

# Gyrostat Risk Managed Equity Fund

One Managed Investment Funds Limited Gyrostat Capital Management Pty  
Ltd

# Gyrostat Risk Managed Equity Fund

---

## Contents

<b>1</b>	<b>Definitions and interpretation</b>	<b>7</b>
1.1	Definitions	7
1.2	Interpretation	12
1.3	General compliance provision	13
<b>2</b>	<b>The Fund</b>	<b>13</b>
2.1	Settlor Transfer	13
2.2	Trustee Declaration	13
2.3	Declaration of Trust	13
2.4	Name of Fund	13
<b>3</b>	<b>Units and Unit Holders</b>	<b>14</b>
3.1	Units	14
3.2	Fractional Units	14
3.3	Consolidation, subdivision and conversion of Units	14
3.4	Classes of Units	15
3.5	Fees and Expenses referable to a Class	16
3.6	No limitation of Class rights or obligations	16
3.7	Determination of variables referable to a Class	16
3.8	Allocations	16
3.9	Equal value	16
3.10	Rights attaching to Units	17
3.11	Directions	17
3.12	Joint holders of Units	17
3.13	Benefits and obligations of Unit Holders	18
3.14	Perpetuities	18
<b>4</b>	<b>Application procedure</b>	<b>18</b>
4.1	Offers	18
4.2	Minimum amounts	18
4.3	Form of application	18
4.4	Reinvestment	18
4.5	Acceptance or rejection	19
4.6	Uncleared funds	19
4.7	Payment of application money	19
4.8	Receipt of application	19
4.9	Issue of Units	19
4.10	Number of Units issued	19
4.11	Units as consideration	20
4.12	No certificates	20
4.13	Defective applications	21
4.14	Interest on application money	21
<b>5</b>	<b>Application Price</b>	<b>21</b>
5.1	Application Price	21
5.2	Issue of Units to acquire an Asset	22
5.3	Rounding	22
5.4	Satisfaction of Application Price	22
<b>6</b>	<b>Withdrawal procedures</b>	<b>23</b>
6.1	Withdrawal request	23
6.2	Withdrawal while Fund is Liquid or not a Registered Scheme	23

6.3	Withdrawal while Fund is a Registered Scheme and not Liquid	24
6.4	Clauses applicable whether or not the Fund is Liquid	25
6.5	The Trustee may deny a request for withdrawal	25
6.6	Restrictions on Unit Holder	25
6.7	Trustee discretion to redeem	25
6.8	No obligation to pay out of own funds	25
6.9	Sums owed to the Trustee	26
6.10	Transfer of Assets	26
6.11	Order of withdrawal	26
6.12	Liquid or not Liquid	26
6.13	Determination of income and capital	26
<b>7</b>	<b>Withdrawal Price of Units</b>	<b>26</b>
7.1	Withdrawal Price	26
7.2	Determination of Withdrawal Price	27
7.3	Withdrawal fee	27
7.4	Receipt of withdrawal request	27
7.5	Rounding	27
<b>8</b>	<b>Transfers</b>	<b>28</b>
8.1	Transferability	28
8.2	Registration of transfers	28
8.3	Refusal of registration	28
<b>9</b>	<b>Transmission of Units</b>	<b>28</b>
9.1	Entitlement on death	28
9.2	Registration of persons entitled	29
9.3	Distributions and other rights	29
<b>10</b>	<b>Valuation of Assets</b>	<b>30</b>
10.2	Method of valuation	30
10.3	Trustee not an expert	30
<b>11</b>	<b>Income and distributions</b>	<b>30</b>
11.1	Subject to AMIT provisions	30
11.2	Collection of income	30
11.3	Payment of expenses	31
11.4	Nature of receipts	31
11.5	Trustee must determine Net Income	31
11.6	Net Income	31
11.7	Present entitlement	31
11.8	Distribution of the Net Income	32
11.9	Distribution Entitlement	32
11.10	Minimum distribution	32
11.11	Discharge of Trustee's obligation	33
11.12	Capital distributions	33
11.13	Excess distribution	33
11.14	Categories and source of income	33
11.15	Receipt	33
11.16	Reinvestment	33
11.17	Other rights or restrictions	34
11.18	Withholding Tax	34
11.19	Allocation of Net Income	35

<b>12</b>	<b>AMIT</b>	<b>35</b>
12.1	Choices under the AMIT regime	35
12.2	Priority of clause 12.1	35
12.3	Taxation of the Fund when it is an AMIT	35
12.4	Fair and reasonable basis	36
12.5	Determination of amounts to be distributed to Unit Holders	37
12.6	Statements to Unit Holders	37
12.7	Determined member component choice	37
12.8	Indemnity for Tax	37
12.9	Exercise of Trustee's powers	38
<b>13</b>	<b>Powers of the Trustee</b>	<b>38</b>
13.1	General powers of Trustee	38
13.2	Specific powers of the Trustee	38
13.3	Delegation	39
13.4	Advisers	40
13.5	Exercise of discretion	40
<b>14</b>	<b>Holding of Assets</b>	<b>40</b>
14.1	How held	40
14.2	Custodian	40
14.3	Holding of Assets	40
<b>15</b>	<b>Remuneration and Expenses of Trustee</b>	<b>40</b>
15.1	Trustee's Fees	40
15.2	Waiver of remuneration	42
15.3	Priority of Trustee's remuneration	42
15.4	Establishment costs	42
15.5	Differential fee arrangements	42
15.6	Units as payment for fees	42
15.7	Fees paid to the Trustee in a different capacity	42
15.8	Reimbursement of Expenses	42
15.9	Proper performance of duties	43
15.10	GST	43
15.11	Taxes in other jurisdictions	43
15.12	Sums owed to the Trustee	44
<b>16</b>	<b>Change in Trustee</b>	<b>44</b>
16.1	Voluntary retirement while the Fund is a Registered Scheme	44
16.2	Voluntary retirement while the Fund is not a Registered Scheme	44
16.3	Compulsory retirement	44
16.4	New trustee	44
16.5	Retirement benefit	45
<b>17</b>	<b>Limitation of liability</b>	<b>45</b>
17.1	Limitation of Trustee's liability	45
17.2	Limitation of Unit Holders' liability	46
<b>18</b>	<b>Indemnity</b>	<b>46</b>
18.1	Trustee's indemnity	46
18.2	Trustee's indemnity continuing	46
18.3	Payment	47
18.4	Trustee not to incur liability	47

<b>19</b>	<b>Trustee's indemnity against Tax liability</b>	<b>47</b>
19.1	Indemnity	47
19.2	Joint Holders	47
<b>20</b>	<b>Register</b>	<b>47</b>
20.1	Keeping Register	47
20.2	Trustee's powers	47
20.3	Changes	48
20.4	Register conclusive	48
20.5	Use of information	48
<b>21</b>	<b>Amendments to this Deed</b>	<b>48</b>
21.1	Overriding provision	48
21.2	Trustee may amend	48
21.3	Compliance with the AMIT Regime	48
21.4	Statutory requirements	49
<b>22</b>	<b>Corporations Act and ASIC Exemptions</b>	<b>49</b>
22.1	Corporations Act	49
22.2	Agreed amendments	49
22.3	ASIC Exemptions	49
<b>23</b>	<b>Termination of Trust</b>	<b>49</b>
<b>24</b>	<b>Termination and winding up of Fund</b>	<b>50</b>
24.1	Realisation of Assets	50
24.2	Procedure on winding up of Fund	50
24.3	Trustee may recover Expenses	50
24.4	Retention of Assets	51
24.5	Postponement of realisation	51
24.6	Trustee's obligation to make distributions	51
24.7	Cancellation of Units	51
24.8	Continuation of powers	51
24.9	Audit of accounts of the Fund	51
24.10	Termination of a Class	51
<b>25</b>	<b>Meetings of Unit Holders</b>	<b>52</b>
25.1	Convening meetings	52
25.2	Calling and holding meetings while the Fund a Registered Scheme	52
25.3	Calling and holding meetings while Fund is not a Registered Scheme	52
25.4	Resolution binding on Unit Holders	52
25.5	Written resolution	52
25.6	Class meetings and voting	53
<b>26</b>	<b>Notices</b>	<b>53</b>
26.1	Notices to Unit Holders	53
26.2	Notices to joint Unit Holders	53
26.3	Notice to successor	53
26.4	Signature on notice	53
26.5	Notices to the Trustee	54
<b>27</b>	<b>Complaints</b>	<b>54</b>
27.1	Complaints handling while the Fund is a Registered Scheme	54
27.2	Dealing with complaints	54

---

<b>28</b>	<b>Rights of the Trustee</b>	<b>54</b>
28.1	Right to hold Units	54
28.2	Other capacities	54
28.3	Trustee may rely	55
<b>29</b>	<b>Deed legally binding</b>	<b>55</b>
<b>30</b>	<b>Other obligations excluded</b>	<b>55</b>
<b>31</b>	<b>Payment</b>	<b>56</b>
<b>32</b>	<b>Severability</b>	<b>56</b>
<b>33</b>	<b>Governing law</b>	<b>56</b>
	<b>Schedule 1 Expenses</b>	<b>57</b>

# Gyrostat Risk Managed Equity Fund

---

**Date** 28 October 2010 (as amended)

**Party**

One Managed Investment Funds Ltd ACN 117 400 987 Gyrostat Capital Management Pty Ltd ACN 138 219 002 of Level 16 Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000 43 Sussex St Brighton, Victoria (Trustee)

**Recitals**

This Deed is declared by the Trustee to be the trust deed for a trust to be known as the Gyrostat Risk Managed Equity Fund.

The parties agree

## 1 Definitions and interpretation

### 1.1 Definitions

In this Deed the following terms, unless the context otherwise indicates, shall have the following meanings:

**Adviser** includes any adviser, consultant or expert including any investment or asset manager, architect, project manager, barrister, solicitor, underwriter, accountant, auditor, valuer, banker, information technology or systems adviser, real estate agent, surveyor, broker, administrator, custodian or property manager and any other person appointed by the Trustee or its related entities to provide advice or services in relation to the Fund.

**AMIT** means a trust which is an Attribution Managed Investment Trust under section 276-10 of the Tax Act.

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

**Application Price** of a Unit on any day means the amount determined under clause 5.

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

**ASIC Exemption** includes:

- (a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the *Corporations Act*, and
- (b) any other instrument issued by ASIC under a power conferred on ASIC which relates to the Fund or the Trustee.

**Assets** means real property, cash, investments, rights, income, franking credits and other property of the Fund from time to time.

# Gyrostat Risk Managed Equity Fund

---

**Associate** has the meaning given in the *Corporations Act*.

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

**Australian Accounting Standards** means:

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

~~**'Business Day** means a day that most trading banks are open for business in Sydney (excluding any weekend or public holiday) and a day that most trading banks are open for business in any other jurisdiction to the extent that the Responsible Entity determines this to be relevant to a Class. **'Business Day** means a day that most trading banks are open for business in Melbourne excluding any weekend or public holiday.~~

**Class** means a class of Units as determined by the Trustee under clause 3.4.

**Commencement Date** means 28 October 2010.

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

**Deed** means this trust deed as amended from time to time.

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

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

**Distributable Income** means the amount determined by the Trustee in clause 11.

**Distribution Calculation Date** means any 30 June in each Financial Year or any other dates the Trustee nominates.

**Distribution Date** means within the day 60 days after the Distribution Calculation Date for the relevant Distribution Period or any other date determined by the Trustee.

**Distribution Entitlement** means the entitlement of a Unit Holder to the Distributable Income determined in accordance with clause 11.8.

**Distribution Period** means the period commencing on the Commencement Date and ending on the following Distribution Calculation Date and each subsequent period commencing on the day after a Distribution Calculation Date and ending on the next Distribution Calculation Date or on termination of the Fund.



# Gyrostat Risk Managed Equity Fund

---

**Expenses** includes all expenses, costs, charges, fees, commissions, liabilities, losses, damages, Tax and all amounts payable in respect of any of these. Examples of Expenses are given in item 1 of Schedule 1;

**Financial Year** means the period beginning on the Commencement Date and ending on the following 30 June, and each subsequent period commencing on 1 July and ending on the following 30 June or on the date of distribution on termination of the Fund.

**Former Unit Holder** means in respect of a Financial Year, a person who was a Unit Holder at any time during the Financial Year but is not a Unit Holder on the last day of the Financial Year.

**Fund** means the trust constituted by this Deed and known as the Gyrostat Risk Managed Equity Fund.

**Gross Asset Value** means the sum of:

- (a) the value of all Assets; and
- (b) any other amounts which, in the opinion of the Trustee, should be included for the purpose of making a fair and reasonable determination of the value of the Fund having regard to ordinary accounting principles.

**GST** has the meaning given to that expression in the GST Act.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999*, as amended from time to time.

**GST Law** has the meaning given to that expression in the GST Act.

**IDPS** means an investor directed portfolio service.

**Interim Distribution** means a distribution of the Net Income accruing during a Distribution Period (other than the last Distribution Period in a Financial Year).

**Issue Date** means:

- (a) the first day of each month or, if that day is not a Business Day, the next Business Day; or
- (b) each date the Trustee calculates the Net Asset Value,

unless otherwise determined by the Trustee.

