders within a Class pro rata according to the number of Units held within that Class, as at a time decided by the Responsible Entity. If the Responsible Entity makes such distributions, then this clause will apply with the necessary changes.

The Responsible Entity may at its discretion distribute the whole or part of a Holder's entitlement (to income or capital) by transferring assets of the Trust to that Holder at their market value.

Income in a distribution account when a transfer or transmission of Units is registered remains credited to the transferor.

34. **DISTRIBUTION REINVESTMENT** The Responsible Entity may offer or require Distribution Reinvestment. If the Responsible Entity offers Distribution Reinvestment, a Holder may request the Responsible Entity to invest future income Distributions wholly (or with the Responsible Entity's approval, partly) in subscriptions for additional Units in the Trust at the Issue Price next determined after the Accrual Time at which the entitlement arises (**Distribution Reinvestment**). A request or cancellation is effective, in respect of the Distribution entitlement arising at that and subsequent Accrual Times, if received in a mode and by a time determined by the Responsible Entity. Where Distribution Reinvestment applies at an Accrual Time each Holder has an absolute vested and indefeasible interest in the share of Distributable Income to which the Holder is entitled and that amount will be applied by the Responsible Entity for and on behalf of the Holder in subscriptions for additional Units at the Issue Price next determined after the Accrual Time at

which the entitlement arises and the Holder may lodge a Redemption Request at any time in respect of the Units acquired as a result of the Distribution Reinvestment.

35. **PAYMENTS** Any money payable by the Responsible Entity to any Holder may be deposited into an account with a bank or other financial institution approved by the Responsible Entity and nominated by the Holder, or (if the Responsible Entity so agrees) applied in such other manner as the Responsible Entity is directed in writing by the Holder or paid by cheque posted to the Holder. The obligations of the Responsible Entity will be fully discharged in respect of any money so paid. Where a distribution cheque or a cheque issued in payment of a Redemption Request is returned unclaimed, or is not presented for payment within a reasonable period (which the Responsible Entity may determine from time to time), or an attempted deposit is rejected, the Responsible Entity may pay to ASIC the unclaimed moneys or reinvest the relevant amount for the Holder in the Trust as from such date as the Responsible Entity selects as appropriate or, where permitted by law, transfer the relevant amount to an appropriate government authority as unclaimed monies.
36. **STANDING REQUEST** Where the Responsible Entity offers a Standing Request facility then any Holder may request the Responsible Entity to deposit into an account with a bank or other financial institution approved by the Responsible Entity, a series of specified sums or sums calculated in a specified manner (**Standing Request**) each sum being more than any minimum sum for Standing Requests determined by the Responsible Entity from time to time (**Specified Sums**). The Holder appoints the Responsible Entity as agent to redeem such of the Holder's Units in the relevant Trust as the Responsible Entity from time to time in its discretion judges necessary to cover the amount of Specified Sums due or payable to the Holder. Any money remaining is to be retained in the Trust and accounted for as a Trust Liability and applied towards the next Specified Sum paid to that Holder. The Responsible Entity may reject, or accept subject to such conditions as it may require, or at any time terminate any Standing Request. Unless the Responsible Entity otherwise agrees, Distribution Reinvestment will apply to all Distributions of a Holder in a Trust to which a Standing Request applies.
37. **AUDITOR**
- The Responsible Entity must appoint and may at any time replace as Trust Auditor either a registered company auditor, or a firm of chartered accountants of which at least one partner is a registered company auditor or the Auditor - General of New South Wales.
38. **MEETINGS**
- Meetings of Holders or of a Class of Holders (**Meetings**) may be convened and conducted in accordance with this Constitution and the Act. To the extent permitted by the Act, a Meeting may be held:
- (a) at one or more physical venues and with or without using virtual meeting technology; or
- (b) using virtual meeting technology only.
- Accidental omission to give notice to, or non-receipt of notice by, a Holder, does not invalidate a Meeting nor any resolution passed at a Meeting. A proxy may attend, speak and vote for a Holder notwithstanding that the Holder is present at the meeting. An appointment of a proxy is valid notwithstanding that it may not include the Holder's address or the Trust's name. An appointment of a proxy for a Meeting is effective if received by the Responsible Entity by such time before the time at which the Meeting is due to start as the Responsible Entity considers appropriate (subject to the Act). This clause applies also, to the extent appropriate, to meetings of Holders of any Class.
39. **CONDUCT OF MEETINGS** When a Meeting is to be held the Responsible Entity shall close the Register at an appropriate date and time so as to determine those Holders entitled to vote at the Meeting, and entitled to notification of the meeting. The joint Holder first named in the Register (or if that person does not vote, the next named joint Holder, or if that person does not vote, the

