

# **TRUST DEED**

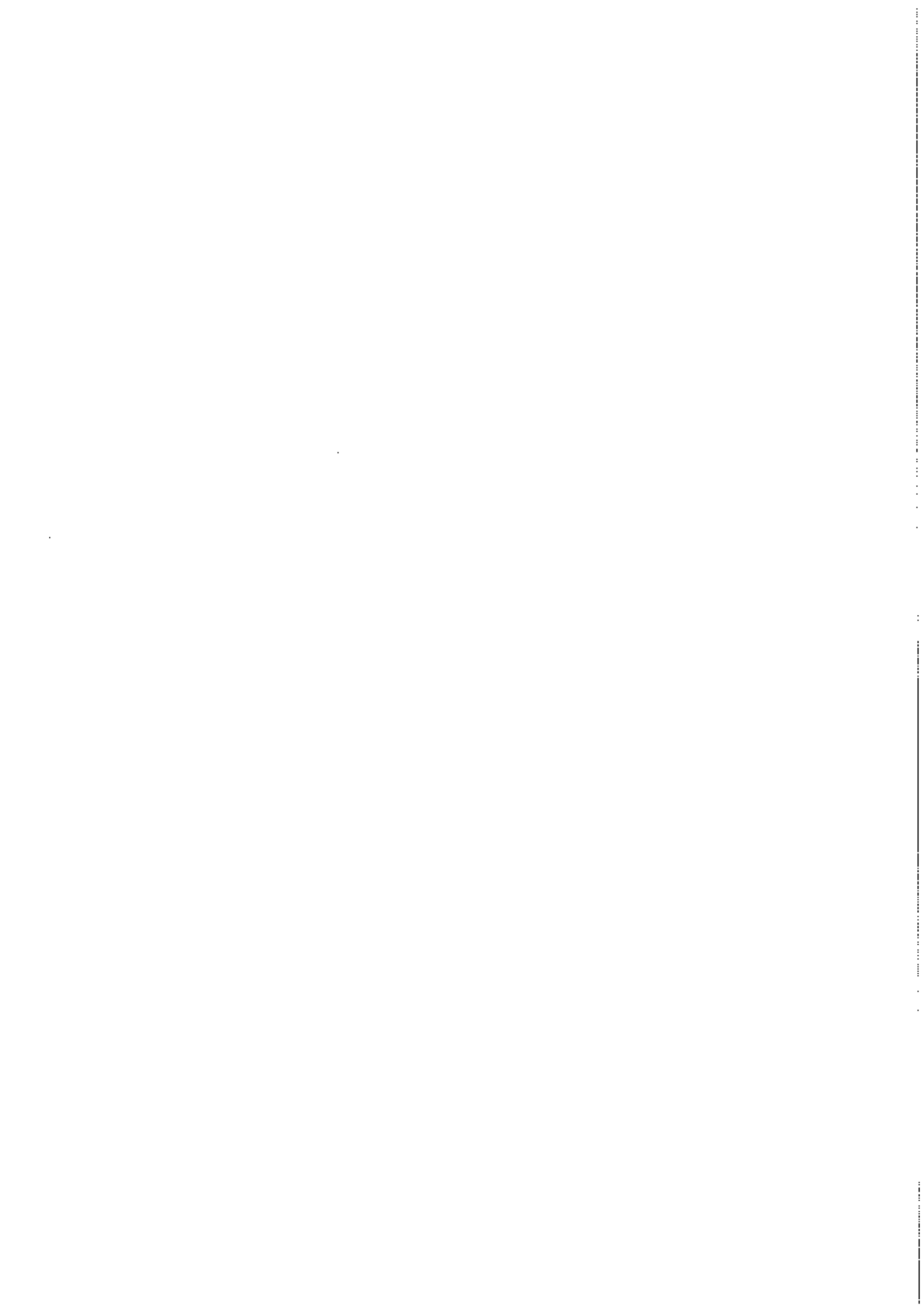
## **Guardian Acuity Equity Fund**

Between

Guardian Acuity Asset Management Limited

&

Deutsche Bank AG



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## TRUST DEED

**THIS TRUST DEED** is made and entered into between **GUARDIAN ACUTTY ASSET MANAGEMENT LIMITED** a Company duly incorporated in the Democratic Socialist Republic of Sri Lanka under registration number PB 4736 and having its registered office at No. 61, Janadhipathi Mawatha, Colombo 01 in the said Republic (hereinafter referred to as "the Managers") of the one part and **DEUTSCHE BANK AG**, a Banking Company incorporated under the laws of the Federal Republic of Germany and acting through its Colombo branch and having a place of business in Sri Lanka at No. 86, Galle Road, Colombo 3 (hereinafter referred to as "the Trustees") of the other part.

