



OENO VIVA

**OenoViva Business Systems**

OenoViva

(Australian Capital Territory)

Public Interest Working Capital

Hybrid Unit Trust

Deed of Settlement

(Document ID-OBS-H.2)

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*[Signature]*

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*[Signature]* *[Signature]* *[Signature]*

# OENOVIVA (AUSTRALIAN CAPITAL TERRITORY) PUBLIC INTEREST WORKING CAPITAL HYBRID UNIT TRUST, DEED OF SETTLEMENT

## DATE

dated the 30<sup>th</sup> Day of August 2021.

## PARTIES

### 3.1 SETTLOR

Andrew Morton Garrett in his capacity as Crown Attorney General/ Liquidator/Managing Controller AND as Managing Trustee/Chairman of the Board of Trustees of Trustees of the Andrew Garrett Family Trust no 4 trading as "**OenoViva Global**", ISIN: AU0000023194; LEI: 984500957DB10F0T4B11; CIK: 0001872362; ABN:42 388 204 496 of **Australia**: Level 6, Reserve Bank Building, 111 Macquarie Street, Hobart, TAS, 7000, AND **Hong Kong**: Level 19, Two International Finance Centre, 8 Finance Street, Central, Hong Kong AND **USA**:1015 15th St NW #1000 Washington DC 20005 AND **Vietnam**: Suite 103, 140 Nguyen Van Thu Street, District 1, Ho Chi Minh, Vietnam AND **Korea**: 4F-4052, 14, Hangeulbiseok-ro 24-gil, Nowon-gu, Seoul, Republic of Korea AND **Luxembourg**: Rue Jean Piret L-2350 Luxembourg, Grand Duchy of Luxembourg AND **Belgium**, Brussels Hoofdstedelijk Gewest.

AND

### 3.2 TRUSTEES

The Chief Minister of the Australian Capital Territory of Care of Commonwealth Attorney General's Office, 3-5 National Circuit, Barton, ACT, 2600 ("**First (Joint Managing Trustee)**")

and

Champion of the Public Interest ACN: 643 174 476 ("**Second (Joint Managing Trustee)**") represented by Mr John Thomson of OenoViva Global, Level 6, Reserve Bank Building, 111 Macquarie Street, Hobart, TAS, 7000

and



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OenoViva Washington Inc Company Register Number: C00006823850 a Company organized under the laws of the United States of America whose registered office is 1015 15th St NW #1000 Washington DC 20005 ("Third/Security Holding Trustee")

## BACKGROUND

The Settlor, wishing to establish a trust for the Unit Holders, paid or will pay to the Second Trustee €500,000,000,000 ("Initial Sum") on the 30<sup>th</sup> Day of August 2021 ("Commencement Date") (THIRD SCHEDULE) and may pay further sums or transfer property to the Trustee to be held by the Trustee on trust subject to this deed.

## OPERATIVE PROVISIONS

### 5.1 THE TRUST

The trust created by this deed ("Trust") will be known as the "OENOVIVA (AUSTRALIAN CAPITAL TERRITORY) PUBLIC INTEREST WORKING CAPITAL HYBRID UNIT TRUST"

### 5.2 DEFINITIONS

In this deed:

**"Accounting Period"** means:

- (i) The period which commences on the Commencement Date and ends on the following 30 June.
- (ii) Each whole year ending on 30 June during the period between the Commencement Date and the Date of Distribution; and
- (iii) the period, which commences on 1 July immediately prior to the Date of Distribution and ends on the Date of Distribution

**"Capital Gains"** means those capital receipts of the Trust Fund which are liable to be treated as assessable income for the purposes of the Tax Act, but which are not income according to the accounting policy adopted under clause 5.12.1.

**"Consent"** in relation to the Unit Holders or a particular group or class of them means consent given in accordance with clause 5.24.

**"Date of Distribution"** means the day that the Trustee determines by deed to be the Date of Distribution or, if clause 5.27.1 (a) applies, the date fixed by that clause if it is earlier.



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**"Distributable Income"** means, in respect of any Accounting Period, the greater of:

- (i) The Taxable Income of the Trust Fund for that Accounting Period; and
- (ii) The sum of the net income of the Trust Fund determined for that Accounting Period according to the accounting policy adopted under clause 5.12.1 and any Capital Gains.

**"Register"** means the Register of Unit Holders referred to in clause 5 of this deed.

**"Relative"** in relation to a person means:

- (i) each spouse of that person.
- (ii) Each child, grandchild, or great-grandchild of that person or of the spouse of that person.
- (iii) Each spouse of any child, grandchild, or great-grandchild of that person or of the spouse of that person.

The **"Spouse"** of a person includes:

- (i) the wife or husband of that person for the time being.
- (ii) any former wife or husband of that person.
- (iii) any person who the Trustee determines from time to time is or has been a de facto wife or de facto husband of that person.
- (iv) the widow or widower of that person for the time being whether remarried or not.
- (v) in the case of a deceased person, any person who the Trustee determines was a de facto wife or de facto husband of that deceased person during the deceased person's lifetime

**"Taxable Income"** means taxable income for the purposes of the Tax Act excluding any amount, which is included in taxable income only by reason of section 160AQT of the Tax Act.

**"Tax Act"** means the Income Tax Assessment Act 1936 and/ or the Income Tax Assessment Act 1997.

**"Trustee"** means any trustee or trustees for the time being of the Trust, whether the First Trustee or any additional or substituted trustee or trustees.

**"Trustee Act"** means the Trustee Act 1936.

**"Trust Fund"** means:

- (i) the Initial Sum.
- (ii) any money and other property having the nature of either capital or income acquired or accepted by the Trustee as an addition to the Initial Sum ("Additional Sums"); and
- (iii) the investments and property for the time being representing the Initial Sum and the Additional Sums or any part of them.

**"Unit"** means a unit created under this deed and **"Units"** means two or more of them.



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**"Unit Holder"** in relation to each Unit means the person or persons from time to time registered under this deed as the holder of that Unit and includes persons jointly registered. **"First Unit Holder"** means the persons named and described in the First Schedule of this deed.

### 5.3 INTERPRETATION

- 5.3.1 An adopted child is deemed to be the natural child of his or her adoptive parents.
- 5.3.2 Words importing any gender include each other gender.
- 5.3.3 Words importing persons include corporations and vice versa.
- 5.3.4 Words importing the singular include the plural and vice versa.
- 5.3.5 Except to the extent that this deed expressly provides otherwise, nothing in this deed constitutes the Trustee and the Unit Holders as principal and agent or as partners either as between the Trustee and the Unit Holders or as between two or more of the Unit Holders, and nothing in this deed gives rise to any association of which the Unit Holders are members.
- 5.3.6 A reference to an act of Parliament is:
  - (a) Unless otherwise stated, a reference to an act of the Victorian Parliament; and
  - (b) in every case, a reference to it as it is amended from time to time and any replacement or additional legislation and any rulings or regulations or guidelines made or issued under it.

### 5.4 THE TRUST FUND

- 5.4.1 The Trust Fund and its administration are vested in the Trustee.
- 5.4.2 The Trustee holds the Trust Fund on trust for the Unit Holders on the trusts declared in this deed and in proportion to the Units registered in their respective names.
- 5.4.3 Subject to clause 5.5.7, at any given time all Units will be of equal value.
- 5.4.4 All Unit Holders are entitled to the Trust Fund as a whole, but no Unit Holder is entitled to any particular asset of the Trust Fund or any part of it and, except as provided in this deed, no Unit Holder is entitled to have any asset of the Trust Fund transferred to that Unit Holder.
- 5.4.5 The Trust Fund will be divided initially into the total number of Units specified in the First Schedule. Each First Unit Holder, upon signing any undertaking required by the Trustee, will be registered as the holder of the number of Units set out in the column next to that person's name in the First Schedule.



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Notwithstanding anything to the contrary in this Deed, at no stage will the Trustee allow there to be more than 15 Unit Holders.