next named, and so forth) may exercise the voting rights of jointly-held Units. Subject to the Act, an ordinary resolution is passed if a simple majority of votes cast are in favour. The chairperson's declaration of the validity of any vote and the result of voting is conclusive. The chairperson may adjourn any Meeting to such time and place as the chairperson sees fit. A resolution duly passed binds all Holders, whether or not present at the Meeting. Minutes of a Meeting signed by the chairperson constitute conclusive evidence of the proceedings of the Meeting. In the absence of any resolution to the contrary, all proxy forms and ballot papers may be destroyed 14 Days after the closure of any Meeting.

40. **POSTAL BALLOT** Subject to the Act any Meeting may be conducted by postal ballot in accordance with such arrangements as the Responsible Entity may determine reflecting, as closely as may be practicable, the provisions of this Constitution.

41. **RESPONSIBLE ENTITY'S RETIREMENT** Subject to the Act, the Responsible Entity may retire as Responsible Entity of the Trust by giving not less than one month's prior notice to the Holders, effective on the appointment of a replacement Responsible Entity.

42. **RESPONSIBLE ENTITY'S INDEMNITY**

On the Responsible Entity retiring or being removed from the Trust or otherwise ceasing to be the Responsible Entity, to the extent only permitted by law (and in no way limiting or purporting to exclude, or reduce liability under, the Act in particular) it will be completely released from this Constitution as it affects the Trust and will be indemnified out of Trust Property against any claims arising out of its conduct as Responsible Entity of the Trust except claims in respect of gross neglect or default by the Responsible Entity and without limiting liability of the Responsible Entity to the Holders. This clause 42 is to be read subject to the Act. Without limitation, the right of the Responsible Entity to be paid or reimbursed out of the Trust Property pursuant to this clause 42 is only available in relation to the proper performance by the Responsible Entity of its duties in relation to the Trust.

43. **LIABILITY OF HOLDERS** Subject to this Constitution and the Terms of a Unit or a Class, the liability of each Holder is limited to the amount subscribed, or agreed to be subscribed by the Holder, for Units. Recourse of the Responsible Entity and Trust creditors will be limited to Trust Property. Any relationship of partnership or agency between the Responsible Entity and any Holder in relation to the Trust, this Constitution or anything done pursuant to this Constitution, is expressly excluded.

44. **COMPLAINTS**

The Responsible Entity, as the holder of an Australian financial services licence, - must comply with the dispute resolution requirements in section 912A(2) of the Act (as amended or replaced from time to time) in dealing with complaints received from Holders who are retail clients or wholesale clients (as defined in the Act) in relation to the Trust.

45. **AMENDMENTS TO CONSTITUTION** Subject to the Act, the Responsible Entity may by supplemental deed, make any modification, addition or deletion to this Constitution.

**46. REGULATORY REQUIRED PROVISIONS**

**Compliance with regulatory required provisions**

If:

- (a) the Act or ASIC Class Order 13/655 (or any other Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity) requires that this Constitution contain certain provisions or can only be relied upon if this Constitution contains certain provisions (Regulatory Required Provisions); or

(b) any of this Constitution (**Regulatory Required Part**) is included to comply with the requirements of the Act, Operating Rules, ASIC or a Securities Exchange (if and as applicable) (**Regulatory Requirement**), and the Regulatory Requirement ceases or changes.

then, to the extent the Act allows and subject to clause 45 ('Amendments to Constitution'), this Constitution is taken to be amended so that the Regulatory Required Provisions are included as separate provisions, or the Regulatory Required Part is deleted or amended to reflect the amended Regulatory Requirement.

The Regulatory Required Provisions prevail over any other provisions of this Constitution to the extent of any inconsistency.

#### **Regulatory Required Part - Classes**

If a Regulatory Requirement ceases or changes and the cessation or change only relates to or affects a Class (for example, when a Class is Quoted), then this Constitution is taken to be amended under clause 45 ('Amendments to Constitution') only insofar as it relates to that Class. This clause 46 ('Regulatory required provisions') also applies if the cessation or change affects more than one Class but not all Classes.