**WHEREAS** the Managers are desirous of establishing an Open Ended Unit Trust, named **GUARDIAN ACUTTY EQUITY FUND**, and appointing the Trustees as the Trustees thereof; and

**WHEREAS** the Trustees have agreed to act as Trustees of the said Unit Trust vested with the powers and subject to the terms and conditions contained in this Trust Deed.

**NOW THIS TRUST DEED WITNESSETH** and it is hereby agreed and declared that:-

### **1. DEFINITIONS**

1.1 In this Trust Deed and in the Schedule hereto unless the context otherwise requires

"Act" means the Securities and Exchange Commission of Sri Lanka Act No. 36 of 1987 as amended from time to time or any other subsisting statutory modification thereof;

"Accounting Date" means the 31<sup>st</sup> day in the month of December in each year, provided that the Managers may, with the prior written consent of the Trustees, change the Accounting Date to any other date approved by the Trustees upon giving not less than twenty one (21) days notice to the Trustees and the Holders;

"Accounting Period" means a period ending on and including an Accounting Date and commencing (in the case of the first such period) on the date on which the Deposited Property is first paid or transferred to the Trustees or (in any other case) from the end of the preceding Accounting Period;

"Approved Broker" means a member or a trading member of the Colombo Stock Exchange and licensed by the Commission as a stockbroker or a member of a Recognized Stock Exchange outside Sri Lanka licensed by the relevant regulatory body and the Commission and specifically recognized for this purpose by the Commission.

"Associate" means an enterprise in which the managing company has significant influence and which is neither a subsidiary nor a joint venture of the managing company and the words 'significant influence' shall have the same meaning and description as set out in the Sri Lanka Accounting Standards issued by the Institute of Chartered Accountants of Sri Lanka

**"Auditors"** means the auditor of the Trust appointed by the Trustees with the approval of the Commission in terms of the Unit Trust Code;

**"Authorised Investment"** means any Investment generally or specifically permitted by this Trust Deed, the Unit Trust Code and any directive given from the Commission from time to time, subject to Clause 14.2 of this Trust Deed.

**"Bankers to the Fund"** means Deutsche Bank AG acting through its branch in Colombo, Sri Lanka

**"Commercial Bank/s"** shall mean commercial banks licensed in terms of the Banking Act No. 30 of 1988 and any amendments thereto.

**"Commission"** means the Securities and Exchange Commission of Sri Lanka established under the Act.

**"Connected Person"** of the Managers or Trustees, mean;

- (a) a person, owning, directly or indirectly, a prescribed per centum or more of the ordinary share capital of the licensed managing company, or is able to exercise directly or indirectly a prescribed *per centum* or more of the total votes in the trust company or the licensed managing company;
- (b) a company, a prescribed *per centum* or more of whose ordinary capital is owned, directly or indirectly, together by the licensed managing company or a prescribed *per centum* or more of the total votes are exercised directly or indirectly by the trust company and the licensed managing company
- (c) a director or officer of the licensed managing company referred to in paragraph (b);
- (d) The "prescribed per centum" mentioned in this definition clause shall be determined by the Commission and until so determined shall be 20% (twenty per centum).

**"Deposited Property"** means the amount subscribed to the Fund and accepted for allotment of Units by the Manager which shall initially be constituted out of the proceeds of the Offering of Units at the Issue Price and be entrusted to the Trustee to form the Deposited Property in terms of this Trust Deed but does not include any amount standing to the credit of the Distribution Account.

**"Directors"** shall have the same meaning as in the Companies Act No. 7 of 2007.

**"Distribution Account"** means an account which has been set up by the Trustee to hold income for the distribution to the Holder/s of Units;

**"Duties and Charges"** means in relation to any particular transaction or dealing, all stamp and other duties, taxes, Government charges, brokerage, bank charges, transfer fees, registration fees and other duties and charges whether in connection with the constitution of the Deposited Property or the increase or decrease of the Deposited

Property or the creation, issue, sale, exchange or purchase of Units or the sale or purchase of Investments or otherwise, which may have become or may be payable in respect of or prior to or upon the occasion of the transaction or dealing in respect of which such Duties and Charges are payable, but does not mean commission (if any) payable to agents on sales and repurchases of Units or any commission, charges or costs which may have been taken into account in ascertaining the Valuation