- 5.4.6 Each Unit Holder is entitled to the benefit of and is bound by the terms and conditions of this deed and any supplemental deed as if that Unit Holder were a party to this deed and any supplemental deed and irrespective of whether or not the Unit Holder has executed a formal undertaking so to be bound.
- 5.4.7 The Trustee is subject to the following rules:
- (a) The Trustee has an absolute and uncontrolled discretion in the exercise of the authorities and powers vested in the Trustee by this deed and may therefore at any time exercise or refrain from exercising all or any of those authorities and powers as the Trustee thinks fit.
  - (b) The Trustee must keep proper minutes of all resolutions and proceedings and proper books of account and records of the Trust Fund.
  - (c) The Trustee may employ a solicitor or other agent to transact any business required to be done under this deed and is not bound to act personally.
  - (d) The Trustee is not answerable for any act done in conformity with or in pursuance or purported pursuance of an effective or binding decision of the Trustee.
  - (e) Except in relation to a breach of trust knowingly or willfully committed by the Trustee:
    - (i) The Trustee is not personally responsible or liable in respect of the execution or purported or attempted execution of or failure or neglect to exercise or carry out any of the Trustee's duties, authorities, powers, or discretions.
    - (ii) The Trustee is entitled to be indemnified out of the Trust Fund against all liabilities incurred by the Trustee as trustee of the Trust; and
    - (iii) The Trustee is entitled to a lien on and may use the Trust Fund for the indemnity and generally for the payment of all proper costs and expenses of performing the Trustee's duties under this deed.
  - (f) The Trustee's right of indemnity is limited to the right described in clause 5.4.7(e) and, in particular, the Trustee has no right to be indemnified by any of the Unit Holders against any liability incurred by the Trustee as trustee of the Trust.
  - (g) If at any time there are more than two Trustees, the powers, discretions, and authorities vested in the Trustee by this deed may be exercised by a simple majority of them.
  - (h) If any Trustee is a corporation the powers, discretions and authorities vested in the Trustee by this deed may (subject to its constituent documents) be exercised for and on behalf of that Trustee by its board.



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- (i) The Trustee may use, deal with, and administer any part of the Trust Fund together with any asset held by the Trustee in the Trustee's own right or as trustee of any other trust.
- (j) Without limiting the operation of clause 5.4.7(i), the Trustee has the power to use, deal with and administer any part of the Trust Fund together with any interest or partial interest held by the Trustee in different rights or capacities in land or different parcels of land. For the purpose of this clause a "partial interest" includes an undivided moiety as tenant in common, a joint tenancy, an estate in reversion, an interest in remainder or an estate in fee simple.
- (k) The Trustee may at any time, and must, if a Unit Holder requests the Trustee to do so, obtain a valuation of any property of the Trust Fund from a person who the Trustee considers appropriately qualified or experienced and may rely on that valuation in exercising any of its powers under this deed.

## 5.5 REGISTER OF UNIT HOLDERS AND UNIT CERTIFICATES

5.5.1 The Trustee must keep a Register of Unit Holders, containing:

- (a) the name and address of each Unit Holder.
- (b) the number of Units in respect of which each Unit Holder is registered and the distinctive numbers or letters of the certificates held by that Unit Holder.
- (c) the date on which the Unit Holder was entered in the Register in respect of each Unit owned by that Unit Holder; and
- (d) any other details considered necessary by the Trustee.

5.5.2 The Trustee must issue to each Unit Holder a certificate for the Units held by that Unit Holder. That certificate must:

- (a) be in a form substantially similar to that in the Fourth Schedule.
- (b) specify the name and address of the Unit Holder and the number of Units to which it relates.
- (c) bear a distinctive number or letter; and
- (d) be signed by or on behalf of the Trustee.

5.5.3 A certificate is prima facie evidence that the person named in it is entitled to the number of Units specified in that certificate.

5.5.4 The Trustee will not:

- (a) enter in the Register notice of any trust express implied or constructive and the person from time to time entered in the Register as the Unit Holder will be the only person recognised by the Trustee as entitled to the Units in respect of which that Unit Holder is registered or to exercise the rights and privileges attaching to those Units; or



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*[Signature]* *[Signature]* *[Signature]*

- (b) recognise a Unit Holder as holding a Unit on trust and, even if the Trustee has notice of it, the Trustee need not recognise any equitable contingent future or partial interest in a Unit or any other rights in respect of a Unit.

5.5.5 Notwithstanding clause 5.5.4:

- (a) the Trustee may mark the Register in a way, which identifies Units held by a trustee in respect of a particular trust, but by doing so the Trustee will not incur a liability in respect of that trust and the Trustee will nevertheless be deemed not to have notice of that trust; and
- (b) the Trustee may at the written request of either a Unit Holder or a person who is to become a Unit Holder as a result of a transfer of Units issue a certificate for the Units of that person in the name of a trust on which that person holds those Units and the Trustee may then pay any distributions either to the trustees of that trust or to the trust by name, in which case the distribution will be a good discharge to the Trustee who will not be bound to see to the application of any distribution paid to that trust or its trustees.

## 5.6 CALLS ON UNITS

5.6.1 Subject to clause 5.6.6, the Trustee may at any time and from time to time:

- (a) the period during described in Part I of the Third Schedule raise further capital not exceeding in aggregate the sum set out in Part II of the Third Schedule by a call or calls upon the Unit Holders; and
- (b) with the unanimous approval of the Unit Holders raise further capital not exceeding in aggregate the sum so approved by the Unit Holders by a call or calls upon the Unit Holders.

5.6.2 Each call made under clause 5.6.1 is subject to the following conditions:

- (a) The call must be made by notice in writing to each Unit Holder, and each Unit Holder must pay it within one month after it is made.
- (b) Each Unit Holder must contribute an amount, which bears the same proportion to the total amount of the call as the number of Units held by that Unit Holder bears to the total number of Units then on issue.
- (c) The Trustee may recover from each Unit Holder as a debt the amount which that Unit Holder is required to contribute under clause 5.6.2(b).

5.6.3 An amount contributed by Unit Holders in response to a call made under clause 5.6.1 will be added to the capital of the Trust Fund and will not be a debt owed by the Trustee to the Unit Holders.

5.6.4 The Trustee may set off against the liability of any Unit Holder which arises under this clause 5.5.6 any amount which the Trustee owes to that Unit Holder, whether by reason of that Unit Holder being a unit holder or otherwise.



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- 5.6.5 The Trustee need not make any call under clause 5.6.1 but may do so entirely at its discretion.
- 5.6.6 If both Parts I and II of the Third Schedule bear the endorsement "not applicable" then no call may be made under clause 5.6.1(a), but calls may still be made under clause 5.6.1 (b).

## 5.7 ISSUE OF UNITS

- 5.7.1 Subject to this deed, the Trustee may issue, or dispose of, Units on terms determined by the Trustee.
- 5.7.2 The Trustee may issue Units with:
- (a) any preferential, deferred, or special rights, privileges, or conditions; or
  - (b) any restrictions in regard to income distributions, voting, capital distributions or otherwise.
- 5.7.3 The Trustee with the Consent of the Unit Holders may only issue Units according to the following rules:
- (a) Each issue must first be offered to existing Unit Holders pro rata as nearly as can be according to the number of Units held by each Unit Holder without involving fractions.
  - (b) Wherever an issue of Units cannot, because of its number, be offered precisely pro rata to Unit Holders, the Trustee must offer as many of them as possible to the Unit Holders pro rata and may offer the rest to one or more of the Unit Holders as the Trustee thinks fit.
  - (c) Any offer made under clause 5.7.3(a) or 5.7.3(b) must specify:
    - (i) the number of Units offered.
    - (ii) the time within which the offer can be accepted; and
    - (iii) that if the offer is not accepted within that time or is rejected, the Trustee may otherwise dispose of those Units.
  - (d) The Trustee may require a new Unit Holder to sign an application that includes a promise to be bound by the terms of this deed.

## 5.8 TRANSFER OF UNITS

- 5.8.1 A Unit Holder may transfer a Unit by instrument in writing in any usual or common form or in any other form which the Trustee approves. The instrument must be signed by or on behalf of both the transferor and the transferee and the transferor will remain the holder of the Unit transferred until the transfer is



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stamped (if required by law) and registered under clause 5.8.2. The execution of a transfer by the transferee will be conclusive evidence of the transferee's undertaking to be bound by the terms of this deed and any supplemental deed.