#### **Severance**

If all or part of any provision contained in this Constitution is void, invalid, inconsistent with the Act or would otherwise result in all or part of this Constitution being void, invalid or inconsistent with the Act for any reason, then such part is to be severed from this Constitution without affecting the validity or operation of any other provision of this Constitution.

#### **Holders authorisation**

The Holders:

- (a) authorise the Responsible Entity to make the amendments referred to in the paragraph 'Compliance with regulatory required provisions' (subject to, and having regard to, the paragraph 'Regulatory Required Part – Classes') in a deed and, if required, to lodge it with ASIC; and
- ~~(d)~~(b) agree that, subject to the Act, their rights under this Constitution do not include or extend to a right not to have this Constitution amended to comply with a Regulatory Requirement or to include Regulatory Required Provisions.

#### **46.47. CHANGE OF NAME**

If Fidante Partners Limited (or another member of the Challenger Limited group of companies) is no longer the Responsible Entity of the Trust then from that time the name of the Trust and relevant references in this Constitution will, unless otherwise agreed by Fidante Partners Limited, be deemed to be amended to omit the words 'Fidante Partners'.

#### **47. CORPORATIONS ACT**

~~For so long as a Trust is registered as a managed investment scheme under the Act (**Relevant Period**), the Responsible Entity covenants with each Holder, and each Holder covenants with the Responsible Entity subject to the Act and to any Relief in terms of and to comply with:~~

~~any conditions of, and any covenants required to be contained in this Constitution as a condition of, the Relief, for so long as the Relief applies;~~

~~all provisions required from time to time to be contained in this Constitution as a condition of any class order applicable to the Trust, upon which the Responsible Entity seeks to rely;~~



~~and the Responsible Entity and each Holder agree that:~~

~~A. any covenants required to be contained in this Constitution as a condition of the Relief shall be deemed to be contained in this Constitution for so long as the Relief applies; and all provisions required from time to time to be contained in this Constitution as a condition of any class order (being a class order upon which the Responsible Entity seeks to rely) applicable to the Trust shall for the Relevant Period be deemed to be contained in and incorporated into this Constitution to the extent that they are not specifically set out in this Constitution for as long as the class order applies.~~

#### 48. APPLICATION OF ACCOUNTING PRINCIPLES AND STANDARDS<sup>1</sup>

Notwithstanding any other provision of this Constitution, where:

(a) the effect of this Constitution is that any of the amounts referred to in paragraph (b) are required to be calculated by reference to:

- (i) the value of Trust Property, or
- (ii) the amount of any liability that under the Constitution may be discharged from Trust Property,

and the effect of the Constitution is that the value or amount is to be worked out by applying generally accepted accounting principles or methodology set out in an accounting standard (including Australian Accounting Standards) as generally accepted or in force from time to time, and

(b) the relevant amounts are:

- (i) the Consideration that is to be paid to acquire a Unit;
- (ii) the amount to be paid on any Redemption;
- (iii) the fees payable to the Responsible Entity, any agent of the Responsible Entity or any custodian who holds Trust Property;
- (iv) the extent of any limitation on borrowings or on the investment of Trust Property; and
- (v) the amount of a distribution payable to Holders,

then, to the extent to which paragraph (a) applies to any of the relevant amounts referred to in paragraph (b), the amounts referred to in paragraph (b) may be calculated instead by applying

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<sup>1</sup> The wording of this clause 48 ASIC Class Order 04/1575 (which is not applicable to the Trust as the Trust is a new trust established after 1 January 2005). Clause 48 is intended to ensure that unitholder equity is not treated as a liability (under AASB 132) and the value of Trust Property may continue to be calculated in accordance with the methodology and principles applied by the Responsible Entity as at 31 December 2004 in relation to all of its schemes (rather than under AASB 139). To the extent to which AASB 140 (which applies to investment property) may apply to the Trust if income entitlements are worked out by reference to net accounting income, under this Standard accounting income would be increased by the amount of any gain on revaluation of trust property even though not received in cash. The approach under the previous accounting standard for investment property would be that the amount would be credited to an asset revaluation reserve. The intention of clause 48 is to permit the Responsible Entity to continue to apply the approach adopted under the previous accounting standards in place prior to the effective commencement of the new International Financial Reporting Standards (**New Standards**), in working out these amounts and calculations, even though the New Standards must be complied with for reporting purposes.

generally accepted accounting principles or accounting standards as generally accepted or in force immediately before 1 January 2005.