**Liabilities** means the aggregate of the following at that time, as calculated by the Trustee:

- (a) each liability of the Trustee in respect of the Fund or, where appropriate, a proper provision in accordance with Australian Accounting Standards in respect of that liability;
- (b) each other amount payable out of the Assets or, where appropriate, a proper provision in accordance with Australian Accounting Standards in respect of that liability; and
- (c) other appropriate provisions in accordance with Australian Accounting Standards;

# Gyrostat Risk Managed Equity Fund

---

but does not include liabilities:

- (a) attached to application money or property in respect of which Units have not yet been issued; or
- (b) representing Unit Holders' capital, undistributed profits, interest attributable to Unit Holders accruing on Unit Holders' capital, capital reserves, or any other amount representing the value of rights attaching to Units, whether or not redeemable, regardless of whether characterised as equity or debt in the accounts of the Fund.

For the avoidance of doubt, this definition of "Liabilities" applies to the operation of the Fund under this Deed only and is not intended to affect any other meaning of "liabilities" of the Fund which the Trustee may be required to adopt for financial reporting purposes.

**Liquid** has the meaning given in section 601KA(4) of the *Corporations Act*.

**Member Choice** means a choice for the purposes of paragraph 276-205(2)(a) of the Tax Act.

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

**month** means a calendar month.

**Net Asset Value** means the Gross Asset Value less the following:

- (a) all amounts required to meet Liabilities (including the amount of any provisions the Trustee determines should be made); and
- (b) following any Distribution Calculation Date, the amount of any Distributable Income payable but not paid to Unit Holders on the day which the Net Asset Value is determined.

**Net Income** means the net income of the Fund as determined in clauses 11.5 and 11.6.

**Perpetuity Period** means the period of 80 years following 28 October 2010.

**Register** means each of the registers established and kept by the Trustee under clause 20.

**Registered Scheme** means a managed investment scheme that is registered as a managed investment scheme under section 601EB(1) of the *Corporations Act*.

**Relevant Class** means a Class of Units.

**Relevant Liabilities** means the Liabilities referable to the Relevant Class. Where Liabilities are referable to more than one Relevant Class, then for the purposes of the definition of Relevant Liabilities, such amount of the Liabilities will be included as the Responsible Entity determines is properly referable to the Relevant Class.

**Relevant Person** means a person who at any time was, is, or shall become a Unit Holder and that person's executors, administrators, successors and assigns.

**Relevant Scheme Assets** means the Assets referable to the Relevant Class. Where an Asset is referable to more than one Relevant Class, then for the purposes of the definition of Relevant

# Gyrostat Risk Managed Equity Fund

---

Scheme Assets, such amount of the Asset will be included as the Responsible Entity determines is properly referable to the Relevant Class.

**Required Majority** means a simple majority (50%) except where this Deed or any applicable law provides otherwise, in which case it will be the majority otherwise so required.

**Resolution** means:

- (a) a resolution passed at a meeting of Unit Holders:
  - (i) on a show of hands, by the Required Majority of Unit Holders present in person or by proxy and voting on the show of hands; or
  - (ii) on a poll, by the Required Majority of votes cast by Unit Holders present, in person or by proxy and voting on the poll; or
- (b) where the law allows, a resolution in writing signed by all Unit Holders.

**Security Interest** means any mortgage, charge, pledge, lien, encumbrance, arrangement for the retention of title or any other similar right, interest, power or arrangement of any nature having the effect of providing security.

**Settlor** means Therese Castellano.

**Settled Money** means \$10.00.

**Tax** means any income tax, capital gains tax, capital tax, recoupment tax, land tax, sales tax, payroll tax, fringe benefits tax, group tax, profit tax, interest tax, property tax, undistributed profits tax, GST, value added tax, withholding tax, municipal rates, stamp duty, financial institutions duty (including financial institutions duty paid or reimbursed), bank accounts debits tax or any other tax, duty, levy, impost, deductions or charges assessable or chargeable by or payable in any jurisdiction to any federal, state or municipal taxation or excise authority, including any interest, fine, penalty, charge, fee or other amount imposed on or in respect of the failure to file a return in respect of or to pay any of them in any jurisdiction.

**Tax Act** means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth), the *Income Tax (Transitional Provisions) Act 1997* (Cth) or the *Taxation Administration Act 1953* (Cth) (as the case requires).

**Transaction Charge** means, in relation to a Unit, an amount determined by the Trustee which reflects a fair estimate of Expenses incurred or that would be incurred:

- (a) for the purchase or acquisition of Assets on the issue of Units;
- (b) for the sale or disposal of Assets on the withdrawal of Units; or
- (c) for the transfer of Assets to a Unit Holder,

as the case requires which may be expressed as a percentage.

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

# Gyrostat Risk Managed Equity Fund

---

**Trustee** means Gyrostat Capital Management Pty Ltd ACN 138 219 002 or any other person acting as the trustee of the Fund in accordance with the provisions of this Deed

**Unit** means a unit in the Fund created under this Deed.

**Unit Holder** means a person holding an interest in the Fund (including any person jointly holding an interest in the Fund).

**Unit Holding** means the total Units held by a Unit Holder.

**Valuation Time** has the meaning set out in clause 10(b).

**Withdrawal Date** means first day of each month or, if that day is not a Business Day, the next Business Day, unless otherwise determined by the Trustee.

**Withdrawal Offer** means an offer made by the Trustee in respect of the Fund in accordance with section 601KB of the *Corporations Act*.

**Withdrawal Price** means the amount determined under clause 7.

## 1.2 Interpretation

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

- (a) words importing the singular include the plural and vice versa and words importing any gender include all other genders;
- (b) a reference to a person includes a firm, corporation, trust, partnership or unincorporated body;
- (c) a reference to a clause or schedule is a reference to a clause of and a schedule to this Deed and a reference to this Deed includes any schedule;
- (d) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) a reference to an agreement or document (including, without limitation, a reference to this Deed) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document;
- (g) a reference to conduct includes, without limitation, an omission, statement or undertaking whether or not in writing;
- (h) a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind; and

# Gyrostat Risk Managed Equity Fund

---

- (i) words and expressions defined in the *Corporations Act* have the meanings given to them in that law; and
- (j) headings contained in this Deed are for convenience and do not affect the interpretation of this Deed.

## 1.3 General compliance provision

- (a) A provision of this Deed which is inconsistent with a provision of the *Corporations Act* does not operate to the extent of the inconsistency.
- (b) This clause 1.3 is subject to any declarations made by or exemptions granted by the ASIC which are current in respect of or applicable to this Deed.
- (c) This clause 1.3 prevails over all other provisions of this Deed including any that are expressed to prevail over it.

## 2 The Fund

### 2.1 Settlor Transfer

The Settlor must upon or before execution of this deed pay to the Trustee the Settled Moneys for the purpose of creating, and to be held by the Trustee upon, the trusts specified in this deed.

### 2.2 Trustee Declaration

The Trustee declares that the Trustee has received and holds the Settled Moneys and all other present and future Assets at any time paid or transferred to or otherwise received by the Trustee upon and subject to the trusts, duties and provisions, together with the powers, specified in this deed.

### 2.3 Declaration of Trust

- (a) The Assets shall vest in the Trustee on the Commencement Date and the Trustee declares that it shall hold the Assets on trust for the Unit Holders in accordance with the terms of this Deed.
- (b) The Trustee shall clearly identify the Assets as property of the Fund and hold the Assets separately from the assets of the Trustee and any other managed investment scheme.

### 2.4 Name of Fund

- (a) The name of the Fund is the 'Gyrostat Risk Managed Equity Fund' or such other name as the Trustee may from time to time determine.
- (b) Subject to clause 2.4(c) and clause 2.4(d), if:
  - (i) Gyrostat Capital Management Pty Ltd retires or is removed as trustee of the Fund; or

# Gyrostat Risk Managed Equity Fund

---

- (ii) there is a change in who controls Gyrostat Capital Management Pty Ltd;

(each a **'Name Change Event'**), then the name of the Fund must be changed by deleting the expression 'Gyrostat Capital' and the Trustee must not use that expression (or a substantially or deceptively similar expression or letters) in connection with the Fund. The Trustee must amend this Deed to reflect the change in the name of the Fund within 2 months of the Name Change Event occurring. The Trustee or new trustee covenants that it will not amend this clause 2.4 other than to give effect to the preceding sentences of this paragraph.

- (c) The Trustee may use the expression 'Gyrostat Capital' for the purpose of advertising the change of name of the Fund for 2 months after the Name Change Event or in the case of the Trustee retiring or being removed, such longer period as the Trustee agrees. In the case of the Trustee retiring or being removed, any advertisement must be approved by the Trustee. That approval will not be unreasonably withheld.
- (d) Clause 2.4(b) does not apply if Gyrostat Capital Management Pty Ltd agrees otherwise prior to the Name Change Event subject to any conditions it may specify (in its absolute discretion).

## 3 Units and Unit Holders

### 3.1 Units

- (a) The beneficial interest in the Fund is divided into Units.
- (b) Each Unit confers on the Unit Holder a beneficial interest in the Fund as an entirety and does not confer an interest in a particular part of the Fund or the Assets.

### 3.2 Fractional Units

- (a) The Trustee may issue fractions of a Unit calculated to the second decimal place or such other number of decimal places as the Trustee determines.
- (b) This Deed applies to fractions of Units in proportion to which the fraction bears to one Unit.

### 3.3 Consolidation, subdivision and conversion of Units

- (a) Subject to clause 3.3(b), the Trustee may consolidate, divide or convert the number of Units on issue into any number of Units other than the number into which the Assets is for the time being divided.
- (b) A division, consolidation or conversion of a kind referred to in clause 3.3(a) must not change the ratio of Units in a Class registered in the name of any Unit Holder to the Units on issue in that Class.
- (c) The Trustee must amend the Register to record any consolidation, division or conversion of Units.

# Gyrostat Risk Managed Equity Fund

---

## 3.4 Classes of Units

Subject to section 601FC(1)(d) of the *Corporations Act* (if the Fund is a Registered Scheme), the Trustee may create different Classes with such preferred, deferred or other special rights, obligations or restrictions in respect of any matter, as the Trustee may determine. If the Trustee so determines in relation to particular Units:

- (a) the terms of issue of those Units may:
  - (i) eliminate, reduce, create or enhance any of the rights or obligations which would otherwise be carried by such Units;
  - (ii) provide for conversion of Units from one Class to another Class and, if the Trustee so determines, change the number of Units on such a conversion; and
- (b) subject to the particular terms attaching to a class of Units, all Units confer interests, rights and have obligations identical to all other Units in the Fund,

provided that while the Fund is a Registered Scheme, to the extent required by ASIC policy and subject to the *Corporations Act*, the Trustee must not create and issue a Class with rights, obligations and restrictions attaching to that Class that are not set out in this Deed.

Notwithstanding the generality of this clause 3.4, the Trustee must only issue Classes of Units in the following circumstances:

- (c) a Class will be linked (referable) to Relevant Scheme Assets where the Trustee has identified the particular Assets as an appropriate investment opportunity for the Class and has determined that returns on a Class will be calculated with reference to the Relevant Scheme Assets;
- (d) the Relevant Liabilities are referable to a Class such that they can only be met from Relevant Scheme Assets;
- (e) Relevant Scheme Assets for a Class are not encumbered in relation to Relevant Liabilities of another Class;
- (f) the Trustee is not entitled to be indemnified out of the Relevant Scheme Assets of a Class in relation to Relevant Liabilities of another Class;
- (g) any Relevant Scheme Assets and Relevant Liabilities will continue to be held as part of a single pool of Fund property together with all other Assets and Liabilities; and
- (h) this clause does not confer on the Unit Holder a beneficial interest in particular Assets. The outcome of this clause is to assist in a calculation of the quantum of the Issue Price and Withdrawal Price for each Class and the quantum of Income and capital distributions that can be distributed to Unit Holders in each Class.

The creation and issue of Units of different Classes is not intended to create separate trusts or sub-trusts.

# Gyrostat Risk Managed Equity Fund

---

## 3.5 Fees and Expenses referable to a Class

Unless otherwise specified in this deed, where an amount (such as a fee or Expense) must be determined under this deed as being referable to a Class, the Trustee must:

- (a) calculate each Unit Holder's share of Distributable Income and any other distribution to be paid under this deed by first calculating for each Class held by the Unit Holder that proportion of the variables in clause 11 that the Trustee determines is properly referable to the Class and the Units held by the Unit Holder and then aggregating those amounts; and
- (b) determine the proportion of net proceeds of realisation under clause 24 that is properly referable to each Class and each proportion referable to each Class must be distributed pro rata to Unit Holders according to the number of Units in that Class they hold.

## 3.6 No limitation of Class rights or obligations

Clause 3.5 does not limit the extent to which a Class has, and a Class may have:

- (a) rights, obligations or restrictions other than or in addition to those specified in clause 3.5 different from any other Class; or
- (b) different rights, obligations or restrictions because of a determination by the Trustee under this deed, including in relation to Application Price and Withdrawal Price applicable to different Classes.

## 3.7 Determination of variables referable to a Class

In making any determination of variables properly referable to a Class under this deed, the Trustee must ensure that any variable which relates:

- (a) only to a particular Class is solely referable to that Class; and
- (b) to more than one Class, is apportioned between those Classes in the same proportions as the aggregate value of Units on issue in each Class as at the most recent Valuation Time bears to the aggregate value of Units in all Classes on issue at that Valuation Time, to which the variable relates.

## 3.8 Allocations

In clause 3.7, in determining the variables properly referable to a Class under this deed, the Trustee must, for each Class, allocate the assets and liabilities of the Trust to each Class having regard to the rights, restrictions and obligations that attach to each Class, including the fees or other Expenses charged by the Trustee applicable to each Class, and generally accepted accounting principles.