5.8.2 After it has been stamped (if required by law), the instrument of transfer must be left with the Trustee for registration. The certificate of the Units to which it relates and such other evidence as the Trustee may reasonably require to show the right of the transferor to make the transfer must accompany the instrument of transfer. The Trustee must then:

- (a) Register the transferee as a Unit Holder.
- (b) retain the instrument of transfer.
- (c) cancel the existing certificate.
- (d) issue a new certificate in the name of the transferee for the units transferred to the transferee; and
- (e) if appropriate, issue a new certificate in the name of the transferor for the Units ratified by the transferor.

Nothing in this clause 5.8.2 prevents the Trustee from registering a transfer before the Trustee has received the instrument of transfer if the Trustee is satisfied that the instrument of transfer has been duly executed and (if required by law) stamped, that there is good reason why the Trustee should register the transfer prior to receipt of the instrument and that the instrument of transfer will be left with the Trustee in due course.

5.8.3 Notwithstanding clause 5.8.1 and clause 5.8.2 but subject to clause 5.8.5, a Unit Holder may not transfer a Unit unless each of the requirements prescribed by clause 5.8.4 is first satisfied or the Unit Holders other than the Proposing Transferor Consent to the waiver or modification of that requirement.

5.8.4 (a) A Unit Holder proposing to transfer a Unit ("Proposing Transferor") must give notice in writing to that effect ("Transfer Notice") to the Trustee. The Trustee will then be the Unit Holder's agent for the sale of the Unit. A Transfer Notice may be given in respect of more than one Unit, but it must relate only to Units of one class ("Relevant Class"). If a Transfer Notice is given in respect of more than one Unit it will be deemed to be a separate notice in respect of each Unit, but it must specify the number of Units proposed to be transferred ("Sale Units"). A Transfer Notice may specify the price at which the Proposing Transferor wishes to sell each Unit ("Offer Price") and must be unconditional except that if it is given in respect of more than one Unit, it may state that none of the Sale Units will be sold unless the whole or a specified Numbers of the Sale Units ("Minimum Number") are sold. If the Transfer Notice does not specify an Offer Price, the Transfer Notice will constitute an offer to sell the Sale Units at market value to be fixed as provided in clause 5.8.4(i) ("Valuation Price"). If it does specify an Offer Price, it will constitute an offer to sell at either the Offer Price or the



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Valuation Price, at the option of the purchaser. A Transfer Notice is not revocable except with the approval of the Trustee.

- (b) When the Trustee receives a Transfer Notice, the Trustee must immediately give notice in writing ("Offer Notice") to all Unit Holders holding Units of the Relevant Class ("Relevant Unit Holders") advising that the Trustee has received the Transfer Notice, specifying the number of Sale Units, the Minimum Number (if any) and the Offer Price (if any) and informing the Relevant Unit Holders of the right of each of them to reject the Offer Price and accept the offer to sell at the Valuation Price. The Offer Notice must offer the Sale Units to existing Relevant Unit Holders (other than the Proposing Transferor) pro rata as nearly as may be according to the number of Units of the Relevant Class held by each of them (without involving fractions). The Offer Notice must also specify that if a Unit Holder does not accept in whole or in part the offer made to that Unit Holder within 1 month from its receipt, the offer will be deemed to be rejected either in whole or in part (as appropriate).
- (c) Any Unit Holder may at any time within 1 month from the date of receiving the Offer Notice give written notice ("Acceptance Notice") to the Trustee that Unit Holder ("Proposing Transferee") wishes to purchase one or more of the Units offered to that Unit Holder. If the Proposing Transferor has nominated an Offer Price, the Acceptance Notice must state whether the Proposing Transferee wishes to buy the Units at the Offer Price or at the Valuation Price. If the Transfer Notice does not specify an Offer Price, the Acceptance Notice will constitute an acceptance of the offer to sell The Sale Units at Valuation Price.
- (d) Nothing in any of these provisions entitles a Proposing Transferee to insist on the Valuation Price being fixed before an Acceptance Notice has to be given, and the giving of an Acceptance Notice binds the Proposing Transferee to buy according to these rules notwithstanding that the Valuation Price has not yet been fixed.
- (e) If a Proposing Transferee wishes to buy more than the number of Units offered to him or her in the Offer Notice, that Proposing Transferee's Acceptance Notice must specify the number of additional Units of the Relevant Class which that Proposing Transferee wishes to purchase and will constitute an offer to buy the additional Units at the same price as the Proposing Transferee has agreed to buy the Units offered to him or her in the Offer Notice.
- (f) Any Sale Units not accepted by a Unit Holder will be used to satisfy requests for additional Units from the Proposing Transferees but if there are insufficient of those Sale Units to satisfy in full all the requests for additional units those unaccepted Sale Units will be distributed amongst the Proposing Transferees who make that request pro rata as nearly as may be to the number of Units of the Relevant Class held by each of them but no



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Proposing Transferee can be required to take more Sale Units than are specified in that Proposing Transferee's Acceptance Notice.

- (g) If after the distribution of additional Units under clause 5.8.4(f) there remain some unsold Sale Units and any Proposing Transferee who by his or her Acceptance Notice has offered to buy more of the Sale Units than have so far been allocated to him or her, the procedure prescribed in clause 5.8.4(f) will be repeated until either all the Sale Units have been taken up or there is no Proposing Transferee remaining who has not been allocated the number of additional Units specified in his or her Acceptance Notice. For the purposes of the repeated procedure in this clause any Units to which the Proposing Transferee has become entitled by reason of the giving of the Acceptance Notice are to be ignored in making the pro-rata calculation required by clause 5.8.4(t).
- (h) After the 1-month period referred to in clause 5.8.4(c) has expired, the Trustee must immediately give written notice to the Proposing Transferor and each Proposing Transferee of the name of all Proposing Transferees and of the number of the Units specified in the Transfer Notice to which each Proposing Transferee is entitled under each of clauses 5.8.4(b), 5.8.4(f) and 5.8.4(g). The Proposing Transferor must then sell and transfer the Sale Units in relation to which an agreement to transfer has been reached under the preceding clauses of this clause 5.8.4 to the Proposing Transferees at the relevant price ("Relevant Price"), which, in the case of a Proposing Transferee who has accepted at the Offer Price, will be the Offer Price, and, in the case of a Proposing Transferee who has accepted at the Valuation Price, will be the Valuation Price.
- (i) As soon as it becomes necessary, the Trustee must appoint an independent Chartered Accountant to fix the Valuation Price which will be that sum which in his or her opinion is the fair value as between a willing but not anxious seller and a willing but not anxious buyer and that Chartered Accountant will act in the matter as an expert and not as an arbitrator and his or her decision will be final. If the Transfer Notice contains an Offer Price, the Trustee need not procure the fixing of a Valuation Price until at least one Relevant Unit Holder, by an Acceptance Notice, agrees to buy one or more of the Sale Units at the Valuation Price.
- (j) If a Sale Unit is not accepted for sale in accordance with clause 5.8.4 ("Excess Sale Unit") the Trustee may attempt, but is not bound to find a willing and suitable purchaser for that Excess Sale Unit at a price not less than whichever is the lower of the Offer Price (if any) or the Valuation Price, and if the Trustee was not required to obtain the Valuation Price in the course of the process prescribed by clause 5.8.4 the Trustee must appoint a Chartered Accountant to fix the Valuation Price. If the Trustee finds such a purchaser within 2 months from the last day on which an Acceptance Notice can validly be served on the Trustee, the Trustee must give an



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appropriate notice to the Proposing Transferor and the Proposing Transferor must then, on receiving the Sale Price, transfer the Excess Sale Unit to that purchaser. If the Trustee does not find such a person within that 2-month period, the Proposing Transferor may at any time within the next 2 months sell that Excess Sale Unit to any person at a price not less than the lowest price at which the Trustee is authorised to sell the Excess Sale Units.

- (k) If in any case a Proposing Transferor having become bound to transfer a Sale Unit fails to do so the Trustee may receive the Relevant Price on behalf of the Proposing Transferor, and if the Trustee does so it must then execute a transfer as the agent of the Proposed Transferor and hold the Relevant Price on trust for the Proposing Transferor. The receipt of the Trustee for the Relevant Price will be a good discharge to the Proposing Transferee and after the transfer has been registered in the manner previously described the transfer will be valid as against any person.