**49. AMIT ELECTIONS**

- (a) The Responsible Entity may make an election under the AMIT Regime to determine the Trust to be an AMIT with effect from the commencement of any Financial Year of the Trust permitted by the AMIT Regime.
- (b) Where there is more than one Class in issue, the Responsible Entity may make a Separate AMIT Class Election.

**50. AMIT REGIME - GENERAL POWERS**

- (a) The Responsible Entity has, without limiting its other rights and powers provided for under this Constitution, all of the powers and rights which are necessary or desirable to enable:
  - (i) the Trust to be eligible to apply the AMIT Regime;
  - (ii) the Responsible Entity to comply with the requirements of the AMIT Regime;
  - (iii) the Trust to be properly administered and operated under the AMIT Regime; and
  - (iv) the Responsible Entity to maintain equity among Holders in the operation of the AMIT Regime.
- (b) Nothing in this Constitution imposes an obligation on the Responsible Entity to:
  - (i) elect to apply the AMIT Regime to the Trust or to make a Separate AMIT Class Election;
  - (ii) facilitate the Trust being eligible to participate in the AMIT Regime; or
  - (iii) make any amendments to this Constitution.
- (c) If the Trust is not an AMIT for a Financial Year but the Responsible Entity purports to exercise a power in the belief that the Trust is or will be an AMIT for the Financial Year, then the following provisions apply in respect of the exercise of the relevant power:
  - (i) the exercise of the power by the Responsible Entity will, to the maximum extent possible under this Constitution be treated as a proper exercise of the Responsible Entity's powers under this Constitution or at law; and
  - (ii) to the extent that the operation of any of these powers depends, for its operation, on the Trust being an AMIT or on a Class being treated as a separate AMIT for the Financial Year (if a Separate AMIT Class Election has been made), the Trust and the Class, if relevant, will be treated as if it were an AMIT for the purposes of that power.

**51. AMIT REGIME - SPECIFIC POWERS**

The Responsible Entity may under the AMIT Regime, in respect of an AMIT Income Year:

- (a) determine all of the Determined Trust Components for the Trust or for each Class (if there is a Separate AMIT Class Election) under the AMIT Regime for any AMIT Income Year;
- (d) make an attribution of each Holder's Determined Member Components in respect of the Trust or each Class (if there is a Separate AMIT Class Election in place) under the AMIT Regime for any AMIT Income Year, on a fair and reasonable basis;

- (e) make an alteration to the Determined Trust Components of the Trust or of any Class (if there is a Separate AMIT Class Election in place) and a Holder's Determined Member Components under the AMIT Regime for any AMIT Income Year, as a result of any Unders or Overs;
- (b) determine whether to issue an AMMA Statement to any Holder;
- (c) determine what information should be contained in any such AMMA Statement;
- (f) issue an AMMA Statement to any Holder;
- (g) amend an AMMA Statement that has been issued to a Holder, and determine the basis upon which the AMMA Statement is to be amended.

## **52. AMIT REGIME - UNDERS AND OVERS**

- (a) The Responsible Entity has a choice under the AMIT Regime, in respect of an AMIT Income Year, in dealing with amounts which may give rise to Unders or Overs of a particular character for the Trust or for a Class (if there is a Separate AMIT Class Election in place), including whether such amounts should be addressed by the Responsible Entity by:
  - (i) issuing amended AMMA Statements to Holders under sub-section 276-455(4) of the Tax Act, for the Financial Year for the Trust or for a Class (if there is a Separate AMIT Class Election in place), to which the amount which might otherwise give rise to the Under or Over relates; or
  - (ii) treating the amount as an Under or Over of a particular character for the Trust or for a Class (if there is a Separate AMIT Class Election in place), and adjusting the Trust Component (of the Trust or the Class), of that particular character in the Discovery Year for the relevant amount under section 276-305 of the Tax Act.
- (b) The Responsible Entity will not be liable to any Holder if such choices result in:
  - (i) greater or lesser amounts of a character relating to assessable income or tax offsets being attributed to a Holder in the Discovery Year; or
  - (ii) greater or lesser amounts of a character relating to assessable income or tax offsets being attributed to a Holder in an earlier Financial Year,
 provided that those choices are made in accordance with the AMIT Regime.