## 3.9 Equal value

At any time, unless the Trustee issues Units of a Class all the Units of a Class are of equal value.



# Gyrostat Risk Managed Equity Fund

---

## 3.10 Rights attaching to Units

- (a) A Unit Holder holds a Unit subject to the rights and obligations attaching to that Unit.
- (b) Each Unit Holder agrees not to:
  - (i) interfere with or question the rights, powers, authority, discretion or obligations of the Trustee under this Deed;
  - (ii) exercise any right, power or privilege in respect of an Asset;
  - (iii) lodge a caveat in respect of any Asset; or
  - (iv) require that any Asset be transferred to the Unit Holder or any other person.
- (c) A Unit Holder may not create any mortgage, charge, pledge, lien, encumbrance, arrangement for the retention of title or any other Security Interest over a Unit without the consent of the Trustee.

## 3.11 Directions

Unit Holders cannot give any direction to the Trustee if it would require the Trustee to do or omit to do anything which:

- (a) may result in the Trustee acting contrary to the law; or
- (b) would otherwise be within the scope of any discretion or power expressly conferred on the Trustee by this Deed.

## 3.12 Joint holders of Units

Where two or more persons are registered as the holders of a Unit they are, for the purpose of the administration of the Fund and not otherwise, deemed to hold the Unit as joint tenants and not tenants in common, on the following conditions:

- (a) the Trustee shall not be bound to register more than three persons as joint Unit Holders of the Unit;
- (b) the joint Unit Holders shall be jointly and severally liable in respect of all payments including payments of Tax that ought to be made in respect of the Unit;
- (c) on the death of a joint Unit Holder, the survivor or survivors shall be the only person or persons whom the Trustee will recognise as having any title to the Unit, subject to the production of any evidence of death that the Trustee requires;
- (d) any one of the joint Unit Holders may give an effective receipt that discharges the Trustee in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the joint Unit Holders of a Unit shall be entitled to delivery of any notices, cheques or other communications from the Trustee, and any notice, cheque or other communication given to that person is deemed to be given to all the joint Unit Holders,

# Gyrostat Risk Managed Equity Fund

---

unless the Trustee determines otherwise.

## 3.13 Benefits and obligations of Unit Holders

Except where expressly provided in this Deed to the contrary, all benefits and obligations contained in this Deed apply for the benefit of and bind each Unit Holder to the extent provided in this Deed.

## 3.14 Perpetuities

The Trustee cannot issue any Units after the 80th anniversary from the day before the Commencement Date if that issue would cause a contravention of the rule against perpetuities or any other rule of law or equity. The preceding sentence prevails over all provisions of this Deed.

## 4 Application procedure

### 4.1 Offers

The Trustee may at any time offer Units for subscription or sale and may invite persons to make offers to apply for or buy Units.

### 4.2 Minimum amounts

The Trustee may specify a minimum initial application amount, minimum further application amount or minimum holding amount in respect of Units ~~for the Fund as a whole on a Class basis~~ and vary those amounts at its discretion.

### 4.3 Form of application

- (a) Each application for Units will, unless the Trustee approves otherwise:
- (i) conform with the form and content requirements or any relevant disclosure document; and
  - (ii) be accompanied by application monies as required by any relevant disclosure document; or
  - (iii) if there is no relevant disclosure document, be made in such manner as the Trustee approves.
- (b) The Trustee may authorise an application to be transmitted electronically.

### 4.4 Reinvestment

The Trustee may, at its absolute discretion, allow a Unit Holder to reinvest some or all of the Unit Holder's Distribution Entitlement by acquiring Units in the Fund under a distribution reinvestment plan on terms and conditions prescribed by the Trustee.

# Gyrostat Risk Managed Equity Fund

---

## 4.5 Acceptance or rejection

The Trustee may, without being bound to give any reason:

- (a) accept an application;
- (b) reject an application; or
- (c) reject part of an application.

## 4.6 Uncleared funds

Units issued against application money paid other than in cleared funds are void if the funds are not cleared within 5 Business Days of being presented for payment.

## 4.7 Payment of application money

- (a) Payment of the application money must be in a form acceptable to the Trustee, or a transfer of property of a kind acceptable to the Trustee and able to be vested in the Trustee or a custodian appointed by it (accompanied by a recent valuation of the property, if required by the Trustee).
- (b) If the Trustee accepts a transfer of property other than cash, any costs associated with the valuation or transfer of the property are payable or reimbursable out of the Assets, or if required by the Trustee, by the Unit Holder.

## 4.8 Receipt of application

The Trustee may determine that an application for Units or application money or property received by the Trustee after a particular time will be deemed to have been received on the next Business Day.

## 4.9 Issue of Units

Unless otherwise determined by the Trustee, Units are taken to be issued:

- (a) in the case of a Unit issued under a distribution reinvestment arrangement referred to in clause 4.4 the Issue Date following the Distribution Calculation Date; or
- (b) in all other cases, on the next Issue Date that is at least 10 days after the later of the day on which:
  - (i) the Trustee accepts the application for Units and the applicant is registered as the Unit Holder of the Unit on the Register; or
  - (ii) the Trustee receives the application money, or the property (which is acceptable to the Trustee) against which the Units are to be issued is vested in the Trustee.

## 4.10 Number of Units issued

- (a) Subject to clause 4.11 and the terms of issue of a Unit, the number of Units issued on any Issue Date in respect of an application for Units (including a reinvestment of a Unit

# Gyrostat Risk Managed Equity Fund

---

Holder's Distribution Entitlement) shall be the number determined in accordance with the following formula:

$$(b) \quad N = \frac{A - B}{C}$$

Where:

N is the number of Units issued;

A is the application money or the value of the property transferred to the Trustee (including a reinvestment of the Unit Holder's Distribution Entitlement);

B is the application fee for the Units payable by the Unit Holder in accordance with clause 15.1(b); and

C is the Application Price for the Unit,

and the number of Units issued shall be calculated to the second decimal place or such other number of decimal places as the Trustee determines from time to time.

## 4.11 Units as consideration

Where an investment is acquired (on behalf of the Fund) for consideration which includes the issue of Units by the Trustee, the number of Units created and issued by the Trustee is determined in accordance with the following formula:

$$N = \frac{A - B - C}{D}$$

Where:

N is the number of Units issued;

A is the value of the investment being acquired as determined in accordance with clause 10;

B is the amount of the cash consideration paid in respect of the investment (if any);

C is the application fee for the Units payable by the Unit Holder in accordance with clause 15.1(b); and

D is the Application Price of the Units.

## 4.12 No certificates

No certificates will be issued for Units, unless determined otherwise by the Trustee.

# Gyrostat Risk Managed Equity Fund

---

## 4.13 Defective applications

Where, within 10 Business Days (or such other period as the Trustee determines) of the creation and issue of Units in the Fund, the Trustee determines that:

- (a) the applicant was not entitled to hold the Units issued;
- (b) the application was incorrectly executed or executed without power or authority; or
- (c) the application form was defective and was accepted in error,
- (d) then the Trustee may in its sole discretion cancel those Units, make an appropriate entry in the Register of the Fund and repay the application money to the applicant out of the Assets. If Units are cancelled under this clause, the Trustee is not required to adjust any Application Price or Withdrawal Price determined before the cancellation of the Units in the Fund.

## 4.14 Interest on application money

Unless the Trustee decides otherwise, interest earned on application money will be retained by the Trustee and will not form part of the Assets, and for the avoidance of doubt, any interest earned on application money is not available to a particular applicant nor is it attributable to a particular applicant.

## 5 Application Price

### 5.1 Application Price

- (a) The Application Price for the initial issue of Units in a Class is \$1.00.
- (b) At any other time, but subject to clause 5.1(d) and the rights, obligations and restrictions attaching to any particular Units or Class, the Application Price for a Unit shall be determined in accordance with the following formula:

$$AP = (A + B) / C$$

Where:

- AP is the Application Price;
- A is the Net Asset Value as at the Issue Date;
- B is any relevant Transaction Charge; and
- C is the number of Units on issue.

For the purposes of the formula in clause 5.1(b), where there is more than one Class on issue, "Net Asset Value", "Transaction Charge" and the "number of Units on issue" are variables determined by the Trustee in respect of the relevant Class in accordance with clause 3.4 - 3.8.

# Gyrostat Risk Managed Equity Fund

---

- (c) Each of the variables in clause 5.1(b) must be determined:
  - (i) as at the next Issue Date after the later of the day on which the Trustee:
    - (A) accepts the completed application for Units; or
    - (B) receives the application money or the property against which the Units are to be issued is vested in the Trustee; or
  - (ii) in the case of a Unit issued under a distribution reinvestment plan, the first Business Day of the next Distribution Period following the Distribution Period in respect of which the Distribution Entitlement was calculated.
- (d) The Trustee may determine a different Application Price in relation to some Units, a Class or all Units provided that where the Fund is:
  - (i) a Registered Scheme it is permitted to do so by the Corporations Act and any applicable ASIC Exemption (and in such case, subject to the terms of that ASIC Exemption); and
  - (ii) not a Registered Scheme, the Corporations Act and any applicable ASIC Exemption is to apply with modifications as if the Trustee were a responsible entity and the Fund were a Registered Scheme.

## 5.2 Issue of Units to acquire an Asset

Subject to clause 5.2(b), where Units are consideration (in whole or in part) for the acquisition of an investment (on behalf of the Fund):

- (a) the Application Price for those Units must be calculated in accordance with clause 5.1(b) on the date of the agreement under which there will be an issue of Units; and
- (b) the Trustee may determine a different Application Price in relation to some Units, a Class or all Units provided that where the Fund is a Registered Scheme it is permitted to do so under the Corporations Act and any applicable ASIC Exemption.

## 5.3 Rounding

The Application Price may be rounded as the Trustee determines.

## 5.4 Satisfaction of Application Price

The Application Price may be satisfied by payment in cash or by transfer to the Trustee of property acceptable to the Trustee (or by a combination of both). If the Trustee accepts payment other than cash, it may determine that some or all of the costs associated with the valuation or transfer of such property are payable or reimbursable out of the Assets or by the applicant.

# Gyrostat Risk Managed Equity Fund

---

## 6 Withdrawal procedures

### 6.1 Withdrawal request

Subject to this clause 6 and the *Corporations Act* (where the Fund is a Registered Scheme), a Unit Holder may make a request for the withdrawal of some or all of its Units, or to realise a specified amount, in writing and delivered to the registered office (or other place nominated by the Trustee) and:

- (a) while the Fund is a Registered Scheme and not Liquid, the Trustee must only give effect to that withdrawal request in the circumstances set out in clause 6.3;
- (b) at any other time, the Trustee may give effect to that request at the time and in the manner set out in clause 6.2, provided that the withdrawal request has been received by the Trustee at least 30 days prior to the Withdrawal Date to which the request relates, unless otherwise determined by the Trustee.

### 6.2 Withdrawal while Fund is Liquid or not a Registered Scheme

- (a) This clause 6.2 shall apply in respect of the withdrawal of Units unless clause 6.3 applies.
- (b) Within a reasonable time of receiving the withdrawal request under clause 6.1 and in any event within 30 days, the Trustee must consider that request and, in the Trustee's absolute discretion:
  - (i) deny the request and notify the Unit Holder accordingly;
  - (ii) effect the withdrawal request by causing the number (or value) of Units held by the Unit Holder that are subject of the request to be redeemed at the applicable Withdrawal Price out of the Assets;
  - (iii) subject to the *Corporations Act*, purchase or arrange for another person to purchase the number (or value) of Units held by the Unit Holder that are the subject of the withdrawal request; or
  - (iv) partially effect the withdrawal in the manner described in clause 6.2(b)(ii) and partially purchase Units or arrange for Units to be purchased in the manner described in clause 6.2(b)(iii).
- (c) If the Unit Holder has made a withdrawal request which complies with this Deed and the Trustee accepts the withdrawal request, the Trustee must satisfy the withdrawal request in respect of a Unit by payment from the Assets of the Withdrawal Price calculated in accordance with clause 7. The payment must be made within 21 days of the day on which the withdrawal request was effected under clause 6.2(b)(ii).
- (d) Notwithstanding clause 6.2(c), the Trustee may extend the period allowed for satisfying a withdrawal request until a later Withdrawal Date if in the opinion of the Trustee:
  - (i) the Trustee has taken all reasonable steps to realise sufficient Assets to satisfy a withdrawal request and is unable to do so due to one or more circumstances

# Gyrostat Risk Managed Equity Fund

---

- outside its control such as restricted or suspended trading in the market for an Asset;
- (ii) the Trustee does not consider it to be in the best interests of the Unit Holders as a whole to realise sufficient Assets to satisfy the withdrawal request; or
  - (iii) it is, for any reason, impractical to calculate the Net Asset Value of the Assets, including because of the closure of an exchange or trading or withdrawal restrictions in respect of a security.
- (e) The Trustee may specify a minimum withdrawal amount ~~for the Fund~~ on a Class basis and vary ~~that those~~ amounts at its discretion.
- (f) Unless otherwise determined by the Trustee, the Trustee need not give effect to a withdrawal request if:
- (i) the aggregate Withdrawal Price of the Units to be redeemed is less than any minimum withdrawal amount determined by the Trustee; or
  - (ii) the withdrawal would result in the aggregate Withdrawal Price of the Unit Holder's remaining Unit Holding being less than any minimum holding amount determined by the Trustee under clause 4.2.
- (g) If compliance with a withdrawal request would result in the aggregate Withdrawal Price of a Unit Holder's remaining Unit Holding being less than any minimum holding amount determined by the Trustee under clause 4.2, the Trustee may treat the withdrawal request as relating to the Unit Holder's entire Unit Holding.
- (h) If the Trustee increases the minimum holding amount, the Trustee may, after giving 30 days' notice, redeem the entire Unit Holding of a Unit Holder if the aggregate Withdrawal Price of that Unit Holding is less than the then current minimum holding amount, without the need for a withdrawal request.
- (i) Any balance realised representing a fraction of the proceeds of withdrawal of a Unit will be retained by the Trustee to be added to any further application money received from the Unit Holder or to the proceeds of withdrawal of any other Units of the Unit Holder as the Trustee may determine.
- (j) If the application money for the Units which are the subject of a withdrawal request is paid by cheque, the Trustee may refuse to act on that request until the cheque has cleared.