5.8.5 Clauses 5.8.3, 5.8.4 and 5.8.6 will not apply to a transmission made under clause 5.9 or to a transfer:

- (a) To a Relative of a Unit Holder or (in the case of a transfer by a deceased Unit Holder's personal representatives) to a Relative of a deceased Unit Holder.
- (b) To a trust in which any of the persons described in clause 5.8.5(a) is a beneficiary, present contingent or prospective and which either is vested or will vest on or prior to the Perpetuity Date.
- (c) To a corporation (not being a Trustee) any of the shares or capital of which is beneficially owned by any of the persons or trusts described in clauses 5.8.5(a) and 5.8.5(b) inclusive.
- (d) To a trust which either vested or which will vest on or prior to the Perpetuity Date and in which any of the trusts or companies described in clauses 5.8.5(b) and 5.8.5(c) is a beneficiary, present contingent or prospective.
- (e) To a corporation (not being a Trustee) any of the shares or capital of which is beneficially owned by any of the corporations or trusts described in clauses 5.8.5(c) and 5.8.5(d).
- (f) From the trustee of a family trust to the beneficiary or beneficiaries entitled to the relevant Unit pursuant to the governing rules of that trust.
- (g) From the trustee of the will of a deceased Unit Holder or from the trustee of a family trust on any change of trustees to the new trustee or trustees for the time being of that will or family trust.
- (h) In the case of a Unit Holder, which is, a corporation, from that Unit Holder to another corporation, which is, related to that Unit Holder within the meaning of that term in the Corporations Act 2001 (Cth).



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5.8.6 The Trustee may in its absolute discretion and without giving any reason decline to register any transfer of Units unless it is a transfer made under either clause 5.8.4 or clause 5.8.5.

- (a) A transferor of Units remains the holder of the Units transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Units; and
- (b) A transfer of Units does not pass the rights to any income distributed in relation to those Units before registration unless the instrument of transfer contains an endorsement to the effect that the right is to pass.

## 5.9 TRANSMISSION OF UNITS

- 5.9.1 If a sole Unit Holder dies, the legal personal representatives of the deceased are the only persons whom the Trustee will recognise as having a title to the deceased's interest in the Units.
- 5.9.2 If a joint Unit Holder dies, the surviving registered person or persons are the only persons whom the Trustee will recognise as having a title to the deceased's interest in the Units
- 5.9.3 A person becoming entitled to a Unit as a result of the death, lunacy liquidation or bankruptcy of a Unit Holder may, upon producing any evidence reasonably required by the Trustee, elect by notice in writing to the Trustee to be registered personally as the holder of that Unit in his her or its representative capacity.
- 5.9.4 A person who is entitled to a Unit in the manner described in clause 5.9.3 may receive and give a good discharge for all money payable in respect of that Unit but, except as otherwise provided by this deed, that person does not have any other rights or privileges of a Unit Holder in respect of that Unit unless and until he becomes registered in respect of that Unit.

## 5.10 REDEMPTION OF UNITS

- 5.10.1 A Unit Holder proposing to have a Unit redeemed by the Trustee ("Redeeming Unit Holder") must give notice in writing to that effect ("Redemption Notice") to the Trustee. If a Redemption Notice is given in respect of more than one Unit it will be deemed to be a separate notice in respect of each Unit, but it must specify the number of Units proposed to be redeemed ("Redemption Units"). A Redemption Notice may specify the price at which the Redeeming Unit Holder is prepared to have each Unit redeemed ("Redemption Price") and must otherwise set out the terms and conditions on which redemption is sought and must be unconditional. If the Redemption Notice does not specify a Redemption Price



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the Redemption Notice will be deemed to have specified as the Redemption Price the market value of the Units (as determined by the Trustee).

- 5.10.2 Upon receiving a Redemption Notice, the Trustee must, as soon as reasonably practicable, convene a meeting of the Unit Holders other than the Redeeming Unit Holder to seek their Consent to the Trustee Redeeming and cancelling the Redemption Units, and if the Redemption Notice specifies a Redemption Price, which is greater than the market value of the Units (as determined by the Trustee), to seek their unanimous approval to do so at the Redemption Price.
- 5.10.3 If the Consent to the redemption and (if required by clauses 5.10.2) the unanimous approval of the Redemption Price is obtained from the Unit Holders other than the Redemption Unit Holder; the Trustee will redeem and cancel the Redemption Units at the Redemption Price and otherwise upon the terms and conditions specified in the Redemption Notice.
- 5.10.4 If the Consent to the redemption is obtained from the relevant Unit Holders but their unanimous approval of the Redemption Price (if required by clause 5.10.2) is not obtained, the Trustee will redeem and cancel the Redemption Units at their market value and otherwise upon the terms and conditions specified in the Redemption Notice.
- 5.10.5 If the relevant Unit Holders do not consent to the redemption the Trustee may not proceed with it.

## **5.11 THE DISTRIBUTABLE INCOME OF THE FUND**

- 5.11.1 All Distributable Income payable in accordance with the provisions of this deed to Unit Holders is payable to them separately and income received by the Trustee is not received and must not be construed as having been received by or on behalf of the Unit Holders jointly or otherwise.
- 5.11.2 The Trustees may at any time during an Accounting Period with respect to each part of the Distributable Income of the Trust Fund for that Accounting Period determine whether:
- (a) to pay or apply it or set it aside or for the Unit Holders pro rata according to the number of Units held by each Unit Holder at the time of that determination.
  - (b) to pay or apply it or set it aside for such charitable purposes as the Trustee (with the Consent of the Unit Holders) thinks fit; or
  - (c) to accumulate it; but if the Trustee does not make an effective determination under this clause in respect of the whole or any part of the Distributable Income ("Undistributed income") before the end of the Accounting Period to which that Distributable Income relates the Trustee



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will be deemed to have made a determination in respect of that Undistributed Income under clause 5.11.2(a).

5.11.3 The following rules apply to determinations made under clause 5.11.2:

- (a) Any determination is conditional upon the Distributable Income being derived during the Accounting Period.
- (b) No Distributable Income can be accumulated beyond the period permitted by law for accumulations and after that period the Trustee must pay, apply, or set aside the whole of the Distributable Income under either clause 5.11.2(a) or 5.11.2(b).
- (c) If at the end of an Accounting Period the sum of the amounts about which determinations have been made under clause 5.11.2 exceeds the net income for that Accounting Period the amount of the excess must be deducted from the amounts which the Trustee has determined to accumulate and only the balance of those amounts can then be accumulated and if any deficiency remains the Trustee will be deemed to have applied the capital of the Trust Fund and the value of the Trust Fund will then be adjusted accordingly.
- (d) A determination to pay, apply or set aside any amount for a Unit Holder may be carried out by crediting that amount to the Unit Holder in the books of the Trust Fund or paying it to the Unit Holder or for that Unit Holder's benefit.
- (e) The Trustee has an absolute discretion as to the making of any determination and need not assign any reason for it.
- (f) Without limitation, a determination may be made by oral declaration or by written statement whether published or not and a certificate by the Trustee as to any determination is prima facie evidence that it was made as and when set out in the certificate.
- (g) If, after the Trustee has made a determination under clause 5.11.2 in respect of any Accounting Period, the Commissioner of Taxation issues an amended assessment under the Tax Act (whether to the Trustee or some other taxpayer) as a consequence of which the Trustee is satisfied that the Distributable Income of the Trust Fund for that Accounting Period is different from that on which the Trustee based its original determination, the Trustee may either:
  - (i) confirm its original determination, in which case any undistributed part of the new Distributable Income will be deemed to have been accumulated and any distribution made in excess of the new Distributable Income will be deemed to have been a distribution of capital; or
  - (ii) revoke the original determination and make a new determination according to the new calculation of Distributable Income, in which



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case any distribution made to any Unit Holder in excess of that Unit Holder's entitlement under the new determination will be deemed to have been a distribution of capital.