## **53. AMIT REGIME - ATTRIBUTION**

- (a) Following the end of a Financial Year which is an AMIT Income Year, the Responsible Entity must attribute the Determined Trust Components of the Trust or each Class (where there is a Separate AMIT Class Election in place), of each particular category or character for tax purposes, to Holders.
- (b) The Responsible Entity must perform the attribution in accordance with the following principles:
  - (i) the amount of each Holder's Member Components and Determined Member Components of a particular character is so much of the Determined Trust Component of the Trust or the Class (where there is a Separate AMIT Class Election in place), of that particular character as is attributable to the Units held by the Holder during the AMIT Income Year;
  - (ii) the attribution must be worked out on a fair and reasonable basis, in accordance with this Constitution and any other documents that constitute constituent documents of the Trust for the purposes of sub-section 276-210(3) of the Tax Act;



- (iii) the Responsible Entity must not attribute any part of a Determined Trust Component of the Trust or of a Class (where there is a Separate AMIT Class Election in place) to a Holder because of the tax characteristics of the Holder; and
- (iv) if there is more than one Class in issue and the Responsible Entity makes a Separate AMIT Class Election, each Class will be treated as a separate AMIT for the purposes of determining the attribution.

#### **54. BASIS FOR ATTRIBUTION - GENERALLY**

Without limiting paragraph (b)(i) of clause 53 but subject to clause 55, the Responsible Entity must attribute in respect of an AMIT Income Year to each Holder:

- (a) so much of any Determined Trust Components of the Trust for the Financial Year as the Responsible Entity reasonably determines are reflected in the Holder's entitlement to the income (including on redemption) in respect of the Financial Year; and
- (b) if the Determined Trust Components of the Trust exceed the income of the Trust for a Financial Year, so much of any Determined Trust Components of the Trust for the Financial Year as the Responsible Entity reasonably determines would have been reflected in the Holder's entitlement to income, in addition to the amount determined in paragraph (a), if the income of the Trust was determined to be an amount equal to the Determined Trust Components of the Trust.

#### **55. BASIS FOR ATTRIBUTION - SEPARATE AMIT CLASS ELECTION**

Where there is a Separate AMIT Class Election in effect, and without limiting the generality of clauses 53 and 54:

- (a) in calculating the quantum of each Determined Trust Component for each Class, the Responsible Entity must allocate the Trust Components of the Trust for tax purposes, determined in accordance with Subdivision 276-E of the Tax Act, on a fair and reasonable basis between the Classes, having regard to:
  - (i) the portion of the property of the Trust which the Responsible Entity has identified as referable to the relevant Class (if any) in accordance with this Constitution;
  - (ii) the income of the Trust which the holders of Units of the relevant Class are entitled to receive in accordance with this Constitution; and
  - (iii) the expenses of the Trust which the Responsible Entity determines are referable to the relevant Class in accordance with this Constitution;
- (b) the Responsible Entity must attribute the Determined Trust Components for each Class between Holders holding Units of that Class in accordance with the methodology in clause [5554](#), on the basis that references in clause 54:
  - (i) to Determined Trust Components of the Trust for the Financial Year were references to the Determined Trust Components of the Class; and
  - (ii) to income of the Trust for a Financial Year were references to the income of the Trust for the Financial Year which Holders of the relevant Class were entitled to in accordance with clause 32 and the terms of issue of the relevant Class; and
- (c) the Responsible Entity must only attribute trust components for tax purposes of a particular Class to Holders of that Class (and not any other Class).

## 56. **HOLDER OBJECTIONS**

- (a) If a Holder objects to the basis of the attribution of the Determined Member Components for the purposes of the AMIT Regime, including by making a Member Objection Choice, the Holder must:
  - (i) provide the Responsible Entity with written notice of the Holder's intention to make an objection at least 5 Business Days prior to notifying the Commissioner of Taxation of its objection;
  - (ii) include, in the notice provided to the Responsible Entity, a summary of the reasons why the Holder considers the attribution to be inappropriate;
  - (iii) provide to the Responsible Entity any information the Responsible Entity reasonably requests in order to assess the Holder's objection or proposed objection;
  - (iv) consent to the Responsible Entity becoming party to any proceedings with the Commissioner of Taxation relating to the objection; and
  - (v) indemnify the Responsible Entity against all costs and liabilities incurred by the Responsible Entity as a result of the objection or proposed objection.
- (b) If a Holder makes an objection to the basis of attributing the Determined Trust Components of the Trust or of a Class (if there is a Separate AMIT Class Election in place) under the AMIT Regime, including by making a Member Objection Choice, the Responsible Entity may:
  - (i) take such action as it considers necessary, appropriate or reasonable to provide for the rights and interests of other Holders to be protected, including in dealings with the Commissioner of Taxation; and
  - (ii) amend its attribution of the relevant Determined Trust Components to the Holders, having regard to the principles in clause 53(b) and issue amended AMMA Statements to Holders.
- (c) The Responsible Entity has no liability in respect of any act, matter or thing done or omitted to be done by a Holder in relation to an objection to the basis of attribution of the Determined Trust Components under the AMIT Regime, including by the Holder making a **Member Objection Choice**.