## 6.3 Withdrawal while Fund is a Registered Scheme and not Liquid<sup>1</sup>

- (a) This clause 6.3 shall apply when the Fund is a Registered Scheme and not Liquid.
- (b) While the Fund is not Liquid, a Unit Holder may withdraw from the Fund in accordance with the terms of any current Withdrawal Offer made by the Trustee in accordance with Part 5C.6 of the *Corporations Act*.

---

<sup>1</sup> Required to be included by section 601GA(4)(c) if Unit Holders are to have a right to withdraw.



# Gyrostat Risk Managed Equity Fund

---

- (c) If there is no Withdrawal Offer currently open for acceptance by Unit Holders, a Unit Holder has no right to withdraw from the Fund.
- (d) The Trustee is not at any time obliged to make a Withdrawal Offer.
- (e) If the Trustee receives a withdrawal request before it makes a Withdrawal Offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.
- (f) The Trustee must ensure that approved withdrawal requests in response to a Withdrawal Offer are satisfied within 21 days of the Withdrawal Offer closing.

## 6.4 Clauses applicable whether or not the Fund is Liquid

The following clauses 6.5 to 6.12 are applicable in respect of withdrawals of Units regardless of whether or not the Fund is Liquid.

## 6.5 The Trustee may deny a request for withdrawal

Subject to the *Corporations Act* (where the Fund is a Registered Scheme) and clause 6.3 and irrespective of anything in clause 6.2, the Trustee may deny a request for withdrawal of Units where:

- (a) the Fund has been terminated under clause 23;
- (b) accepting the request would constitute a breach of this Deed, the *Corporations Act*, or the disclosure document;
- (c) accepting the request would cause the Fund to cease to be Liquid;
- (d) accepting the request would unfairly prejudice another Unit Holder; or
- (e) the Trustee does not consider it to be in the best interests of the Unit Holders as a whole to realise sufficient Assets to satisfy the withdrawal request.

## 6.6 Restrictions on Unit Holder

- (a) Upon making a withdrawal request under clause 6.1, the Unit Holder will have no right to deal with the Units that are subject of the request (unless and until the request is denied by the Trustee).
- (b) A Unit Holder may not withdraw a withdrawal request unless the Trustee agrees.

## 6.7 Trustee discretion to redeem

Subject to the *Corporations Act* (where the Fund is a Registered Scheme) and clause 6.3, the Trustee may at any time in its absolute discretion redeem some or all of the Units held by a Unit Holder without being requested to do so at the Withdrawal Price by giving at least 30 days' notice to the Unit Holder of its intention to redeem such Units.

## 6.8 No obligation to pay out of own funds

The Trustee is not obliged to pay any part of the Withdrawal Price out of its own funds.

# Gyrostat Risk Managed Equity Fund

---

## 6.9 Sums owed to the Trustee

Subject to the *Corporations Act* (where the Fund is a Registered Scheme), the Trustee may deduct from the proceeds of withdrawal or money paid pursuant to a Withdrawal Offer any money due to it by the Unit Holder.

## 6.10 Transfer of Assets

- (a) The Trustee may transfer Assets to a Unit Holder rather than pay cash in satisfaction of all or part of the aggregate Withdrawal Price due to Unit Holder pursuant to a withdrawal request or acceptance of a Withdrawal Offer.
- (b) Assets transferred to a Unit Holder under clause 6.10(a) together with any cash paid must be of equal value to the total amount due to the Unit Holder pursuant to the withdrawal request or Withdrawal Offer (based on a valuation of the Assets which is consistent with the range of ordinary commercial practice for valuing assets of that type and is reasonably current). If the Trustee requires, the reasonable costs involved in transfer of these Assets must be paid by the Unit Holder or deducted from the amount due to the Unit Holder.

## 6.11 Order of withdrawal

Unless the Trustee determines otherwise, the first Units issued to a Unit Holder are the first to be redeemed.

## 6.12 Liquid or not Liquid

The Trustee will determine whether the Scheme is Liquid. Such a determination is binding on Unit Holders and no Unit Holder will challenge it.

## 6.13 Determination of income and capital

- (a) Subject to clause 6.13(b), the Trustee may determine at its absolute discretion that the proceeds of withdrawal comprise part capital and part Net Income of the Fund in the Financial Year in which the withdrawal occurs.
- (b) If an Asset is transferred to a Unit Holder pursuant to clause 6.10(a), the Trustee may make a Unit Holder specifically entitled to the appropriate proportion of any net capital gain to be included in the Net Income of the Fund from the sale of the Asset.
- (c) The Trustee may adjust the Withdrawal Price of a Unit, as calculated in accordance with clause 7.1, by the amount, if any, to which a Unit Holder is made specifically entitled under clause 6.13(b).

## 7 Withdrawal Price of Units

### 7.1 Withdrawal Price

A Unit must only be redeemed at a Withdrawal Price calculated in accordance with the following formula:

# Gyrostat Risk Managed Equity Fund

---

$$WP = A/B$$

Where:

WP is the Withdrawal Price;

A is Net Asset Value less any relevant Transaction Charge; and

B is the number of Units on issue.

For the purposes of the above formula in, where there is more than one Class on issue, "Net Asset Value", "Transaction Charge" and the "number of Units on issue" are variables determined by the Trustee in respect of the relevant Class in accordance with clause 3.4 - 3.8.

## 7.2 Determination of Withdrawal Price

Subject to the Corporations Act where the Fund is a Registered Scheme, unless otherwise determined by the Trustee, each of the variables in clause 7.1 must be determined:

- (a) while the Fund is a Registered Scheme and not Liquid, as at the day on which the Withdrawal Offer closes; and
- (b) at any other time, as at:
  - (i) the last day of the month immediately preceding the Withdrawal Date to which the withdrawal request relates under clause 6.1(b); or
  - (ii) where the period allowed for withdrawal has been extended pursuant to clause 6.2(d), the last day of the month immediately preceding the Withdrawal Date on which the withdrawal request is processed.

## 7.3 Withdrawal fee

The Trustee may deduct any withdrawal fee payable under clause 15.1(d) in respect of a withdrawal of Units from the aggregate Withdrawal Price for those Units.

## 7.4 Receipt of withdrawal request

The Trustee may determine that a withdrawal request received by the Trustee after a particular time will be deemed to have been received on the next Business Day.

## 7.5 Rounding

The Withdrawal Price may be rounded as the Trustee determines.

# Gyrostat Risk Managed Equity Fund

---

## 8 Transfers

### 8.1 Transferability

- (a) Subject to this clause 8 and the terms of their issue, a Unit may be transferred by instrument in writing or in any other form that the Trustee approves or requires provided that, where the Fund is a Registered Scheme, the form of transfer must not be prohibited by the *Corporations Act*.

### 8.2 Registration of transfers

- (a) A transferor of Units remains the holder of the Units transferred until the transfer is registered by the Trustee.
- (b) Unless the Trustee determines otherwise, where Units are transferred other than in accordance with an applicable uncertificated trading system, the following documents must be lodged for registration with the Trustee:
  - (i) a proper instrument of transfer (duly stamped if relevant);
  - (ii) the certificate (if any) for the Units; and
  - (iii) any other information that the Trustee may require to establish the transferor's right to transfer the Units.
- (c) Subject to clause 8.3, the Trustee may register the transferee as the Unit Holder of the Units.
- (d) The Trustee may charge Unit Holders a fee to cover administrative costs involved in registering a transfer of Units.

### 8.3 Refusal of registration

Subject to the *Corporations Act* (where the Fund is a Registered Scheme), the Trustee may refuse to register any transfer of Units without being bound to provide a reason for such refusal.

## 9 Transmission of Units

### 9.1 Entitlement on death

- (a) Subject to clause 9.1(b), if a Unit Holder dies:
  - (i) the survivor (or survivors) where the Unit Holder was a joint Unit Holder; and
  - (ii) the legal personal representatives of the deceased, where the Unit Holder was a sole Unit Holder,

will be the only persons recognised by the Trustee as having any title to the Unit Holder's interest in the Units.

# Gyrostat Risk Managed Equity Fund

---

- (b) The Trustee may refuse to recognise any person referred to in clause 9.1(a) or to recognise any claim without providing any reason. The Trustee may require evidence of a Unit Holder's death as it thinks fit.
- (c) This clause 9 does not release:
  - (i) the estate of a deceased joint Unit Holder from any liability in respect of a Unit that had been jointly held by the Unit Holder with other persons; or
  - (ii) where the Unit Holder was a sole Unit Holder, the legal personal representative or the trustee of the Unit Holder's estate from any liability in respect of Units held by the deceased Unit Holder.

## 9.2 Registration of persons entitled

- (a) Subject to the *Corporations Act*, the *Bankruptcy Act 1966* (Cth) and the production of any information that is properly required by the Trustee, a person becoming entitled to a Unit in consequence of the death, bankruptcy, insolvency (or other legal disability) of a Unit Holder may elect to:
  - (i) by written notice to the Trustee, be registered as the Unit Holder in respect of that Unit; or
  - (ii) to nominate some other person to be registered as the Unit Holder of the Unit.
- (b) All the limitations, restrictions and provisions of this Deed relating to:
  - (i) the right to transfer;
  - (ii) the registration of the transfer of; and
  - (iii) the issue of certificates for,

Units apply to any relevant transfer as if the death, bankruptcy, insolvency (or other legal disability) of the Unit Holder had not occurred and the notice or transfer were a transfer signed by that Unit Holder.

## 9.3 Distributions and other rights

- (a) If a Unit Holder dies or suffers a legal disability, the Unit Holder's legal personal representative or the trustee of the Unit Holder's estate (as the case may be) is, on the production of all information as is properly required by the Trustee, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Fund or to voting or otherwise) as the Unit Holder would have been entitled to if the Unit Holder had not died or suffered a legal disability.
- (b) Where two or more persons are jointly entitled to any Unit as a result of the death or legal disability of a Unit Holder, they will, for the purposes of this Deed, be taken to be joint Unit Holders of the Unit.

# Gyrostat Risk Managed Equity Fund

---

## 10 Valuation of Assets

- (a) The Trustee may, at any time, cause the valuation of any Asset and (if the Fund is a Registered Scheme) shall do so as and when required by the *Corporations Act*.
- (b) The Trustee may determine the Gross Asset Value, Liabilities and Net Asset Value at any time (**Valuation Time**) and shall determine them:
  - (i) if and when required by ASIC or the *Corporations Act* (if the Fund is a Registered Scheme);
  - (ii) in respect of each Issue Date (as at the last calendar day of the month preceding) and any other day on which Units in the Fund are issued; and
  - (iii) in respect of each Withdrawal Date (as at the last calendar day of the month preceding) and the day on which a Withdrawal Offer is made pursuant to clause 6.3.

### 10.2 Method of valuation

- (a) The Trustee may determine valuation methods and policies for each category of Asset and change them from time to time.
- (b) Where the Fund is a Registered Scheme, unless the Trustee decides otherwise, the value of an Asset for the purpose of calculating the Net Asset Value will be its market value. Where the Trustee values an Asset at other than its market value, or where there is no market value and whilst the Fund is a Registered Scheme, the valuation methods and policies applied by the Trustee must be based on the ordinary commercial practice for valuing the relevant type of asset that is reasonably current at the time of the issue or withdrawal of Units.

### 10.3 Trustee not an expert

The Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in valuation.

## 11 Income and distributions

### 11.1 Subject to AMIT provisions

Where the Trustee has resolved to make a choice under clause 12, this clause 11 is subject to the operation of clause 12.

### 11.2 Collection of income

The Trustee shall receive and collect all dividends, interest, rents and all other income of the Fund.

# Gyrostat Risk Managed Equity Fund

---

## 11.3 Payment of expenses

The Trustee shall pay out of the gross income of the Fund all costs and disbursements, commissions, fees, tax (including any goods and services tax, land tax or income tax), management charges and other proper outgoings in respect of the Assets and administration of the Fund.

## 11.4 Nature of receipts

The Trustee may determine whether any receipt, profit, gain (whether realised or unrealised) payment, loss, outgoing, provision or reserve or any sum of money or investment in a Financial Year is or is not to be treated as being on income or capital account and whether and the extent to which any provisions or reserves need to be made for the Financial Year.

## 11.5 Trustee must determine Net Income

The Trustee must determine the Net Income of the Fund and each Class for each Financial Year.