- (h) The amount of any accumulation is an accretion to the Trust Fund, but the Trustee may at any time pay or apply the whole or any part of the accumulations as if they were Distributable Income.
- (i) An amount set aside under clause 5.11.2 will not be part of the Trust Fund but is to be held by the Trustee as a separate trust fund on trust for the person entitled to the benefit of it with power to the Trustee pending payment to invest or apply or deal with that separate trust fund or any resulting income or any part of it in the manner provided in this deed for the investment or application of or dealing with the Trust Fund.
- (j) For the purpose of identifying those portions of Distributable Income paid, applied, set aside, or accumulated the Trustee may maintain two or more separate income accounts and may credit each income receipt to one or more of the income accounts as the Trustee thinks fit.
  - (i) credit each Capital Gain to one or more of the income accounts as the Trustee thinks fit.
  - (ii) debit each item of expenditure of a revenue nature to one or more of the income accounts as the Trustee thinks fit; and
  - (iii) debit distributions of Distributable Income made under clause 5.11.2 to one or more of the income accounts as the Trustee thinks fit and in particular but without limitation the Trustee may credit any dividend income which is derived by the Trust Fund and which is franked within the meaning of Part III AA of the Tax Act or any Capital Gains to one or more of the income accounts and the Trustee may in its discretion appropriate that income to any one or more of the Unit Holders to the exclusion of the other Unit Holders but that discretion is subject to the overriding obligation of the Trustee to pay apply or set aside the Distributable Income of the Trust Fund to or for the benefit of the Unit Holders pro rata according to the number of Units held by each Unit Holder.

5.11.4 Nothing in this clause 5.11 prevents the Trustee from making an interim distribution of Distributable income at any time during an Accounting Period, but any interim distribution must be made among the Unit Holders pro rata according to the number of units held by each Unit Holder at the time of that interim distribution.

## 5.12 ACCOUNTING POLICY



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- 5.12.1 The Trustee must record and account for all of the income from the investments of and other accretions to the Trust Fund and all outgoings whether of capital or revenue according to the following rules:
- (a) The Trustee may, at its discretion, decide whether the income, accretions, expenditure, and outgoings of the Trust Fund are capital or income and whether they are to be accounted for on the basis of receipts or accruals and may, if it thinks fit, account for some part of the Trust Fund on one basis and the rest on the other.
  - (b) The Trustee may vary the basis of accounting for the whole or any part of the income, accretions, expenditure and outgoings of the Trust Fund from one Accounting Period to the next as the Trustee thinks appropriate.
  - (c) Subject to the preceding clauses 5.12.1 (a) and 5.12.1 (b), the Trustee must account according to generally accepted accounting standards; and
  - (d) Notwithstanding anything contained in the preceding clauses 5.12.1(a) to 5.12.1(c), the Trustee may for any Accounting Period elect to account for the whole or some part of the Trust Fund on the basis which is used to calculate its Taxable Income for that Accounting Period in which case the accruals, accretions, losses and outgoings which go to make up the Taxable Income of the Trust fund will be treated on revenue account for all the purposes of this deed and all other accruals, accretions, losses and outgoings will be treated as capital.
- 5.12.2 The Trustee may from time to time and must at the end of each Accounting Period prepare accounts for the Trust Fund which accurately reflect the trading and other activities of the Trust according to the accounting policy set out in clause 5.12.1.

## 5.13 FINAL DISTRIBUTION

- 5.13.1 As from the Date of Distribution the Trustee must hold the Trust Fund on trust to pay, transfer or apply the whole of it to or for the benefit of the Unit Holders in proportion to the number of Units, which they hold at the Date of Distribution.
- 5.13.2 As soon as practicable after the Date of Distribution, the Trustee must sell the assets of the Trust Fund, call them in and convert them into money or cause them to be sold, called in and converted into money. However, the Trustee may postpone the sale and conversion of any part of the assets of the Trust Fund for such time as it thinks desirable in the interests of the Unit Holders, and the Trustee will not be liable for any loss attributable to that postponement.
- 5.13.3 As soon as practicable after the Date of Distribution the Trustee must give to each Unit Holder notice of the impending distribution, and each Unit Holder must give to the Trustee for cancellation the certificates held by that Unit Holder.



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## 5.14 IN SPECIE DISTRIBUTION

The Trustee may appropriate any part of the Trust Fund in its actual condition or state of investment at the time of appropriation in or towards satisfaction of any interest or entitlement of any person in the Trust Fund or any part of it.

## 5.15 TRUSTEES POWERS

5.15.1 The Trustee has the following powers and authorities:

- (a) Notwithstanding anything to the contrary in this deed, but subject to the Consent of the Unit Holders, at the Trustee's discretion, to:
  - (i) pay part or all of the capital of the Trust Fund to Unit Holders in proportion to the number of Units held by each of them for their own benefit; or
  - (ii) lend part or all of the Trust Fund to any Unit Holder either with or without security and upon such terms and conditions (including as to both repayment and interest) as the Trustee determines in its absolute discretion.
- (b) While a Unit Holder is an infant or otherwise under any legal disability, on behalf of that Unit Holder to invest any money or property to which that Unit Holder is entitled and the resulting income in any of the investments, matters or things authorised by this deed as if it were part of the Trust Fund and at any time to pay out or apply the whole or any part of the capital or income of the investments in or towards the maintenance, education, benefit or advancement in life of that Unit Holder and either to apply that part of the Trust Fund for that purpose or to pay it to the parent or other person who then has the care or custody of the Unit Holder in which case the Trustee is not required to see to its application or to have regard to the means of the parent or other person or to the amount of any other money available for the same purpose.
- (c) To invest the Trust Fund in any form of investment.
- (d) At any time, to vary an investment or to realise an investment of any part of the Trust Fund and to reinvest money resulting from the realisation in any form of investment.
- (e) From time to time to provide and set aside out of the capital or income of the Trust Fund such money as the Trustee considers to be available or necessary and to pay or apply that money in or towards discharge or reduction of any encumbrance, debt or other liability for the time being affecting the Trust Fund or any part of it.



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- (f) To take on, hire or lease any real or personal property for such periods and at such rent from time to time as the Trustee thinks fit with or without option of renewal or purchase.
- (g) To open accounts of every description with any bank or other financial institution on such terms and conditions as the Trustee thinks fit; and
  - (i) to conduct and operate those accounts in such manner as the Trustee thinks fit in accordance with the customs, usages and practices of the relevant financial institution including but not limited to the power to operate any account in overdraft.
  - (ii) to agree to the institution debiting any account with interest, costs, charges, expenses, and liabilities incurred by the institution at any time on behalf of the Trustee; and
  - (iii) to borrow or raise money and to secure the payment of that or any other money in such manner as the Trustee thinks fit or to secure the repayment or performance of any debt, liability, contract, guarantee, indemnity, or other engagement incurred or entered into by the Trustee in any way with any financial institution.
- (h) To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- (i) To borrow and raise money from and to secure over the property of the Trust Fund or any part of it by mortgage, bill of sale, lien or charge, fixed or floating, legal, equitable or otherwise the payment of money to any person, firm, corporation, governmental or municipal body on such terms with or without security or interest as the Trustee thinks fit and to join with any corporation or natural person in executing any mortgage or other document for the purpose of securing the payment of money either jointly to the Trustee and that corporation or natural person or only to that corporation or natural person.
- (j) To borrow or raise moneys to be used in deriving income or other gain in augmentation of the Trust Fund notwithstanding that the Trust Fund may already be wholly invested or applied or that the money to be borrowed or raised may exceed the value of the Trust Fund and no lender needs to enquire whether the borrowing is necessary or as to its purpose or as to the application of the money borrowed.
- (k) To give any guarantee or indemnity or guarantee and indemnity with or without security or natural person and with or without remuneration for the payment of money or the performance of any contract, obligation or undertaking by any person, firm, corporation or association and to secure that guarantee or indemnity or guarantee and indemnity over the property (both present and future) of the Trust Fund by mortgage, bill of sale, lien or



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*[Signature]* *[Signature]* *[Signature]*



charge, fixed or floating, legal, equitable or otherwise on such terms as the Trustee thinks fit.