## 57. **RESPONSIBLE ENTITY INDEMNITY FOR TAX PAYABLE**

Without limiting clause 17, each Holder is required to indemnify the Responsible Entity, as trustee of the Trust, for:

- (a) any Taxes payable by the Responsible Entity as a result of the application of the AMIT Regime which the Responsible Entity reasonably determines relates to the Holder, to Units held by the Holder, or an attribution of Determined Trust Components which the Responsible Entity reasonably determines to have been made to the Holder in accordance with the AMIT Regime; and
- (b) any other costs, expenses or liabilities incurred by the Responsible Entity as a result of being liable to pay such Taxes, and claiming on the indemnity provided by the Holder under this clause or under the AMIT Regime.

## 58. **METHODS THROUGH WHICH INDEMNITY MAY BE SATISFIED**

The Responsible Entity may, if it is entitled to be indemnified by a Holder under clause 57, or under the AMIT Regime:

- (a) deduct from any amounts owing to the particular Holder, the aggregate of any amounts to which the Responsible Entity is entitled to be indemnified under clause 57, or under the AMIT Regime; or
- (b) redeem Units held by the Holder to satisfy amounts owed to the Responsible Entity.

## 59. RESPONSIBLE ENTITY'S LIMITATION OF LIABILITY - AMIT REGIME POWERS

Without limiting clause 28, to the maximum extent permitted by law but subject to the Act, the Responsible Entity does not incur any liability and it is not obliged to account to anyone (including any Holder) nor is it liable for any loss or damage as a result of the exercise of any power, discretion or choice under clauses 49 to 58 or under the AMIT Regime, or in respect of any determination of fact or law made as part of, or as a consequence of, any exercise of such a power, discretion or choice despite any error or miscalculation in any provision made for Taxes.

## 60. FORMER HOLDERS

For the purposes of clauses 49 to 59, references to a "Holder" or "Holders" (other than in this clause 60) are taken to include former Holders who were Holders during the relevant AMIT Income Year or, as appropriate, during an earlier AMIT Income Year. This clause 60 does not affect the interpretation of any clause of this Constitution other than clauses 49 to 59.

~~61.~~

## 61. OPERATING RULES

While a Class is Quoted, the following provisions apply in respect of such Class:

- (a) despite anything contained in this Constitution, if the Operating Rules prohibit an act being done, the act will not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Operating Rules require to be done;
- (c) if the Operating 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 Operating Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is taken to contain that provision;
- (e) if the Operating Rules require this Constitution not to contain a provision and it contains the provision, this Constitution is taken not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Operating Rules, this Constitution is taken not to contain that provision to the extent of inconsistency.

Subject to Relief applying, a change in the text of this Constitution because of the operation of this clause 61 ('Operating Rules') is not a modification of, or the repeal or replacement of the Constitution for the purposes of subsections 601GC(1) and 601GC(2) of the Act.

## 62. PARTICIPATION IN SETTLEMENT FACILITY

While a Class is Quoted (or in anticipation of being Quoted), the Responsible Entity may at any time resolve that the Trust or the relevant Class will participate in a Settlement Facility.

If the Trust is granted participation in a Settlement Facility:

- (a) the Trust must comply with the Settlement Rules in relation to the Trust or the relevant Class if Units in the Class participate in the Settlement Facility. In particular, the Trust

must comply with the requirements of the Settlement Rules regarding the maintenance of registers, the issuing of holding statements and transfers of Units;

- (b) if the Units in a Class are participating in a Settlement Facility, in addition to the Settlement Facility sub-register, the Responsible Entity must provide for an issuer sponsored subregister, or a certificated sub-register, or both in relation to that Class (at least if the Trust has restricted securities on issue that are Units in that Class); and
- (c) the Responsible Entity must not in any way prevent, delay or interfere with the generation of a proper transfer in accordance with the Settlement Rules or the registration of a paper-based transfer in registrable form (which satisfies the requirements of clause 23 ('Transfers')), except as permitted by the paragraph 'Transfer other than if Quoted' in clause 23 ('Transfers'), the Operating Rules or the Settlement Rules.