## 11.6 Net Income

If no determination is made or to the extent to which no determination is made under clause 11.5 prior to the end of a Financial Year, then the Net Income for that Financial Year is calculated in the same manner as net income is calculated under the Tax Act for that Financial Year provided that where in calculating the net income under the Tax Act it is necessary to:

- (a) gross up any amount of income (for example tax offsets such as foreign income tax offsets or franking credits);
- (b) include any amount of deemed assessable income; or
- (c) make any deemed deduction,

then the grossing up or deemed assessable income (excluding net capital gains included in assessable income) or deemed deduction must not be included in calculating the net income of the Fund or the Class for the Financial Year unless the Trustee determines otherwise before the end of the Financial Year.

## 11.7 Present entitlement

- (a) Subject to the rights, restrictions and obligations attaching to any particular Unit, the persons who are Unit Holders at 5 p.m. on the last day of the Financial Year will be presently entitled in the proportions specified in clause 11.8(c) to the Net Income for that Financial Year (less any part of the Net Income which has been previously distributed in that Financial Year in accordance with this clause 11.8(a) together with any additional amount which the Trustee determines in accordance with clause 11.12 to distribute to Unit Holders in respect of that Financial Year.
- (b) Unit Holder that have been paid, or had applied for their benefit, any part of the Net Income during the Financial Year in accordance with clause 11.8(a) shall be deemed to be presently entitled to the amount paid to them or applied for their benefit.

# Gyrostat Risk Managed Equity Fund

---

## 11.8 Distribution of the Net Income

- (a) The Trustee may make an Interim Distribution of the Net Income accruing to the Fund or Class (as relevant) during any Distribution Period (other than a Distribution Period that is the last Distribution Period in a Financial Year). The Interim Distribution cannot exceed, but can be less than, the amount of the Net Income which has accrued during the relevant Financial Year.
- (b) For the last Distribution Period of the Financial Year, the Trustee must distribute the Net Income of the Fund or Class (as relevant) for the Financial Year less any amount previously distributed during the Financial Year pursuant to clause 11.8(a).
- (c) Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, each Unit Holder's Distribution Entitlement for a Financial Year shall be determined in accordance with the following formula:

$$\frac{A \times B}{C}$$

Where:

- A is the amount determined by the Trustee in accordance with clauses 11.5 and 11.6 to be distributable for the relevant Financial Year;
- B is the aggregate of the number of Units held by the Unit Holder at 5.00 p.m. on the Distribution Calculation Date in the Fund or Class (as relevant); and
- C is the aggregate of the total number of Units on issue in the Fund or Class (as relevant) at 5.00 p.m. on the Distribution Calculation Date.

## 11.9 Distribution Entitlement

- (a) The Trustee shall pay to each Unit Holder its Distribution Entitlement for a Financial Year on or before the Distribution Date for that Financial Year.
- (b) The Trustee shall retain from each Unit Holder's Distribution Entitlement all amounts which are necessary to avoid distributing a fraction of a cent or which the Trustee determines it is not practical to distribute on a Distribution Date, with any sum so retained for all purposes treated as income for the next following Financial Year.
- (c) The Trustee may retain from the amount to be distributed to a Unit Holder an amount in or towards satisfaction of any amount payable by the Unit Holder to the Trustee under this Deed or that is required to be deducted by law.

## 11.10 Minimum distribution

For any year in which the Fund is not an AMIT, the Trustee may transfer capital to a Unit Holder to enable a distribution to Unit Holders of the minimum amount necessary to avoid the Trustee as Trustee of the Fund being assessable to pay Tax.



# Gyrostat Risk Managed Equity Fund

---

## 11.11 Discharge of Trustee's obligation

It is acknowledged by Unit Holders that payments of the Distribution Entitlements in accordance with clause 11.9 shall be a good and complete discharge of any liability owed by the Trustee to any person in respect of an entitlement to their Distribution Entitlements.

## 11.12 Capital distributions

The Trustee may, at any time, distribute the capital of the Fund to the Unit Holders. Subject to the rights, obligations and restrictions attaching to any particular Unit, a Unit Holder is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Unit Holder on a date determined by the Trustee divided by the number of Units on issue on that date. A distribution under this clause may be in cash or of Assets.

## 11.13 Excess distribution

If at the end of a Financial Year the Trustee determines that the amount distributed as the Net Income under this clause 11 exceeds the aggregate of the Net Income for the Financial Year, the excess will be taken to be a distribution of capital.

## 11.14 Categories and source of income

The Trustee may keep separate accounts of different categories or sources of income, or deductions or credits for tax purposes, and may allocate income, deductions or credits from a particular category or source to a particular Class of Unit Holders.

## 11.15 Receipt

- (a) For the purposes of this clause 11, the Trustee is entitled to treat any amount which the Trustee is entitled to receive but has not actually received before the Distribution Calculation Date as actually received:
  - (i) before the Distribution Calculation Date; or
  - (ii) after the Distribution Calculation Date.
- (b) If any amount included in the amounts determined to be distributed in accordance with clauses 11.5 and 11.6 but is not subsequently received by the Trustee, the Trustee shall be entitled to recover any amount that has been over distributed. However, the Trustee shall not be bound to pursue that right of recovery. The Trustee may determine that any amount so distributed is to be treated as a distribution of the capital of the Fund. No claim will lie against the Trustee at the suit of any Unit Holder or any other person by reason of that distribution or any resultant loss to the Fund.

## 11.16 Reinvestment

- (a) A Unit Holder may, if the Trustee approves, elect to reinvest some or all of their Distribution Entitlement by acquiring Units and the amount of the distribution must be applied on behalf of the Unit Holder to acquire additional Units. In those cases, the Trustee is treated as having received an application to reinvest the Unit Holder's Distribution Entitlement on the first Business Day immediately preceding the Distribution

# Gyrostat Risk Managed Equity Fund

---

Calculation Date at an Application Price determined in accordance with clause 5 in respect of the Issue Date following the Distribution Calculation Date.

- (b) Subject to the Unit Holder's expressed or implied consent, the Trustee may, at its discretion, reinvest some or all of the Unit Holder's Distribution Entitlement by acquiring Units and that amount of the distribution must be applied on behalf of the Unit Holder to acquire additional Units. In those cases, the Trustee is treated as having received an application to reinvest the Unit Holder's Distribution Entitlement on the Business Day immediately preceding the day on which the distribution is paid at an Application Price determined in accordance with clause 5 in respect of the Issue Date following the Distribution Calculation Date.
- (c) The procedure for reinvestment of distributions is to be determined by the Trustee and notified to Unit Holders from time to time.

## 11.17 Other rights or restrictions

For the removal of doubt and despite anything else contained in this clause 11, the rights of a Unit Holder under this clause 11, are subject to the rights, obligations and restrictions attaching to the Units which they hold. Without limitation, but provided the Trustee is entitled to do so under the *Corporations Act*, the Trustee may issue:

- (a) Units on terms which entitle the Unit Holder to a distribution of the amounts determined for distribution under clauses 11.5 and 11.6 in respect of a Financial Year in which such Units are issued in an amount which is not greater than:

$A \times B/C$

where:

A is the Distribution Entitlement for each Unit Holder in respect of a Financial Year determined under clause 11.8;

B is the number of days from the date of issue of those Units to the end of that period; and

C is the total number of days in that period.

- (b) Units on terms which do not entitle the Unit Holder to receive a distribution of the Distribution Entitlement in respect of a Financial Year in which such Units are issued; or
- (c) Units on terms as the Trustee determines.

## 11.18 Withholding Tax

- (a) The Trustee may deduct from any amount dealt with under this clause 11 any Tax that it is required by law to deduct from such amount.
- (b) The Trustee may recover from the Unit Holder an amount that the Trustee has paid in Tax on behalf of or in respect of a Unit Holder (including in respect of a distribution or an amount attributed to a Unit Holder) as a debt.

# Gyrostat Risk Managed Equity Fund

---

- (c) The Trustee is entitled to set off an amount that the Trustee can recover from the Unit Holder under clause 11.18(b) against debts due, or owed, by the Trustee to the Unit Holder.

## 11.19 Allocation of Net Income

To the extent permitted by law the Trustee must allocate the net income of the trust as defined under section 95 of the 1936 Tax Act (amended or substituted from time to time) to Unit Holders on a fair and reasonable basis having regard to their entitlements to income and capital of the Fund as determined under this Deed.

## 12 AMIT

### 12.1 Choices under the AMIT regime

The Trustee may, in accordance with the Tax Act, resolve to:

- (a) make a choice for the Fund to be an AMIT for the purposes of the Tax Act; and
- (b) where the Trustee has made a choice under clause 12.1(a), make a choice to treat each Class as being a separate AMIT for the purposes of the Tax Act.

### 12.2 Priority of clause 12.1

- (a) Notwithstanding the other provisions of this Deed which relate to the income of the Fund and to distributions, including clause 11, where the Trustee has resolved to make a choice under clause 12.1(a) with respect to the Fund, the provisions of this clause 12 apply with respect to a Financial Year for which the choice was made and for each following Financial Year during which that Fund is an AMIT for the purposes of the Tax Act.
- (b) For the avoidance of doubt, where the Trustee has resolved to make a choice under clause 12.1(a) with respect to the Fund then, in any Financial Year in which the Fund is an AMIT, to the extent that there is any inconsistency between the provisions of this clause 12 and the other provisions of this Deed, the provisions of this clause 12 prevail.

### 12.3 Taxation of the Fund when it is an AMIT

- (a) Terms used in this clause 12.3 that are not otherwise defined in this Deed take their meaning from the Tax Act.
- (b) The attribution model of taxation as set out in Division 276 of the Tax Act (or any successor provisions) applies to the Fund or Class where the Trustee has made a choice with respect to the Fund or Class under clause 12.1 with respect to the Fund or that Class.
- (c) Subject to clause 12.4, and without limiting its other rights and powers provided for under this Deed, where the Trustee has made a choice under clause 12.1 with respect to the Fund, the Trustee may make any determination or choice, and may take any action which

# Gyrostat Risk Managed Equity Fund

---

it can or is required to make or take under the Tax Act for the relevant Financial Year, including:

- (i) the determination of the taxable income of the Fund or each Class;
  - (ii) the determination of assets and liabilities attributable to the Fund or each Class;
  - (iii) the determination of the Trust Component and Determined Trust Component of a particular character for the Fund or each Class, including the determination of the particular character of an item and the timing of its inclusion in a Trust Component and a Determined Trust Component;
  - (iv) the attribution of the Determined Trust Component to determine the Member Component and Determined Member Component of a particular character for each Unit Holder or Former Unit Holder;
  - (v) the making of alterations to the relevant Trust Components and Determined Trust Components and the relevant Member Components and Determined Member Components as a result of any unders or overs (those terms having the definitions attributed to them in Division 276 of the Tax Act (or any successor provisions));
  - (vi) the giving of an AMMA Statement, within the period set out in the Tax Act, to each Unit Holder or Former Unit Holder for the relevant Financial Year which includes information that reflects:
    - (A) the amount and character of each Member Component of the Unit Holder or Former Unit Holder; and
    - (B) any cost base adjustment in respect of the Units of the Unit Holder or Former Unit Holder; and
  - (vii) the amendment of an AMMA Statement that has been issued to a Unit Holder or Former Unit Holder, and the basis upon which the AMMA Statement issued is to be amended.
- (d) The Trustee is entitled to attribute the Determined Trust Component to determine the Member Component and Determined Member Component of a particular character in respect of a Financial Year to be attributed to a Unit Holder, pursuant to this clause 12.3, upon a redemption or withdrawal (or any other similar action) of Units by that Unit Holder.
- (e) If the Fund ceases to be an AMIT in respect of any Financial Year then, in determining the amount distributable under clause 11.8(c) for that Financial Year, and to the extent required by Division 276 of the Tax Act (or any successor provisions), an appropriate adjustment must be made in the discovery year to take into account any over or under distributions of any tax component from any prior period in which the Fund was an AMIT.

## 12.4 Fair and reasonable basis

In making a determination or choice, or in taking an action, as contemplated by this clause 12, the Trustee must ensure that any determination, allocation or attribution is made on a fair and reasonable basis.

# Gyrostat Risk Managed Equity Fund

---

## 12.5 Determination of amounts to be distributed to Unit Holders

Notwithstanding any other provision of this Deed, the Trustee is entitled to determine the amount to be distributed to Unit Holders, whether of income or capital or otherwise, for a Financial Year.

## 12.6 Statements to Unit Holders

Notwithstanding any other provision of this Deed, if the Trustee has given a statement to a Unit Holder in accordance with Division 276 of the Tax Act (or any successor provisions), the Trustee is not required to otherwise notify a Unit Holder of their proportionate share of the Fund's income or capital, including income of the trust estate or net income calculated under Division 6 of the *Income Tax Assessment Act 1936* (Cth) as if the choice in clause 12.1(a) had not been made.

## 12.7 Determined member component choice

If a Unit Holder or Former Unit Holder makes or intends to make a Member Choice:

- (a) the Unit Holder or Former Unit Holder must:
  - (i) provide the Trustee with written notice of the Unit Holder's or Former Unit Holder's intention to do so at least 5 Business Days prior to notifying the Commissioner of Taxation of the Member Choice;
  - (ii) include, in the notice provided to the Trustee, a summary of the reasons why the Unit Holder or Former Unit Holder considers the attribution inappropriate; and
  - (iii) provide to the Trustee any information the Trustee reasonably requests in good faith in relation to the Unit Holder's or Former Unit Holder's Member Choice; and
- (b) the Trustee may take such actions as it considers necessary, appropriate or reasonable to provide for the rights and interests of other Unit Holders or Former Unit Holders to be protected, including in dealings with the Commissioner of Taxation.