**"Equalization Payment"** means (in relation to a Unit issued by the Managers) the amount deemed to have been paid by the Unit Holder for the capital sum deemed by the Managers to represent the amount included in an offer price of a Unit for the portion of net income accrued and capital gains realized up to the date upon which the Unit is deemed to have been issued and (in relation to a Unit redeemed by the Managers) the amount deemed to have been paid to the Unit Holder for the capital sum deemed by the Managers to represent the amount included in a bid price of a Unit for the portion of net income accrued and capital gains realized up to the date upon which such Unit is deemed to have been redeemed.

**"Explanatory Memorandum"** means the document issued by the Managers from time to time containing information with regard to the Unit Trust introduced under this Trust Deed, to invite offers from members of the public to subscribe for or purchase Units in the Unit Trust. This shall be issued to the public, subsequent to the approval obtained from the Commission.

**"Extraordinary Resolution"** means a resolution passed at a meeting of Holders duly convened by giving not less than Fifteen Market Days (21) days' notice and held in accordance with the provisions contained in the Schedule and carried by a majority consisting of not less than three-fourths of the Units issued at the time of voting and voting thereat upon a show of hands or if a poll is duly demanded and taken, by a majority consisting of not less than three-fourths in number of the votes given on such poll.

**"Foreign National"** means a person resident outside Sri Lanka which includes a body corporate

**"Holder"** means the person for the time being entered in the Register as the Holder of a Unit and includes persons so entered as joint Holders.

**"Income Account"** means the account referred to in Clause 16.2.

**"Investment/s"** means any Listed Shares and/or fixed income securities being debt obligations issued by the Government of Sri Lanka, its agencies, the Central Bank of Sri Lanka and corporate entities; including mortgage-backed securities, asset backed securities, bank deposits and repurchase agreements (REPO).

**"Investment Committee" or "Committee"** means the committee referred to in Clause 15.

**"Initial Offer Period"** means the initial offer period specified in the Explanatory Memorandum.

**"Issue Price"** during the Initial Offer Period is the sum of Rs. 10.00 per Unit and thereafter such other sum the Trustees would require to be paid over to it, for inclusion in the Deposited property, in return for issuing a Unit in the manner morefully set out in the Explanatory Memorandum.

**"Licensed Specialized Banks"** shall mean licensed specialized banks licensed in terms of the Banking Act No. 30 of 1988;

**"Listed Shares"** means any shares listed on a Recognised Stock Exchange

**"Management Participation"** means any sum to which the Managers may become entitled pursuant to the provisions of Clause 21

**"Managers"** means Guardian Acuity Asset Management Limited or any other person for the time being duly appointed as managers of the Trust in succession to Guardian Acuity Asset Management Limited under the provisions of Clause 28

**"Market Day"** means a day which the Commercial Banks are open for business in Sri Lanka.

**"Near Cash"** means investments such as repurchase agreements with maturities less than three (3) months and government securities including government bonds with maturities less than one (1) year which can be readily convertible into cash

**"Net Asset Value"** means for listed securities the closing price of each Market Day in the relevant stock exchange, and for unlisted fixed income securities the value calculated by the Managers in order to arrive at a fair value for such securities and for cash and near cash instruments at cost.

**"Performance Fee"** means the sum to which the Managers may become entitled pursuant to the provisions of Clause 21.1 (ii)

**"Recognized Stock Exchange"** means the Colombo Stock Exchange or any other stock exchange licensed by the Commission or any other stock exchange of repute in any other part of the world as from time to time agreed to in writing between the Managers and the Trustees and specially recognized for this purpose by the Commission.

**"Register"** means the register of the Holders kept pursuant to Clause 10.1.

**"Registrar"** means an officer appointed by the Managers to deal with Unit transactions and to maintain the Registry of Unit Holders, subject to the requirements of the Commission.

**"Rupees" or "Rs."** mean rupees and **"cents" or "cts"** mean cents in Sri Lankan currency, unless otherwise stated.

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**"Scripless Form"** means Units of the Fund held in registered form by entry of a Holder's name and address in the Register as holder of the relevant Units, for which no certificate has been issued but is evidenced by a Transaction Receipt.

**"Sri Lankan National"** means a person resident in Sri Lanka including a body corporate

**"Transaction Receipt"** means any notification, confirmation or acknowledgment of receipt for a Unit in Scripless Form issued by the Managers and which may be computer generated or delivered through any other electronic, magnetic or optical media.