## **62.63. MEANINGS**

Unless a contrary intention appears, words and phrases used in this Constitution have the same meanings as in the Act, the singular includes the plural and vice versa and any reference to the close of business on a Day is a reference to 5.00pm (Sydney time), or such other time as the Responsible Entity may determine, on that Day.

**Accrued Responsible Entity's Unit Entitlement** has the meaning given to that phrase in clause 30 ('RE Units').

**Act** means *Corporations Act 2001* (Cth).

**AMIT** means a trust which is an attribution managed investment trust for an income ~~year~~**Year** for the purposes of section 276-10 of the Tax Act.

**AMIT Income Year** means a year of income for the purposes of the Tax Act in respect of which the Trust is an AMIT.

**AMIT Regime** means the regime for the taxation of AMITs, and their members, as set out in the Tax Act.

**AMMA Statement** has the meaning given to that phrase in section 276-460 of the Tax Act.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited or the licensed market operated by that company (whichever the context requires).

**Australian Accounting Standards** means the following:

- (a) the accounting standards from time to time approved under the Act;
- (b) the requirements of the Act in relation to the preparation and content of accounts; and
- (c) generally accepted accounting principles and practices in Australia consistently applied, except to the extent that those principles and practices referred to in (c) are inconsistent with the standards or requirements referred to in paragraph (a) or (b) of this definition.

**Business Day** means:

- (d) where a Class is Quoted, has the meaning given in the Operating Rules; and

~~(a)~~(e) otherwise, a Day other than Saturday or Sunday on which banks are generally open for business in Sydney.

**Business Hours** means 9.00am to 5.00pm on a Business Day.

**Class** means a class of Units, being Units which have the same rights (disregarding any differences connected with the first distribution following an issue of Units). If all Units have the same rights (disregarding any differences connected with the first distribution following an issue of Units), there is only one Class.

**Class is Quoted** means where Units are, or a Class of Units is, Quoted (and includes the Quotation of the ETF Class Units).

**Constitution** means this deed as amended or replaced from time to time.

**CPI Adjusted** means increased each year by an amount not exceeding any percentage increase during the previous year ended 30 June, in the Consumer Price Index (All Capital Cities) or any replacement index.

**Day** means a period of 24 hours ending at midnight.

**Determined Member Component** has the meaning given to that phrase in section 276-205 of the Tax Act.

**Determined Trust Component** has the meaning given to that phrase in section 276-255 of the Tax Act.

**Discovery Year** has the meaning given to that phrase in section 276-345 of the Tax Act.

**ETF Class Units** means Units in a Class which has been, or which is intended by the Responsible Entity to be, Quoted for trading on a Securities Exchange and which has been determined by the Responsible Entity to be a Unit in the ETF Class for the purposes of this definition.

**Financial Year** means:

- (a) for the first Financial Year, the period from the commencement of the Trust to the next Financial Year Termination Date;
- (b) for the last Financial Year, the period from the day after the preceding Financial Year Termination Date to the date of final distribution on winding up of the Trust; and
- (c) in all other circumstances, the period from the day after the preceding Financial Year Termination Date to the next occurring Financial Year Termination Date;

but the application of this definition for the purposes of calculating distributions from the Trust and preparing the income tax return for the Trust does not affect the ~~Trustee's~~**Responsible Entity's** determination as to the Financial Year of the Trust for the purposes of preparing accounts and lodging returns required for registered schemes under the Act.

**Financial Year Termination Date** means:

- (a) 30 June; and
- (b) the day on which the Trust becomes a "subsidiary member" of a "consolidated group" or "consolidatable group" (as defined in the Tax Act); and
- (c) the day on which the Trust ceases to be a "subsidiary member" or a "consolidated group" or "consolidatable group" (as defined in the Tax Act).

**Government Authority** means a government or a governmental, semi-governmental or judicial entity or authority. It also includes a self-regulatory organisation established under statute or a securities exchange.

'GST', 'Supply', 'tax invoice' and 'input tax credit' have the meanings given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and associated regulations.