## 12.8 Indemnity for Tax

Subject to the *Corporations Act*, the Trustee is entitled to be indemnified out of the Assets of the Fund for:

- (a) any Tax liabilities incurred by the Trustee as a result of the application of this clause 12 with respect to the Fund; or
- (b) any liability that results from a Unit Holder or Former Unit Holder making a claim against the Trustee in relation to a Tax liability of the Unit Holder or Former Unit Holder that results from the application of this clause 12 with respect to the Fund,

together with any other costs, expenses or liabilities incurred by the Trustee as a result of incurring any such liability.

# Gyrostat Risk Managed Equity Fund

---

## 12.9 Exercise of Trustee's powers

- (a) Subject to 12.9(b), the Trustee has all of the powers and rights which are necessary and expedient to enable the Fund to comply with and effectively operate as an AMIT for the purposes of the applying the AMIT legislation in the Tax Act.
- (b) In exercising any right or power, whether it is one provided to the Trustee under this Deed or under any statutory or general law rights or powers of a trustee, the Trustee must:
  - (i) not act in any way which would result in the rights to the income and capital of the Fund arising from each Unit in each relevant AMIT for the Fund to not be clearly defined for the purposes of paragraph 276-10(1)(b) of the Tax Act; and
  - (ii) must treat Unit Holders who hold Units of the same Class equally and Unit Holders who hold Units of a different Class fairly.

## 13 Powers of the Trustee

### 13.1 General powers of Trustee

- (a) Subject to this Deed, the Trustee has all the powers in respect of the Fund that it is possible under law to confer on a trustee as though it were the absolute and beneficial owner of the Assets and acting in its personal capacity.
- (b) The generality of this clause 13.1 is not limited by anything in the remainder of this clause 12.
- (c) To the maximum extent permitted by law:
  - (i) any rules and principles of law or equity that impose a duty on a trustee exercising a power of investment are hereby excluded; and
  - (ii) without limiting the generality of clause 13.1(c)(i), section 6 of the *Trustee Act 1958 (Vic)* is hereby expressly excluded from operation in relation to this Deed and the Fund.

### 13.2 Specific powers of the Trustee

Without limiting the generality of clause 13.1, the Trustee in its capacity as trustee of the Fund may:

- (a) borrow or raise money (whether or not on security) and incur any and all types of obligations and liabilities;
- (b) borrow or lend any asset;
- (c) create Security Interests over all or any part the Assets;
- (d) apply to ASIC for registration of the Fund as a Registered Scheme under the *Corporations Act*,

# Gyrostat Risk Managed Equity Fund

---

- (e) apply for listing of the Fund and quotation of the Units (or any other financial product relating to the Fund) on any stock exchange and for this purpose the Trustee is authorised on its own behalf and on behalf of each Unit Holder as the Unit Holder's agent or attorney to do all things necessary to effect a listing or quotation;
  - (f) invest in any form of investment in any region or market and may vary an investment at any time in its absolute discretion, including without limitation:
    - (i) purchasing or disposing of Assets for cash or other consideration; and
    - (ii) entering into any swap, forward rate agreement, currency exchange agreement or any other form of hedge, derivative or other transaction (for speculative purposes or otherwise);
  - (g) subject to clause 2.3(b), mix Assets with assets of any other person or trust;
  - (h) share risk and returns with any other person or trust;
  - (i) vary, replace or deal with the Assets in any way;
  - (j) buy-back Units;
  - (k) fetter future discretions, such as by the granting of options;
  - (l) enter into any arrangement or agreement with underwriters in relation to the Fund;
  - (m) exercise all voting rights conferred by the Assets as it thinks fit; and
  - (n) give guarantees and/or indemnities to any person,
- as if it were dealing with its own assets.

## 13.3 Delegation

- (a) Without limiting clause 13.1, the Trustee may appoint any person to as its delegate, attorney or agent to:
  - (i) perform any act;
  - (ii) carry out any obligation; or
  - (iii) exercise any power (including the appointment of its own delegate, attorney or agent),that the Trustee has under this Deed.
- (b) The Trustee may appoint an agent, manager, custodian or other person (each of whom may, with the approval of the Trustee, sub-delegate to any person any of its functions as it thinks fit), to acquire, hold title to, dispose of or otherwise deal with Assets on behalf of the Trustee and perform any action incidental or ancillary thereto or otherwise approved by the Trustee.

# Gyrostat Risk Managed Equity Fund

---

- (c) Any person appointed under clauses 13.3(a) or 13.3(b) may be an Associate or employee of the Trustee.
- (d) An appointment under clauses 13.3(a) or 13.3(b) may be joint.
- (e) The Trustee will not be liable for the acts or omissions of any delegate. The Trustee may include provisions to protect and assist those dealing with the delegate as the Trustee thinks fit.

## 13.4 Advisers

Without limiting this clause, the Trustee may engage an Adviser to assist with its duties and functions under this Deed. An Adviser may be an associate or employee of the Trustee.

## 13.5 Exercise of discretion

The Trustee shall in its absolute discretion decide how and when to exercise its powers.

## 14 Holding of Assets

### 14.1 How held

Subject to clauses 14.2 and 14.3, all Assets will be held in the name of the Trustee.

### 14.2 Custodian

If the Trustee considers it necessary or desirable, the Assets (or any Asset) may be held by a custodian or nominee appointed by the Trustee and acting as agent for the Trustee.

### 14.3 Holding of Assets

A custodian appointed by the Trustee in respect of a particular Asset must hold that Asset:

- (a) directly in its name; or
- (b) indirectly by means of any asset title transfer or holding system approved by the Trustee (and while the Fund is a Registered Scheme, to the extent permitted by *Corporations Act* and any applicable ASIC Exemption).

## 15 Remuneration and Expenses of Trustee

### 15.1 Trustee's Fees

- (a) Subject to the *Corporations Act* (where the Fund is a Registered Scheme) and clause 15.9, the Trustee will be entitled to the following fees in respect of the Fund:



# Gyrostat Risk Managed Equity Fund

---

- (b) in respect of each application for Units in the Fund which the Trustee accepts, an Application Fee may be determined by the Trustee and notified to Unit Holders of up to 5% of the application money paid to acquire Units;
- (c) the Trustee may deduct from the Assets of the Fund, a management fee determined by the Trustee and notified to Unit Holders of the greater of:
- (i) up to 2% per annum of the Net-Gross Asset Value of the Fund based on the Net Gross Asset Value of the Fund as at the end of each month; and;
- (ii) a minimum monthly fee (Indexed annually) of the aggregate of:
- (A) for trustee services, of \$3,700, while there are 3 Classes of Units in issue plus \$1,050 for each additional Class; and
- (B) for custody services, \$3,200,
- in all cases, calculated and accrued daily and payable monthly in arrears (or as otherwise determined by the Trustee); and
- (d) in respect of each withdrawal of Units, the Trustee may deduct a withdrawal fee determined by the Trustee and notified to Unit Holders of up to 5% of the aggregate Withdrawal Price for the Units from the aggregate Withdrawal Price of Units.
- (e) In this clause Indexed annually means, on July 1 each year commencing 1 July 2023:-

Indexed Means adjusted on 1 July, by the aggregate percentage change in the Index Number for the previous four quarters most recently published prior to 1 July in the relevant year, adjusted for monthly basis.

Index Number Means the greater of 3% and CPI

CPI Means

- (a) the Consumer Price Index (All Groups) for the city of Sydney, published from time to time in the Australian Statistician's Summary of Australian Statistics. If the Australian Statistician updates the reference base of the Consumer Price Index (All Groups) for the city of Sydney, a conversion shall be made to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by the Australian Statistician, or
- (b) if the Consumer Price Index (All Groups) is discontinued or suspended, then a replacement index determined by the Trustee which reflects fluctuations in the cost of living in the city of Sydney.

# Gyrostat Risk Managed Equity Fund

---

## 15.2 Waiver of remuneration

The Trustee may accept a lower fee than it is entitled to receive under this Deed, or may defer payment for a period on such terms as the Trustee determines at its sole discretion. The amount of the trustee and custody fees payable under clause 15.1 is subject to any relevant disclosure to Unit Holders in a Product Disclosure Statement or other similar offering document, but the fee payable will not exceed the maximum fees prescribed in clause 15.1.

## 15.3 Priority of Trustee's remuneration

The remuneration of the Trustee shall have priority over the payment of all other amounts payable from the Assets of the Fund.

## 15.4 Establishment costs

- (a) Without limiting clause 15.8, the Trustee, or an Associate of the Trustee, may pay, on behalf of the Fund, any or all costs and expenses incurred in connection with the establishment and initial promotion of the Fund, including the production and distribution of the first disclosure document (**Establishment Costs**).
- (b) In such a case, the Trustee or the Associate (as the case may be) will be entitled to be reimbursed out of the Assets for all Establishment Costs that were reasonably and properly incurred.
- (c) The Trustee or the Associate (as the case may be) may waive recovery of any of the Establishment Costs, or may be reimbursed from the Assets in a year or years later than the year in which the Establishment Cost was incurred.

## 15.5 Differential fee arrangements

Subject to the *Corporations Act* and any applicable ASIC Exemption (where the Fund is a Registered Scheme), the Trustee may agree with any Unit Holder any fee arrangements with that Unit Holder which are different to those provided for under this Deed or which apply to other Unit Holders.

## 15.6 Units as payment for fees

The Trustee may elect that it is to be issued Units instead of cash in payment of its fees or reimbursement of its expenses under this Deed.

## 15.7 Fees paid to the Trustee in a different capacity

Subject to the *Corporations Act*, the Trustee may be paid a fee for work performed in connection with the Fund in its personal capacity and not in its capacity as the trustee of the Fund. The Trustee may retain any such fee for its own purposes and is not required to account for the fee to the Fund or to Unit Holders.

## 15.8 Reimbursement of Expenses

Subject to the *Corporations Act* where the Fund is a Registered Scheme, all Expenses incurred by the Trustee in relation to the proper performance of its duties in respect of the Fund shall be payable or reimbursable out of the Assets to the extent that such reimbursement is not prohibited

# Gyrostat Risk Managed Equity Fund

---

by the *Corporations Act*, including, without limitation, Expenses arising in connection with the matters listed in item 1 of Schedule 1.

## 15.9 Proper performance of duties

Where the Fund is a Registered Scheme, the rights of the Trustee to be paid fees out of the Assets, or to be reimbursed or indemnified out of the Assets for liabilities or expenses incurred in relation to the performance of its duties as Trustee, are only available in relation to the proper performance of those duties.

## 15.10 GST

- (a) Expressions that have defined meanings under the GST Law bear the same meaning for the purpose of this clause 15.10 as those expressions in the GST Law.
- (b) Any amount paid or payable or any consideration provided or to be provided under or in connection with this Deed represents the value of the taxable supply and does not include GST.
- (c) If the Trustee makes a taxable supply in connection with or arising under this Deed (including the performance of any of its obligations) for consideration which, under clause 15.10(b), represents its value:
  - (i) the Trustee shall be entitled to be paid or reimbursed from the Assets for an amount equal to the amount of the GST payable on that taxable supply in addition to any other amount to which the Trustee is entitled; or
  - (ii) the recipient of the supply must pay to the Trustee, at the same time and in the same manner as the consideration is otherwise payable, an additional amount equal to the amount of the GST payable on that taxable supply,at the Trustee's discretion.
- (d) The supplier of a taxable supply shall issue a valid Tax Invoice to the recipient of the supply on request.
- (e) If this Deed entitles a party to be reimbursed or indemnified, the amount to be reimbursed or indemnified does not include any amount on account of GST for which the party is entitled to an input tax credit.

## 15.11 Taxes in other jurisdictions

- (a) Without limiting clause 15.10, any amount paid or payable or any consideration provided or to be provided under or in connection with this Deed does not include any goods and services tax, value added tax or other similar tax payable in any jurisdiction.
- (b) In addition to any other amount to which the Trustee is entitled under this Deed, the Trustee shall be entitled to be paid or reimbursed for an amount equal to any goods and services tax, value added tax or other similar tax payable by the Trustee in any jurisdiction:
  - (i) from the Assets; or

# Gyrostat Risk Managed Equity Fund

---

- (ii) by the Unit Holder, where the Trustee has an obligation to pay such goods and services tax, value added tax or other similar tax in relation to a supply of goods and/or services made to the Unit Holder or other event that triggers a liability for goods and services tax, value added tax or other similar tax,

at the Trustee's discretion.

- (c) If this Deed entitles a party to be reimbursed or indemnified, the amount to be reimbursed or indemnified does not include any amount on account of any goods and services tax, value added tax or other similar tax payable in any jurisdiction for which the party is entitled to any input tax credit or similar credit in any jurisdiction.

## 15.12 Sums owed to the Trustee

The Trustee may redeem such number of a Unit Holder's Units (including a fraction, if necessary) as have a value (based on the Net Asset Value at that time) equal to any amount of money due to it by the Unit Holder and deduct such amounts from the Withdrawal Price of the Units.

## 16 Change in Trustee

### 16.1 Voluntary retirement while the Fund is a Registered Scheme

- (a) While the Fund is a Registered Scheme, the Trustee may retire as the trustee of the Fund as permitted by section 601FL of the *Corporations Act*.<sup>2</sup>
- (b) If permitted by law or by any relief from the Corporations Act granted by ASIC, the Trustee may appoint its successor by deed.