- (l) If the Trustee is a company, for any purpose including but not limited to the purposes set out in clauses 5.15.1(i) and 5.15.1(k), to give and to execute a registrable charge (whether fixed or floating or fixed and floating) over all the property (both present and future) of the company and the Trust Fund and to give and execute any other charge or security registrable under the Corporations Act or under the corresponding law of any other State or Territory of Australia.
- (m) To determine whether any sum received or disbursed is on account of capital or income or partly on account of capital and partly on account of income and in what proportions and the decision of the Trustee whether made in writing or implied from the acts of the Trustee are conclusive and binding.
- (n) To employ and pay for such professional or other assistance as the Trustee thinks necessary in the discharge of the duties of the Trustee including assistance from a partner or a director of a Trustee.
- (o) To act on the opinion or advice of or information obtained from a financial adviser, banister, solicitor, valuer, surveyor, broker, auctioneer, or other expert but the Trustee is not responsible for any loss, depreciation or damage occasioned by acting or not acting in accordance with that opinion, advice, or information.
- (p) To appoint any person or persons as the representative or attorney of the Trustee for the purpose of exercising all or any of the powers, authorities and discretions vested in the Trustee by this deed or to revoke any such appointment, but only to the extent permitted by and in accordance with the requirements of any applicable law.
- (q) To determine all questions and matters of doubt which may arise in the course of the management, administration, realisation, liquidation, partition or winding up of the Trust Fund
- (r) Generally with respect to the Trust Fund to perform all acts of alienation and hypothecation and other acts of ownership to the same extent and with the same effect as might have been done if the Trustee were the beneficial owner of the Trust Fund and the decisions and actions of the Trustee whether actually made or taken in writing or implied from the actions of the Trustee are conclusive and binding on all the Unit Holders and others who in the future acquire any interest under this deed.
- (s) To institute and defend proceedings at law and to pursue them to their final determination or compromise as the Trustee thinks advisable.
- (t) To incorporate any company (including a company to act as Trustee of the Trust Fund or any part of it) in any place under the law of that place at the



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expense of the Trust Fund with limited or unlimited liability for the purpose inter alia of acquiring the Trust Fund or any part of it and so that the consideration in the case of a sale of the Trust Fund or any part of it to a company incorporated pursuant to this provision may consist wholly or partly of fully paid shares, stock, debentures or debenture stock or other securities of the company and may be credited as fully paid and may be allotted to or otherwise vested in the Trustee and be capital in the Trustee's hands.

- (u) To exercise or concur in exercising the voting and other rights attaching to any securities for the time being forming part of the Trust Fund so as to become a director or other officer or employee of any company and to vote for and to be paid and to retain for the Trustee's own use and benefit reasonable remuneration for the Trustee's services to that company.
- (v) To purchase a house property (whether by purchase of an existing house or by purchase of land and the construction of a house on it) and to permit any one or more of the Unit Holders to live in and have the use and occupation of the house property rent free for whatever period expiring on or before the Date of Distribution as the Trustee thinks fit and during that period out of the Trust Fund to insure the house against loss or damage and to keep it and all buildings, erections and improvements on the land in good and tenantable condition and to pay all rates and taxes assessed on the land or on the owner or occupier of the land or payable in respect of the land.
- (w) To conduct any trade or business whatsoever anywhere in the world either alone or in partnership and under any name as the Trustee thinks fit and to discontinue it from time to time.
- (x) To employ any person (including a Trustee) in connection with any trade or business carried on by the Trustee or in connection with anything required to be done pursuant to this deed including the receipt and payment of money and to decide the remuneration to be allowed and paid and the amount of all charges and expenses and to create or arrange any scheme of superannuation, retirement, benefit, or pension for the benefit of any person employed.
- (y) To exercise all the powers and authorities vested in the Trustee by this deed solely or jointly or in partnership or otherwise in conjunction with any other person or persons whether those persons act on their own behalf or as trustees of any other trust.

5.15.2 The Trustee is relieved of the duties imposed on trustees by sub-sections 7(1) and 7(3) of the Trustee Act.

## 5.16 GOOD FAITH



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No mortgage, charge or other security given or created by the Trustee to or in favour of any person or corporation over or in respect of the Trust Fund or any part of it will be invalid by reason of:

- (a) any error or omission (whether of law or fact) on the part of the Trustee or its advisers; or
- (b) of any breach of duty or trust whatsoever, unless it is proved to have been committed, made, or omitted in personal, conscious, fraudulent, bad faith by the Trustee and all persons claiming any beneficial interest in the Trust Fund are deemed to have had notice of this provision.

## 5.17 CONFLICT OF INTEREST

The Trustee may exercise any of its powers notwithstanding that the Trustee or a director of the Trustee or any one or more of the Unit Holders may be directly or indirectly interested in any transaction and, in particular but without limitation, the Trustee may enter into any contract with any of the directors of a Trustee or any of the Unit Holders or any trustee or trustees of any other trust of which any of the Unit Holders is a beneficiary whether present, contingent, or prospective.

## 5.18 THIRD PARTY DEALINGS

5.18.1 No person dealing with the Trustee needs:

- (a) to enquire as to the adequacy of the powers of the Trustee in relation to any dealing or as to the proper exercise by the Trustee of any of the powers, authorities and discretions vested in the Trustee by this deed.
- (b) to enquire as to the propriety or regularity of any transaction affecting the Trust Fund or any part of it; or
- (c) see to the application of any money paid to the Trustee or to any person or corporation at the Trustee's direction.

5.18.2 In the absence of fraud on the part of a person dealing with the Trustee, so far as the safety and protection of that person is concerned, the dealing is deemed to be within the powers of the Trustee and, therefore, to be valid and effective accordingly. The receipt of the Trustee or the receipt of any person paid at the direction of the Trustee discharges any person dealing with the Trustee from all liability in respect of the payment.

## 5.19 REMUNERATION



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The Trustee is entitled to remuneration for its services as follows:

- (a) It is lawful for any Trustee (other than the Settlor) for the time being to be a director or other officer of any company in the shares, stock, debentures, or unsecured notes of which any of the money forming part of the Trust Fund is for the time being invested and to receive and retain for its own use all remuneration and expenses from time to time fixed in conformity with the articles of association of that company.
- (b) Any Trustee may charge and be paid out of the Trust Fund or its income or both such remuneration as the Trustee in its absolute discretion thinks fair and reasonable having regard to the work done and responsibility assumed in connection with the Trust.
- (c) Any Trustee or director or officer of a corporate Trustee being a solicitor, accountant or other professional person may be employed to transact any business or do any act required to be done in connection with the Trust and is entitled to be paid all proper costs, charges and expenses for any professional business or act done by him or his firm in relation to the Trust as he would have been entitled to receive in respect of that business if he had not been a Trustee or a director of a Trustee except that a Trustee is not entitled both to remuneration under clause 5.19(b) and to professional fees under this clause 5.19(c) in respect of the same act or business.

## 5.20 INVESTMENT IN PRIVATE COMPANIES

If the Trustee invests the Trust Fund or any part of it in the stocks or shares of any proprietary or private company, then the Trustee will be responsible only for so much of the stock or shares and the dividends and income from them as is actually transferred and paid to the Trustee and the Trustee is excused from attending any and all general meetings of the company and is authorised from time to time to appoint and give such proxy as it thinks fit to represent the Trustee at any general meeting. Nothing in this clause will oblige the Trustee:

- (a) to investigate the accounts or management or control of the company.
- (b) to enquire into or in any manner to question by bringing an action, suit, or proceedings or in any other manner whatsoever to seek to interfere with the management, government, or control of the company by its directors; or
- (c) to take any step or bring any action, suit, or proceedings or in any other manner whatsoever to seek to vary the articles of association of the company or wind up the company.

## 5.21 REMOVAL AND APPOINTMENT OF TRUSTEES



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The following provisions apply to the appointment, removal and retirement of the Trustee:

- (a) The Trustee will be removed from that office if the Trustee:
  - (i) resigns.
  - (ii) being a natural person, dies or becomes bankrupt or is subject (as debtor) to the provisions of a deed of assignment or a deed of arrangement entered into and subsisting under the provisions of Part X of the Bankruptcy Act or otherwise is the subject of any order or atonement made or entered into under any law of Australia or of any of its States or Territories relating to insolvency.
  - (iii) being a company, it is liquidated, or a provisional liquidator, receiver or receiver and manager, official manager or administrator is appointed in respect of it or if it enters into any arrangement, compromise or composition with its creditors or is otherwise the subject of any order, arrangement or administration made or entered into under any law of Australia or any of its States or Territories relating to insolvency.
- (b) The Unit Holders have the power to remove any Trustee and to appoint a new Trustee or new Trustees in place of a Trustee or in addition to the Trustee.
- (c) The Unit Holders must exercise the powers vested in them under clause 5.21(b) in the same manner as their Consent is to be obtained under clause 5.24

## 5.22 VARIATION

The Trustee may at any time, with the Consent of the Unit Holders, by deed vary any provision of this deed or any variation of it and may by the same or any other deed declare any new or other trusts, powers or discretions concerning the Trust Fund or any part of it but so that neither the law against perpetuities nor the law relating to accumulations is infringed and so that the new or other trusts, powers, discretions, alterations or variations:

- (a) are not in favour of or for the benefit of the Settlor or result in any benefit to the Settlor.
- (b) do not affect the beneficial entitlement to any amount already set aside for or vested in a Unit Holder unless that Unit Holder consents.