**Holder** means:

- (a) a person for the time being appearing on the Register as a holder of a Unit or Units; or
- (b) a person who holds an interest in the Trust as determined under the Act.

**Issue Price** means the price at which a Unit is created and issued pursuant to clause 10 ('Issue').

**Liquid** means liquid for the purposes of Part 5C.6 of the Act.

**Member Component** has the meaning given to that phrase in section 276-210 of the Tax Act.

**Member Objection Choice** means a choice made by a Holder under the AMIT Regime for the ~~Holder's~~**Holder's** Determined Member Component to be the ~~Holder's~~**Holder's** Member Component, including a choice made by a Holder under sub-section 276-205(5) of the Tax Act.

**Net Trust Value** has the meaning given to that term in clause 9 ('Net trust value').

**Operating Rules** means the official operating rules of the Operator as modified or supplemented in relation to the Trust.

**Operator** means any entity that operates a Securities Exchange on which Units are Quoted.

**Over** has the meaning given to ~~that~~**the** term in section 276-345 of the Tax Act.

**Quoted** means quoted on the Securities Exchange in accordance with the applicable Operating Rules (including the quotation of the ETF Class Units) but does not include where the quotation is of Units on the main board of a Securities Exchange in connection with the Trust being admitted to the official list of that Securities Exchange, and **Quotation** has a corresponding meaning.

**Redemption Price** means the price at which a Unit is redeemed pursuant to clause 12 ('Redemption').

**Relief** means any declaration or modification made or exemption granted by ~~the~~ **Commission ASIC** that is applicable to the Trust and that is in force and includes, without limitation, instruments of class order relief.

**Responsible Entity** means the body named in this Constitution as Responsible Entity while it remains as responsible entity of the Trust and also means any subsequent responsible entity of the Trust from time to time.

**Securities Exchange** means a financial market on which Units are traded (or, where applicable, it is proposed they be traded).

**Seed Class** means a Class of Units which has been determined by the Responsible Entity to be the Seed Class for the purposes of this definition.

**Separate AMIT Class Election** means, where there is more than one Class ~~in~~**on** issue, an election by the Responsible Entity for each Class to be treated as a separate AMIT for the purposes of the AMIT Regime, as provided for under section 276-20 of the Tax Act.

**Settlement Facility** means a clearing and settlement facility in Australia and includes **CHESS** and any successor system to **CHESS**.

**Settlement Facility Operator** means ASX Settlement Pty Ltd (ABN 49 008 504 532) and any other entity that operates a Settlement Facility.

**Settlement Rules** means the operating rules, procedures, practices, directions, decisions and requirements of the Settlement Facility Operator.

**Tax Act** means the *Income Tax Assessment Act 1936* (Cth) ~~and~~ **(1936 Act)**, the *Income Tax Assessment Act 1997* (Cth), ~~taken together to be the Tax Act~~ **(1997 Act)** or both the **1936 Act** and the **1997 Act**, as appropriate.

**Taxes** means all taxes, including without limitation income, capital gains, recoupment, debits, land, sales, payroll, fringe benefits, group, profit, interest, property, undistributed profits, withholding, GST and wealth taxes, stamp, documentary, financial institutions, registration and other duties, municipal rates, and all other imposts, deductions and charges, related interest, penalties, charges, fees or other amounts assessed, charged, assessable or chargeable by or payable to any national, state or municipal taxation authority.

**Terms** means the rights, obligations and restrictions attaching to a particular Unit (or Class of Units) and includes the terms of issue.

**Time** means a time determined by the Responsible Entity from time to time for the purpose of accepting applications for, issuing or redeeming Units.

**Trust** means the **Alphinity Global Equity Fund**.

**Trust Component** has the meaning given to that phrase in section 276-260 of the Tax Act.

**Trust Liabilities** has the meaning given to that term in clause 3 ('**TrustFund**').

**Trust Property** has the meaning given to that term in clause 2 ('Vesting').

**Under** has the meaning given to that term in section 276-345 of the Tax Act.

**Valuation Time** means a time the Responsible Entity calculates the Net Trust Value, as the cause may be, under clause 9 ('Net trust value').

Legislation is referred to as amended or replaced from time to time. This Constitution is governed by the law of New South Wales, Australia.

Signing page

~~EXECUTED~~ as a deed poll,

~~Executed by Fidante Partners Limited~~

~~Signature of director~~

~~Signature of director~~

~~Name of director (print)~~

~~Name of director (print)~~