### 16.2 Voluntary retirement while the Fund is not a Registered Scheme

While the Fund is not a Registered Scheme, the Trustee may retire as the trustee of the Fund by giving at least 1 months notice to Unit Holders (or such shorter period as they agree). On retirement, the Trustee may appoint in writing another person to be the trustee of the Fund.

### 16.3 Compulsory retirement

- (a) The Trustee shall retire as the trustee of the Fund when required by law.
- (b) While the Fund is not a Registered Scheme, the Trustee may be removed as the trustee of the Fund by a Resolution where the Required Majority is 90%. On the removal of the Trustee, the Trustee shall, in consideration of its removal as Trustee, be entitled to a fee payable from the Assets of 1% of the Net Asset Value at the time of the Trustee's removal.

### 16.4 New trustee

- (a) Any proposed replacement trustee shall execute a deed by which it covenants to be bound by this Deed as if it had originally been a party to it.

---

<sup>2</sup> See section 601FL of the Corporations Act.

# Gyrostat Risk Managed Equity Fund

---

- (b) On retirement or removal the Trustee shall give the new trustee or trustee all books, documents and records relating to the Fund.
- (c) On retirement or removal the Trustee shall be released from all obligations in relation to the Fund arising after the time it retires or is removed.
- (d) Upon retirement or removal of the Trustee, all fees and other amounts owing to the Trustee and all amounts deferred by the Trustee pursuant to clause 15.1(b) become due and payable to the Trustee from the Assets and the new Trustee must take such action as is necessary to promptly effect all such payments.

## 16.5 Retirement benefit

Subject to the *Corporations Act* (where the Fund is a Registered Scheme), the Trustee may agree to be paid a benefit by another entity who proposes to be the trustee of the Trustee (**Proposed Trustee**) in consideration for:

- (a) retiring as trustee; or
- (b) agreeing to submit to a proposal for its retirement to a meeting of Unit Holders and nominating to the Unit Holders the Proposed Trustee the replacement trustee,
- (c) and the Trustee is not required to account to Unit Holders for the benefit received.

## 17 Limitation of liability

### 17.1 Limitation of Trustee's liability

- (a) Subject to the *Corporations Act* where the Fund is a Registered Scheme, neither the Trustee nor its Associates are liable for any loss or damage to any person (including any Unit Holder) arising out of any matter unless, in respect of that matter, it acted both:
  - (i) otherwise than in accordance with this Deed; and
  - (ii) without a belief held in good faith that it was acting in accordance with this Deed,in any case, subject to the law, the liability of the Trustee in relation to the Fund is limited to the Assets, from which the Trustee is entitled to be, and is in fact, indemnified.
- (b) In particular, subject to the *Corporations Act*, the Trustee is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:
  - (i) to the extent permitted by law, it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the Trustee; or
  - (ii) it acted as required by law; or
  - (iii) it relied in good faith upon any signature, marking or documents.

# Gyrostat Risk Managed Equity Fund

---

## 17.2 Limitation of Unit Holders' liability

- (a) Subject to clauses 17.2(c) and 17.2(e), the liability of each Unit Holder shall be limited to the amount, if any, which remains unpaid in relation to the Unit Holder's subscription for Units in the Fund.
- (b) A Unit Holder shall not be required to indemnify the Trustee if there is a deficiency in the Assets or to meet the claim of any creditor of the Trustee in respect of the Fund.
- (c) The Trustee, on its own account and on account of the Fund, shall be entitled to be indemnified by each Relevant Person for any Tax, bank fees or charges of the Relevant Person paid out of the Fund, except to the extent to which the Trustee is reimbursed out of the Fund.
- (d) Joint Holders shall be jointly and severally liable in respect of all payments, including payments of Tax to which clause 17.2(c) applies.
- (e) In the absence of separate agreement with a Unit Holder, the recourse of the Trustee and any creditor shall be limited to the Assets.

## 18 Indemnity

### 18.1 Trustee's indemnity

In addition to any indemnity available to the Trustee under the law or this Deed, but subject to the *Corporations Act* and the rights attaching to a Class, the Trustee has a right to be fully indemnified out of the Assets, in respect of all expenses, liabilities, costs and any other matters in connection with the Fund and against all actions, proceedings, costs, claims and demands brought against the Trustee in its capacity as trustee of the Fund in respect of any matter or thing done or omitted (**Indemnified Matter**) except:

- (a) in the case of the Trustee's own fraud, negligence or wilful default; and
- (b) in respect of the overhead expenses of the Trustee.

### 18.2 Trustee's indemnity continuing

- (a) The right of indemnity of the Trustee in respect of a particular Indemnified Matter will not be lost or impaired by reason of a separate act or omission (whether before or after the particular Indemnified Matter) in breach of trust or in breach of this Deed.
- (b) The indemnity provided under clause 18.1 will continue in favour of the Trustee after it has ceased to be the Trustee and will apply even if at any time the Liabilities exceed the Net Asset Value.

# Gyrostat Risk Managed Equity Fund

---

- (c) For the avoidance of doubt, the Trustee may be entitled to an indemnity under clause 18.1 in respect of any act or omission of a delegate or agent appointed by the Trustee for which the delegate or agent is not obliged to fully indemnify the Fund.<sup>3</sup>

## 18.3 Payment

The Trustee may pay out of the Assets any amount for which it would be entitled to be indemnified under clause 18.1.

## 18.4 Trustee not to incur liability

The Trustee is not required to do anything (including enter into any contract or commitment) which involves it incurring any liability (actual or contingent) unless its liability is limited in a manner satisfactory to it in its absolute discretion.

## 19 Trustee's indemnity against Tax liability

### 19.1 Indemnity

The Trustee is entitled to be indemnified by a Unit Holder or a former Unit Holder to the extent that it incurs a liability for Tax as a result of the Unit Holder's action or inaction or as a result of an act or omission requested by the Unit Holder or former Unit Holder.

### 19.2 Joint Holders

Joint Holders are jointly and severally liable in respect of all payments including payments of Tax to which clause 19.1 applies.

## 20 Register

### 20.1 Keeping Register

- (a) The Trustee shall establish and keep, or cause to be kept, a register of Unit Holders.
- (b) Where the Fund is a Registered Scheme the Register must be kept in a form which, to the extent applicable, complies with the requirements of section 169 of the *Corporations Act*.

### 20.2 Trustee's powers

Where the Fund is a Registered Scheme, the Trustee has the powers conferred under the *Corporations Act* in relation to the Register.

---

<sup>3</sup> See sections 601FB(2) and 601GA(2) of the Corporations Act.

# Gyrostat Risk Managed Equity Fund

---

## 20.3 Changes

Every Unit Holder shall promptly notify the Trustee of any change of name or address and the Trustee must alter the Register accordingly.

## 20.4 Register conclusive

Except where this Deed or the law requires otherwise, the Trustee is entitled to treat the registered Unit Holder as absolute owner of the relevant Unit for all purposes. The entry in the Register shall be conclusive except where the Trustee is satisfied of manifest error and the Trustee is not bound to recognise (notwithstanding receipt of any notice, whether actual, implied, imputed or constructive) any equitable, contingent, future or partial interest attaching to any Unit.

## 20.5 Use of information

If a Unit Holder inspects or is given a copy of the Register, then they will be taken to have agreed not to use any information obtained from the Register (or part thereof) for any purpose or disclose any such information to any person, in each case except to the extent that the information consists of particulars of the unitholding of that Unit Holder. A Unit Holder's obligation survives the transfer of all or any part of their Units as the context requires.

## 21 Amendments to this Deed

### 21.1 Overriding provision

This clause 21 shall be read subject to clause 22.

### 21.2 Trustee may amend

Where the Fund is a Registered Scheme, subject to the *Corporations Act* (and, where the Fund is not a Registered Scheme, subject to applying the *Corporations Act* and any relevant ASIC Exemption with modifications as if the Trustee were a responsible entity and the Fund were a Registered Scheme) and subject to any other approval that may be required by law, this Deed (including this clause) may be replaced or amended:

- (a) by Special Resolution of the Unit Holders of the Fund; or
- (b) by the Trustee if :
  - (i) the Trustee reasonably considers the change will not adversely affect Unit Holders' rights; or
  - (ii) the Trustee determines (acting reasonably) that this Deed contains an error that requires rectification or a matter which requires clarification.

### 21.3 Compliance with the AMIT Regime

For the avoidance of doubt, the Trustee may modify this Deed to the extent that the Trustee reasonably considers that the modification is necessary for or incidental to the Trust being able to be operated in a manner permitted by the Tax Act as an AMIT with the Trustee as its trustee and,



# Gyrostat Risk Managed Equity Fund

---

had the Trust been a Registered Scheme, the Trustee would not be precluded from making that modification.

## 21.4 Statutory requirements

Clause 21.2 does not apply to provisions deemed by clause 22 to be incorporated into this Deed.

## 22 Corporations Act and ASIC Exemptions

### 22.1 Corporations Act

Notwithstanding any other provision of this Deed, a provision of this Deed which is expressed to apply subject to the *Corporations Act*, is only so subject while the Fund is a Registered Scheme (and the provision is to be read accordingly).

### 22.2 Agreed amendments

If any part of this Deed (**Required Part**) is included to comply with the requirements of the *Corporations Act* or ASIC (**Regulatory Requirement**) and that Regulatory Requirement ceases or changes, the Unit Holders:

- (a) agree that unless the Responsible Entity determines otherwise, this Deed will be automatically amended by removing the Required Part (or amending it to reflect the altered Regulatory Requirement) and authorise the Responsible Entity to make that amendment in a deed made for that purpose (**Regulatory Requirement Amendment**); and
- (b) acknowledge that a Regulatory Requirement Amendment will not adversely affect their rights.

### 22.3 ASIC Exemptions

If relief from the provisions of the *Corporations Act* granted by an ASIC Exemption requires that this Deed contain certain provisions, then, notwithstanding any amendment to this Deed effected under clause 21, those provisions are taken to be incorporated into this Deed at all times at which they are required to be included and prevail over any other provisions of this Deed to the extent of any inconsistency. However, if the relief is granted by class order (rather than specifically in relation to the Fund) then the ASIC Exemption (and the provisions it requires) will not be taken to be incorporated if the Responsible Entity declares in writing that this is the case. This declaration may be made at any time.

## 23 Termination of Trust

The Fund terminates on the earlier of:

- (a) any date decided by the Trustee as the termination date of the trust;

# Gyrostat Risk Managed Equity Fund

---

- (b) the date of any termination event in relation to the trust specified in this deed or under any law;
- (c) the date immediately preceding the date of expiry of the Perpetuity Period; and
- (d) upon the passing of a Resolution of a meeting of Unit Holders held in accordance with this Deed where the Required Majority is 90%.

## 24 Termination and winding up of Fund

### 24.1 Realisation of Assets

On the termination and winding up of the Fund, the Trustee shall:

- (a) not issue or redeem Units in the Fund; and
- (b) sell and realise the Assets and, subject to clauses 24.3, and 24.5, distribute to the Unit Holders the amount calculated in accordance with clause 24.2(a).

### 24.2 Procedure on winding up of Fund

- (a) Subject to the terms of issue of any Unit or Class, the net proceeds of realisation, after making allowance for all Liabilities of the Fund (actual and anticipated) and meeting the expenses (including anticipated expenses) of the termination, shall be distributed pro rata to Unit Holders according to the number of Units they hold less the value of any Assets transferred to or to be transferred to that Unit Holder under clause 24.2(b). The Trustee may distribute proceeds of realisation in instalments.
- (b) If the Unit Holder and the Trustee agree, the Trustee may transfer to the Unit Holder specified Assets in full or partial satisfaction of that Unit Holder's entitlement on winding up of the Fund, such specified Assets to be transferred at a value reasonably determined by the Trustee to be the value of the relevant Assets as at the date of the transfer to the Unit Holder and Unit Holder being liable to pay any Transaction Charge associated with the transfer.
- (c) Subject to the *Corporations Act*, the provisions of this Deed shall continue to apply from the date of termination of the Fund until the date of final distribution under clause 24.2(a), but during that period the Trustee may not accept any applications for Units.

### 24.3 Trustee may recover Expenses

Subject to clause 15.9 while the Fund is a Registered Scheme, the Trustee shall be entitled to be indemnified out of the Fund for, and to be paid and retain from the proceeds, all Expenses incurred or likely to be incurred:

- (a) by the Trustee in connection with the winding up of the Fund;
- (b) by or on behalf of any creditor of the Trustee in relation to the Fund; and

# Gyrostat Risk Managed Equity Fund

---

- (c) by or on behalf of any agent, solicitor, banker, accountant or other person engaged by the Trustee in connection with the winding up of the Fund.

## 24.4 Retention of Assets

The Trustee may retain under its control for so long as it thinks fit that part of the Assets which in its opinion may be required to meet any outgoings or liabilities (actual or contingent) in respect of the Fund. If any part of the Assets retained is ultimately found not to be required, then it will remain subject to realisation and distribution under clauses 24.1 and 24.2.

## 24.5 Postponement of realisation

The Trustee may postpone the realisation of any part of the Assets for such period as is reasonably necessary or desirable to effect a reasonable and orderly realisation of the Assets and will not be responsible for any loss attributable to that postponement.

## 24.6 Trustee's obligation to make distributions

The Trustee shall not be obliged to make a distribution to a Unit Holder under this clause 24 unless the Unit Holder delivers to the Trustee any evidence of title required by the Trustee together with any form of receipt and discharge required by the Trustee.