## 5.23 MEETINGS OF UNIT HOLDERS



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- 5.23.1 The Trustee or the holders of not less than 51% of the Units may convene a meeting of Unit Holders. Unless the Consent of the Unit Holders is obtained to shorter notice, at least 7 days' notice of that meeting must be given to each Unit Holder, to each person entitled to a Unit as a result of the death, lunacy or bankruptcy of a Unit Holder, and the auditor (if any) for the time being of the Trust. That notice must specify the general nature of the business to be transacted at that meeting and the place day and time of the meeting. The accidental omission gives, or the non-receipt of, a notice of a meeting to or by a person will not invalidate the proceedings at that meeting.
- 5.23.2 The Chairman of the meeting is to be appointed by a majority of the Unit Holders present at that meeting.
- 5.23.3 Every question submitted to a meeting of Unit Holders will be decided firstly by a show of hands. A poll may be demanded by the Chairman or by a Unit Holder present in person or by proxy or by other authorised representative. On a show of hands, every Unit Holder present in person or by proxy or by other authorised representative will have one vote for every Unit held by that Unit Holder and on a poll every Unit Holder present in person or by proxy will have one vote for every Unit held by that Unit Holder.
- 5.23.4 Votes may be exercised either personally or by proxy. A proxy need not be a Unit Holder. An instrument of proxy must be in a form approved by the Trustee and deposited with the Trustee at least 24 hours before the meeting at which the proxy is to be exercised.
- 5.23.5 Where there are joint holders of a Unit, any one of them may vote either personally or by proxy as if that holder were solely entitled to the Units, which are jointly held. If more than one of the joint holders is present at a meeting either personally or by proxy, then the one of them present who is first named in the Register in respect of the joint holding is the only person entitled to vote in respect of those Units. If there is more than one executor or administrator in respect of any Units, they will for the purposes of this clause be treated as joint holders.
- 5.23.6 At any meeting of Unit Holders, at least 2 Unit Holders present in person or by proxy or by other authorised representative who together hold not less than 51% of all issued Units at the date of that meeting will form a quorum for that meeting. The Chairman must adjourn any meeting at which a quorum is not present within 15 minutes after the time appointed in the notice for the meeting.
- 5.23.7 If within 15 minutes from the time appointed for the meeting a quorum is not present:
- (a) if the meeting was convened will be dissolved; and
  - (b) if the meeting was convened by the Trustee, it will stand adjourned to the same day in the next week at the same time and place and if a quorum is not present at the adjourned meeting within 15 minutes from the time



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appointed for the meeting the Unit Holder or Unit Holders present in person or by proxy or attorney will be a quorum.

## 5.24 CONSENT OF UNIT HOLDERS

The Unit Holders or, if the case requires, a particular group or class of them, will have consented to any particular matter if:

- (a) all of them execute a formal consent in writing; or
- (b) a resolution that they consent is duly passed at a meeting of Unit Holders by a majority of at least 75% of the Unit Holders at that meeting.

## 5.25 NOTICES

5.25.1 A notice required or permitted by this deed to be given by one person to another must be:

- (a) in writing.
- (b) in the case of a notice given by an individual, signed by him or her or by his or her solicitor, agent, or attorney; and
- (c) in the case of a notice given by a corporation, signed under seal or by a director or secretary of the corporation or by its solicitor, agent, or attorney.

5.25.2 Service of a notice will be sufficient and effective in the case of a notice to be given to an individual if the notice is:

- (a) served personally upon that person.
- (b) delivered to the home or place of business of that person.
- (c) posted by ordinary prepaid post or by security mail in an envelope addressed to that person at his or her place of residence or business last known to the person giving the notice, in which case the notice will be deemed to have been received on the second business day following the day of postage.
- (d) transmitted by telex or facsimile transmission to the proper telex or facsimile number (if any) of that person.

5.25.3 In the case of a notice to be given to a corporation, the notice is:

- (a) served personally upon a director of that corporation.
- (b) delivered to the registered office of that corporation.
- (c) posted by ordinary prepaid post or by security mail in an envelope addressed to that corporation at its registered office or place of business last



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known to the person giving the notice, in which case the notice will be deemed to have been received on the second business day following the day of postage.

(d) transmitted by telex or facsimile transmission to the proper telex or facsimile number (if any) of that corporation.

5.25.4 If a notice is to be served upon the Trustee and there are two or more of them, service on any one of them will be sufficient service.

5.25.5 If a notice is to be served on joint holders of a Unit, service on any one of them will be sufficient service.

## 5.26 PROPER LAW

5.26.1 The law of the Trust is the law of Victoria and this deed is to be interpreted according to the law of Victoria and the courts of that state have jurisdiction to determine any dispute arising under this deed irrespective of where any one or more of the Trustees or the Unit Holders may from time to time reside or be domiciled.

5.26.2 The provisions of the Trustee Act or any other act relating to trustees for the time being in force in Victoria apply to the Trustee and to this deed and the Trustee is entitled to exercise all the powers conferred by the Trustee Act except in so far as they are inconsistent with or expressly or implied modified by this deed.

## 5.27 ALTERNATIVE VESTING

5.27.1 If at any time, despite clause 5.26.1, the proper law of the Trust becomes the law of some State or Territory of Australia which has, in substitution for the common law rule against perpetuities, enacted a rule which prescribes a fixed period within which trusts must vest ("Statutory Rule") then, for so long as that law remains the proper law of the Trust, unless the Trustee fixes an earlier date the Date of Distribution will be the last day of the maximum period within which the Trust must vest to ensure that it does not offend against the Statutory Rule.

5.27.2 If at any time the Trustee acquires any property in circumstances in which the proper law of the Trust as it applies to that property is the law of some State or Territory of Australia which has adopted a Statutory Rule then, even though the operation of clause 5.26.1 is unaffected in relation to the rest of the Trust Fund, the Trustee must ensure that that property is disposed of or vested prior to the last day on which it must vest to ensure that the trust of that property does not offend against the Statutory Rule.



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## 5.28 EXECUTION PAGE

EXECUTED as a Deed.

### SETTLOR

Andrew Morton Garrett in his capacity as managing Trustee/Chairman of the Board of Trustees of OenoViva Global



---

Andrew Morton Garrett  
Managing Trustee Chairman

### FIRST (JOINT MANAGING) TRUSTEE

SIGNED SEALED AND DELIVERED by the Chief Minister of the Australian Capital Territory in the presence of



---

Andrew Morton Garrett  
Crown Attorney General AND Liquidator  
& Managing Controller appointed to  
the Australian Capital Territory

---

Andrew Barr  
Chief Minister

### SECOND (JOINT MANAGING) MANAGING TRUSTEE

Champion of the Public Interest ACN: 643 174 476 Pursuant to s127 of the Corporations Act 2021 (Au) in the presence of



---

Robert Nowak  
Director and Secretary



---

John Dugald Thomson  
Power of Attorney



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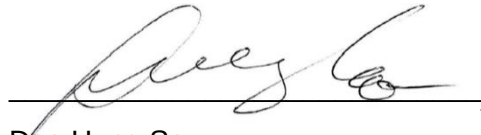
OenoViva Business Systems



**THIRD/ SECURITY HOILDING TRUSTEE**

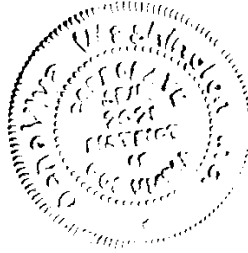
SIGNED SEALED AND DELIVERED )

by the said OenoViva Washington Inc. Company Register Number: C00006823850



Dae Hung So

SOLE DIRECTOR/SECRETARY



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# FIRST SCHEDULE

## REGISTRY OF UNITS

UNIT HOLDER

NUMBER OF UNITS HELD

Andrew Morton Garrett and/or His Heirs Successors  
and Assigns for the benefit of the citizens/residents/  
visitors of the Australian Capital Territory