**"Trust" or "Unit Trust" or "Fund"** means the unit trust constituted by this Trust Deed as modified or added to from time to time with the approval of the Commission and called by the name "GUARDIAN ACUTY EQUITY FUND" or such other name as the Trustees and the Managers may mutually agree upon from time to time.

**"Trustees"** means Deutsche Bank AG, Colombo Branch or such other person or persons for the time being duly appointed as trustee or trustees hereof in succession to Deutsche Bank AG, Colombo Branch under the provisions of Clause 27.

**"Unit" or "Units"** means one or more undivided share(s) in the Trust.

**"Unit Trust Code" or "Code"** means the Unit Trust Code framed and gazetted in Gazette Extraordinary No. 1326/6 dated 6<sup>th</sup> February 2004 by the Commission under the Act and any other modifications made thereto.

**"Valuations"** means the Net Asset Value of the Deposited Property which will be calculated by the Managers in terms of the rules set out in the Explanatory Memorandum;

**"Year"** means calendar year and **"month"** means calendar month.

## 1.2 Miscellaneous Interpretation

- (a) Reference to the Schedule and to Clauses, sub-clauses and sub-paragraphs shall be construed as references to the Schedule to this Trust Deed and to Clauses, sub-clauses and sub-paragraphs of this Trust Deed.
- (b) Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender only shall include the feminine gender; words importing persons shall include corporations and firms; the words "written" or "in writing" shall include printing engraving lithograph or other means of visible reproduction or partly one and partly another; and references to any statute shall be deemed to be references to that statute as from time to time amended or substituted.
- (c) The headings inserted herein are for convenience only and shall not affect the construction of this Trust Deed.

- 1.3 Save as aforesaid any words or expressions defined in the Act or in any regulations made there under shall if not inconsistent with the subject or context bear the same meaning in this Trust Deed.

## **2. DECLARATION OF TRUST**

- 2.1 The Trustees hereby agree to act as trustees, of this Unit Trust, which is established as an 'open ended unit trust fund' subject to the provisions hereof and any other supplementary deed.
- 2.2 The Trustees shall hold the Deposited Property and any amount standing to the credit of the Holders upon trust for the Holders *pari passu*.
- 2.3 The Trustees shall be vested with the powers conferred upon the Trustees by this Trust Deed and any other supplementary deed hereto.
- 2.4 Any moneys forming part of the Deposited Property shall be invested at the discretion of the Managers according to the provisions contained in the Act, Unit Trust Code, directives given by the Commission and in this Trust Deed, any other supplementary deed hereto and the Explanatory Memorandum issued by the Managers. No Unit shall confer any interest or share in any particular part of the Deposited Property.

## **3. CONSTITUTION OF THE TRUST**

- 3.1 The Deposited Property shall initially be constituted out of the purchase of Units at the Issue Price or such amount to be determined by the Managers with the approval of the Trustees. Such offer shall remain open for the Initial Offer Period or any other period as may be decided by the Managers in consultation with the Commission. The proceeds of the offer, shall be paid to the Trustees within two (2) Market Days subject to Clause 2 after creation of Units and thereupon form the Deposited Property.
- 3.2 In respect of issues of further Units, the Managers shall pay to the Trustee to be held as part of the Deposited Property the proceeds therefrom, after deducting therefrom any adjustments authorized by this Trust Deed
- 3.3 There shall be no front end fee levied in terms hereof.

## **4. ISSUE OF UNITS**

- 4.1 The Managers shall have the exclusive right to effect for the account of the Trust, the creation and issue of Units. All Units created and issued shall be in Scripless Form.
- 4.2 The Managers shall not be bound to accept any initial application for Units having a value of less than Rs. 1000/- and thereafter shall accept applications in multiples of Rs. 1000/-.

The Managers shall have an absolute discretion to accept or not to accept in whole or in part any application for Units. Units shall be issued and created on each Market Day.

The Managers or the Registrars shall have the right to request for any documentation to establish source of funds and any other documentation required by law prior to registering the name of the

Holder in the Trust.