## 24.7 Cancellation of Units

Unless the Trustee determines otherwise, all Units will be cancelled and taken to be redeemed from the date the final distribution of the net proceeds from the realisation of the Assets is made.

## 24.8 Continuation of powers

The powers, duties and rights of the Trustee (including the rights to remuneration and to any indemnities under this Deed or the law) continue following termination to the extent to which they are not inconsistent with this clause 24.

## 24.9 Audit of accounts of the Fund

If the Fund is a Registered Scheme, to the extent that the *Corporations Act* or ASIC policy requires, the Trustee shall arrange for the final accounts of the Fund following the winding up to be audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Trustee.

## 24.10 Termination of a Class

- (a) The Trustee may terminate and wind up a Class if the Trustee issues a notice to Unitholders in the Class notifying Unitholders in that Class of the date of termination.
- (b) The provisions of this clause 24 apply to the winding up of a Class with such modification as necessary, as determined by the Trustee, to reflect their application to a Class rather than the Trust.

# Gyrostat Risk Managed Equity Fund

---

## 25 Meetings of Unit Holders

### 25.1 Convening meetings

The Trustee may at any time convene a meeting of Unit Holders and shall do so if required by the *Corporations Act*.

### 25.2 Calling and holding meetings while the Fund a Registered Scheme

While the Fund is a Registered Scheme, meetings of Unit Holders must be called and held in accordance with Part 2G.4 of the *Corporations Act*. However:

- (a) despite section 252G(4) of the *Corporations Act*, a notice of meeting sent by post is taken to be given the day after it is posted;
- (b) despite section 252R(2) of the *Corporations Act*, if at any time there is only one Unit Holder, the quorum for a meeting is one Unit Holder;
- (c) despite section 252R(3) of the *Corporations Act*, if an individual is attending a meeting both as a Unit Holder and as a proxy or body corporate representative, the Trustee may, in determining whether a quorum is present, count the individual in respect of each such capacity more than once; and
- (d) despite section 252Y(2) of the *Corporations Act*, an appointment of a proxy:
  - (i) is valid even if it does not specify the Unit Holder's address; and
  - (ii) may be a standing one.

### 25.3 Calling and holding meetings while Fund is not a Registered Scheme

While the Fund is not a Registered Scheme, meetings of Unit Holders will be called and held as if Part 2G.4 applied (as modified by clause 25.2) except that, despite section 252B(1) of the *Corporations Act*, the Trustee must call and arrange to hold a meeting of Unit Holders on the request of Unit Holders with at least 20% of the votes that may be cast on a poll.

### 25.4 Resolution binding on Unit Holders

A resolution passed at a meeting of Unit Holders is binding on all Unit Holders.

### 25.5 Written resolution

Except in circumstances where the *Corporations Act* requires a resolution to be passed at a meeting of Unit Holders, a resolution in writing signed by Unit Holders together holding that number of votes necessary for the resolution to be passed is a valid resolution of the Unit Holders and is effective when signed by the last of Unit Holders constituting the majority. The resolution may consist of several documents in the same form, each signed by one or more Unit Holders. A facsimile transmission or other document produced by mechanical or electronic means under the name of the Unit Holder with the Unit Holder's authority is considered to be a document in writing signed by that Unit Holder.

# Gyrostat Risk Managed Equity Fund

---

## 25.6 Class meetings and voting

The Trustee may determine that a meeting and/or voting is required in respect of a Class or certain Classes but not all Classes in which case the Trustee will reasonably determine the requirements and procedures for such meetings that are to apply and will, as far as reasonably, practical will apply the above provisions on a Class by Class basis.

## 26 Notices

### 26.1 Notices to Unit Holders

- (a) Subject to the *Corporations Act*, a notice or other communication from the Trustee to a Unit Holder must be given in writing and may be sent to the Unit Holder's physical or electronic address (which includes fax numbers and e-mail addresses) as recorded on the Register.
- (b) Subject to the *Corporations Act*, a notice or other communication from the Trustee to a Unit Holder sent by:
  - (i) post, is taken to be received on the Business Day after it is posted;
  - (ii) fax, is taken to be received 1 hour after the transmitter receives confirmation of transmission from the receiving fax machine; and
  - (iii) other means, is taken to be received at the time the Trustee determines.<sup>4</sup>

### 26.2 Notices to joint Unit Holders

The Trustee may give a notice or other communication to joint Unit Holders by giving it to the Unit Holder first named in the Register for that holding.

### 26.3 Notice to successor

The Trustee may give a notice or other communication to the persons entitled to a Unit in consequences of the death or legal disability of a Unit Holder by sending it to the legal personal representatives of the Unit Holder or trustee of the deceased Unit Holder's estate at the address supplied for the purpose by the representative or trustee (as the case may be). Until such an address has been supplied, notice may be given by sending the notice or other communication to the Unit Holder's address as recorded in the Register.

### 26.4 Signature on notice

The signature on any notice or other communication by the Trustee may be written, printed, stamped or produced electronically and the signature may be that of Trustee or of any director, secretary or other authorised officer of the Trustee.

---

<sup>4</sup> See also section 252G(4) of the Corporations Act.

# Gyrostat Risk Managed Equity Fund

---

## 26.5 Notices to the Trustee

Notices to the Trustee by Unit Holders must be given in writing or in any other manner the Trustee determines. A notice is effective when it is received by the Trustee. A notice must be signed by the Unit Holder or a duly authorised representative (unless the Trustee waives this requirement).

## 27 Complaints

### 27.1 Complaints handling while the Fund is a Registered Scheme

- (a) This clause 27 only applies while the Fund is Registered Scheme.
- (b) For the purposes of this clause 27.1, “complaint” means an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

### 27.2 Dealing with complaints

- (a) While the Fund is a Registered Scheme, in dealing with Unit Holder or former Unit Holder complaints the Trustee must comply with the dispute resolution requirements of section 912A(2) of the *Corporations Act* for both retail clients and wholesale clients.
- (b) The Trustee’s obligations under clause 27.2(a) in respect to wholesale clients excludes all requirements relating to external dispute resolution arising under section 912A(2) of the *Corporations Act*.

## 28 Rights of the Trustee

### 28.1 Right to hold Units

The Trustee and/or any of its Associates may hold Units in any capacity.

### 28.2 Other capacities

Subject to the *Corporations Act*, nothing in this Deed restricts the Trustee (in its personal capacity or in any other capacity other than as trustee and of the Fund) and/or any of its Associates:

- (a) dealing with the Trustee (as trustee of the Fund or in another capacity), an Associate of the Trustee or with any Unit Holder;
- (b) being interested in any contract or transaction or matter with the Trustee (as trustee of the Fund or in another capacity), an Associate of the Trustee or with any Unit Holder or retaining for its or their own benefit any profits or benefits derived from any such contract or transaction; or

# Gyrostat Risk Managed Equity Fund

---

- (c) acting in the same or a similar capacity in relation to any other trust or managed investment scheme; or
- (d) any dealings with any entity in which the Assets are invested,

and in each case the Trustee (or any Associate) may retain for its own benefit all profits or benefits derived from that activity.

## 28.3 Trustee may rely

The Trustee may take and may act upon:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Trustee, in relation to the interpretation of this Deed or any other document (whether statutory or otherwise) or generally in connection with the Fund;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and any other persons consulted by the Trustee who are in each case believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted;
- (c) a document which the Trustee believes in good faith to be the original or a copy of an appointment by the Trustee of a person to act as their agent for any purpose connected with the Fund; and
- (d) any other document provided to the Trustee in connection with the Fund upon which it is reasonable for the Trustee to rely,
- (e) and the Trustee shall not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statement, information or documents.

## 29 Deed legally binding

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

## 30 Other obligations excluded

Except as required by the *Corporations Act*, all obligations of the Trustee which may otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including, without limitation, any obligation of the Trustee in its capacity as trustee of the Fund arising under any statute.

# Gyrostat Risk Managed Equity Fund

---

## 31 Payment

- (a) Any money payable by the Trustee to a Unit Holder under this Deed may be paid by a crossed not negotiable cheque made payable to the Unit Holder and posted to the Unit Holder's address as supplied in the Register.
- (b) A Unit Holder, with the consent of the Trustee, may nominate in writing (or in such other manner approved by the Trustee) that money owing to it under this Deed be paid by cheque or otherwise into a designated account with a financial institution or to a nominated person.
- (c) A cheque issued to a Unit Holder which is presented and paid, or where the payment is to a financial institution or nominated person payment to the institution or person, discharges the Trustee in respect of the payment.
- (d) The Trustee may determine that any cheque not presented within six months or any electronic fund transfer which is unsuccessful at least twice times is cancelled. If the Trustee so determines the amount of the cheque or electronic fund transfer may be reinvested in Units under a distribution reinvestment arrangement referred to in clause 4.4. The reinvestment is deemed to be made on the day the cheque or electronic fund transfer is cancelled.
- (e) Money payable to the Trustee may from time to time be paid in a manner other than that described in clause 31(a) with the Trustee's consent.
- (f) The Trustee may deduct from any amount to be paid, or received from, a Unit Holder or a person who was previously a Unit Holder any amount the Trustee is authorised or required to deduct by law, the Deed or any product disclosure document for the Fund of which the terms are binding on the Unit Holder.

## 32 Severability

If any provision of this Deed is held or found to be void, invalid or otherwise unenforceable, so much hereof as is necessary to render it valid and enforceable shall be deemed to be severed but the remainder of this Deed will remain in full force and effect.

## 33 Governing law

This Deed is governed by the laws of the State of Victoria and the parties hereby submit to the exclusive jurisdiction of the courts of that State.



# Gyrostat Risk Managed Equity Fund

---

## Schedule 1 Expenses

The following are examples of Expenses for which the Trustee may be reimbursed out of the Assets and are not intended to limit the Expenses which may be payable:

Expenses in any way connected with:

- (a) the preparation, approval, execution, interpretation and enforcement of this Deed, the formation of the Fund and any supplemental deed or proposed supplemental deed to amend this Deed, including Advisers' fees;
- (b) the preparation, review, approval, distribution and production of any disclosure document or offering memorandum in respect of Unit or any other interest in the Fund, marketing material or other documents whether required by law or otherwise to be prepared in respect of the Fund;
- (c) the acquisition, disposal, insurance, custody and any other dealing with Assets;
- (d) the sale or proposed sale, purchase or proposed purchase, holding, valuation, insurance, custody, development, project management, property management, leasing and any other dealing with Assets;
- (e) the investigation, negotiation or acquisition of any proposed investment;
- (f) the administration, management, valuation or promotion of the Fund or its Assets and Liabilities, including without limitation:
  - (i) the establishment and maintenance of accounts and Registers;
  - (ii) issuing Units by the Trustee or any sales of Units by one or more Unit Holders, including underwriting costs, including brokerage and commission payable to any person for subscribing or agreeing to subscribe or procuring or agreeing to procure subscription for Units;
  - (iii) computer operation and development and data processing;
  - (iv) office expenses associated with postage, cheques, transaction advices, accounts, distribution statements, notices, reports and other documents sent to a Unit Holder under this Deed;
  - (v) dealing with Unit Holder enquiries;
  - (vi) communications with Unit Holders (written or otherwise);
  - (vii) investor tours, analyst tours, publications and other promotional costs, whether in relation to the establishment of the Fund or on an ongoing basis;
  - (viii) leasing premises outside of Australia for the Trustee in connection with the Fund; and
  - (ix) any travel expenses incurred in connection with the Fund;

- 
- (g) convening and holding meetings of Unit Holders and carrying out the direction of the meetings;
  - (h) Taxes (provided they are not on the personal account of the Trustee and including any GST charged to the Trustee), stamp duty and financial institution fees;
  - (i) the inclusion of the Fund on any IDPS list;
  - (j) the engagement of delegates, agents, Advisers and valuers;
  - (k) without limiting paragraph (j), the payment of management fees, performance fees or other fees associated with the engagement of any investment manager;
  - (l) preparation and audit of the taxation returns and accounts of the Fund;
  - (m) termination of the Fund and the retirement or removal of the Trustee and the appointment of a replacement;
  - (n) any court proceedings, arbitration or other dispute concerning the Fund including proceedings against the Trustee, except to the extent that the Trustee is found by a court to be in breach of trust or to have been grossly negligent in which case any expenses paid or reimbursed under this paragraph (n) shall be repaid;
  - (o) the establishment and operation of a Compliance Committee in connection with the Fund, including costs and expenses reasonably incurred by and any fees paid to or insurance premiums in respect of Compliance Committee Unit Holders;
  - (p) while there is no Compliance Committee, any costs and expenses associated with the board of directors of the Trustee carrying out the functions which would otherwise be carried out by a Compliance Committee, including (if the Fund is a Registered Scheme) any fees paid to or insurance premiums in respect of external directors appointed to satisfy the requirements of Chapter 5C of the Corporations Act;
  - (q) admission of the Fund to the ASX or any other stock exchange, its continuing compliance with the rules of any such exchange, or in relation to any removal of the Fund from the official list of the ASX or any other exchange or the suspension of any Units from trading by the ASX or any other exchange;
  - (r) complying with any law or any request or requirement of the ASIC or any other regulatory authority in relation to the Fund;
  - (s) fees payable to ASIC or any other regulatory authority in relation to the Fund or Units;
  - (t) the assigning or maintaining of a credit rating to the Fund; and

raising money or otherwise obtaining financial accommodation for the Fund, including a capital raising by the Fund, including fees payable to any underwriter or broker.