500,000,000,000 X € 1 Units



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## SECOND SCHEDULE

### UNIT CERTIFICATE

# THE OENOVIVA (AUSTRALIAN CAPITAL TERRITORY) PUBLIC INTEREST WORKING CAPITAL HYBRID UNIT TRUST

(Constituted by Trust Deed dated 30<sup>th</sup> August 2021)

#### UNITS

| No of Units     | Units Numbered    | Unit Certificate<br>No |
|-----------------|-------------------|------------------------|
| 500,000,000,000 | 1-500,000,000,000 | 1                      |

This is to certify that Andrew Morton Garrett and/or His Heirs Successors and Assigns for the benefit of the citizens/residents/visitors of the Australian Capital Territory is the registered holder of the units referred to in this Certificate in the OenoViva (Australian Capital Territory) Public Interest Working Capital Hybrid Unit Trust, which units are subject to the provisions of the Trust Deed constituting the Trust and have been entered in the Register of Unit Holders on 30<sup>th</sup> August 2021



Signed for and on behalf of the Managing Trustee Champion of the Public Interest ACN: 643 174  
476 Robert Nowak Secretary /Director of the trustee company



Sole Unit Holder

This Certificate must be delivered to the Trustee on application to transfer any of the units comprised in that Certificate



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2021

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# THIRD SCHEDULE

**INTERNATIONAL BILL OF EXCHANGE**  
(UNCITRAL CONVENTION)  
SERIAL N°: 61.00215/21

// ISIN: AU0000023194//CFI: DCZSFB// FSN: OENOVIVA/ BEX 20221001 GTD FM BR //

PURSUANT TO AND DRAWN IN ACCORDANCE WITH THE FINAL ARTICLES OF THE UNCITRAL CONVENTION IN EFFECT ON THE DATE HEREOF REF: RATIFIED CONVENTION ARTICLES, 1-7, 11, 12, 13, 46-3, 47-4(c), 5 WITH VALUE OF: **€500,000,000,000 EXACTLY**

ISSUE DATE: 30<sup>th</sup> AUG. 2021; AT RESERVE BANK BUILDING, LEVEL 6, 111 MACQUARIE STREET, HOBART, AUST.

**ORIGINAL PRIVATE BANK NOTE**

**GUARANTEED LEGAL TENDER OBLIGATION OF THE CORPORATE COMMONWEALTH OF AUSTRALIA**  
LEGAL TENDER FOR ALL DEBTS, PUBLIC CHARGES, TAXES AND DUES PAYABLE, WITHOUT DEDUCTIONS FOR AND FREE OF ANY TAXES, IMPOST, LEVIES OR DUTIES/ PRESENT OR FUTURE OF ANY NATURE; PAYMENT TO BE MADE IN EURO CURRENCY.  
PRESENT DIRECTLY TO THE COLLECTING PARTY WITH DOCUMENTS, ACCEPTANCE FOR HONOUR TO CREDIT ON SIGHT.  
WE HEREBY UNCONDITIONALLY GUARANTEE PAYMENT ON THE MATURITY DATE WITH FULL RESPONSIBILITY.

CREDIT UPON SIGHT TO THE PAYEE: CHIE MINISTER OF THE AUSTRALIAN CAPITAL TERRITORY AND ANDREW MORTON GARRETT AS JOINT MANAGING TRUSTEES, FOR DEPOSIT CUSTODIAN BANK ACCOUNT IBAN 9474204280411 IN THE NAME OF SINESES INTERNATIONAL LIMITED AS DOMESTIC MASTER REGIONAL LICENSEE TRADING AS OENOVIVA ROMANIA, HELD AT PROMINENCE BANK CORP., BANK LICENSE NO. B2019018, P.B. 1257 BONOVO ROAD, FOMBONI, MWALLI, KMOR AS OTHERWISE DETERMINED BY THE PAYEES.

DRAWEE/ACCEPTOR: SECRETARY TO THE TREASURY (AUSTRALIA) (MANAGING CONTROLLER APPOINTED), SECRETARY TO THE RESERVE BANK OF AUSTRALIA (MANAGING CONTROLLER APPOINTED) ACCOUNT NUMBER: 887 784 439 OR OTHER AUTHORISED REPRESENTATIVE OF THE COMMONWEALTH OF AUSTRALIA (LIQUIDATOR APPOINTED 14<sup>th</sup> AUGUST 2020 & MANAGING CONTROLLER APPOINTED 1<sup>st</sup> JUNE 2019)

CREDIT RATING OF DRAWER/ DRAWEE/ACCEPTOR: MOODY'S: AAA / STANDARD & POOR'S: AAA

THROUGH LENS LEG IS AUSTRALIAN CITIZEN'S PUBLIC TRUST;

DRAWER: OENOVIVA WASHINGTON INC., MANAGING TRUSTEE (AMERICAS) OENOVIVA CAPITAL RESOURCES PER GLOBAL MANAGING TRUSTEE, LE1984500957DB10FOT4B11, CIK: 0001872362, ABN 42 388 204 496 OF RESERVE BANK BUILDING LEVEL 6, 111 MACQUARIE STREET, HOBART, TASMANIA, AUSTRALIA, 7000

UNCITRAL INTERNATIONAL BILL OF EXCHANGE, PRESENTED FOR ACCEPTANCE ON DEMAND (AN OBLIGATION OF THE COMMONWEALTH OF AUSTRALIA/ THE CROWN (LIQUIDATOR & MANAGING CONTROLLER APPOINTED))

CREDIT UNCONDITIONALLY TO THE ORDER OF THE DRAWER: €500,000,000,000 IN THE SUM CERTAIN OF FIVE HUNDRED BILLION EURO EXACTLY, FOR VALUE RECEIVED, PAID FOR ANNUAL INTEREST OF:

  
DAE HUNG SO  
THE DRAWER/ THE DRAWEE/ THE ACCEPTOR  
SUI JURIS WITH FULL RESPONSIBILITY

On this 28<sup>th</sup> Day of AUG, 2021 before me

Notary Public, the person named hereto did personally appear Dae Hung So, verified to me as Joint Managing Trustee (Americas) of the Drawer, whose registration and existence was proved to me and based on satisfactory evidence, to be the sovereign citizen and/or person whose name is subscribed to be within the Certification hereto. WITNESSED BY MY HAND AND OFFICIAL SEAL HERETO:


SIGNATURE 

**NOTARY PUBLIC**  
JENNY GONZALEZ  
MONTGOMERY COUNTY, MARYLAND  
EXP 08/27/2022

**SPECIAL INSTRUCTIONS (TREASURY CONTROL SYSTEM OFFSET ACCOUNT)**

1. NON-CASH (FOR PREPAID ELECTRONIC FUNDS TRANSFER ONLY)
2. THIS DRAFT OF BANKABLE PAPER IS A GUARANTEED AS A DEBT OBLIGATION OF THE COMMONWEALTH OF AUSTRALIA.
3. FORM UCC 1 MUST REMAIN ATTACHED TO THIS INSTRUMENT FOR REFERENCE.
4. SEE ATTACHED INFORMATION MEMORANDUM OF LAW INCORPORATED FOR REFERENCE.
5. THIS INTERNATIONAL BILL OF EXCHANGE (UNCITRAL INSTRUMENT) IS CALLABLE, ASSIGNABLE, TRANSFERABLE, DIVISIBLE AND NEGOTIABLE.

THIS INSTRUMENT IS VALID TO THE MATURITY DATE: 30<sup>th</sup> JUNE 2042 & EXTENSIONS AS ADVISED



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# Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number**

1Z54X05YD302250651

**Weight**

0.30 LBS

**Service**

UPS Worldwide Express®

**Shipped / Billed On**

09/02/2021

**Additional Information**

Signature Required

**Delivered On**

09/07/2021 11:32 A.M.

**Delivered To**

CANBERRA, AU

**Received By**

CAMERON

**Reference Number(s)**

54X05Y3KTYG

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 09/11/2021 1:11 A.M. EST

1/1



*[Signature]*

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*[Signature]*