- 4.3 During the Initial Offer Period, the Units shall be issued at the Issue Price.
- 4.4 After the date of the Initial Offer Period, a Unit will be offered to investors on a daily basis on each Market Day. The Issue Price at which any subsequent issue of Units shall be effected, shall be based on the Net Asset Value of the Deposited Property on the date immediately following the Market Day. The minimum initial subscription shall be not less than Rs. 1000.
- 4.5 In the event the Trustee determines at any time (after consultation with the Managers and having obtained such advice as they may deem necessary) that it would be detrimental to existing Holders to issue or continue to issue Units at a price based on the Valuation, then the Trustee shall instruct the Managers to adjust the Issue Price within the limits permitted by this Trust Deed. The Trustee may instruct the Managers temporarily to suspend the issue of Units during any period of consultation or adjustment arising from the provisions of this sub-clause.
- 4.6 The Managers shall furnish to the Trustees from time to time on demand a statement of all issues of Units and of the terms on which the same have been issued and of any Investments which they determine to direct to be purchased for account of the Trust, a statement of any Investments which in accordance with the powers herein contained they determine to direct to be sold for account of the Trust and any other information which may be necessary so that the Trustees may be in a position to ascertain at the date of such statement, the Valuation of the Deposited Property.
- 4.7 The Managers may, with prior approval of the Trustee and the Commission, suspend the issue of Units during
- (a) any period when the stock exchange on which any Investments forming part of the Deposited Property for the time being are listed or dealt in is closed (otherwise than for ordinary holidays) or during which dealings are restricted or suspended;
  - (b) the existence of any state of affairs which, in the opinion of the Managers, constitute an emergency as a result of which disposal of such Investments would not be reasonably practicable or might seriously prejudice the interest of the Holders as a whole and of the Deposited Property;
  - (c) any breakdown in the means of communication normally employed in determining the price of any of such Investments or the current price on any Recognized Stock Exchange or when for any reason the prices of any of such Investments cannot be promptly and accurately ascertained;
  - (d) any period when remittance of money which will or may be involved in the realization of such Investments or in the payment for such Investments cannot, in the opinion of the Managers, be carried out in reasonable time.

Such suspension shall take effect forthwith upon the declaration thereof by the Managers and shall terminate on the day following the first Market Day on which the condition giving rise to the suspension shall have ceased to exist and no other condition under which suspension is authorized under this sub-clause shall exist. Notice of suspension shall be published in a local news paper and the web site of the Fund.

## 5. CANCELLATION OF UNITS

- 5.1 Subject to the provisions of Clause 6.4 hereof, the Managers shall have the exclusive right at any time by notice in writing delivered to the Trustees to effect reductions of the Trust by requiring the Trustees to cancel Units in existence but in respect of which no person is entered in the Register as the Holder thereof. Such notice shall state the number of Units to be cancelled and the amount payable to the Managers in respect thereof. Before giving notice to exercise such right it shall be the duty of the Managers to ensure that the Deposited Property includes (or will upon the completion of the sale of Investments agreed to be sold include) cash sufficient to pay the amount payable to the Managers upon such reduction and the Managers shall if necessary realise any investments forming part of the Deposited property to realise sufficient cash to meet heavy demands for redemption.
- 5.2 In respect of any such cancellation of Units the Managers shall be entitled to receive out of the Deposited Property an amount per Unit ascertained by dividing the Value of the Deposited Property as at the close of business on the date of issue of such notice by the number of Units then in issue and deemed to be in issue, after deducting therefrom such sum (calculated on the same basis as for the purposes of Clause 15) as the Managers may consider represents the appropriate allowance for Duties and charges in relation to the realization of the Deposited Property.
- 5.3 The said amount shall be payable to the Managers on or as soon as practicable. Upon such payment the Units in question shall be deemed to have been cancelled and withdrawn from issue.
- 5.4 The Trustees shall be under no obligation to check the calculation of the amount payable to the Managers but shall be entitled if it so desires to require the Managers to justify the same. The Trustees shall be liable for any incorrect calculation of the amount payable to the Managers.
- 5.5 The Trustees shall not be liable in any manner whatsoever for the wrongful cancellation of any Units save in the case of negligence on its part.
- 5.6 The right of the Managers to require cancellation of any Unit shall be suspended during any period when the right of Holders to require realization of Units is suspended.
- 5.7 If any purchaser of Units from the Managers or subscriber for Units (whether as principal or agent) shall make default in paying the purchase price or subscription monies or any part thereof the Trustees may on such evidence being furnished to it by the Managers as it shall in its entire discretion

deem sufficient which may then have been issued in respect of the Units to be purchased or subscribed thereupon and approve the alteration by the Managers of the Register and thereafter in the case of Units contracted to be purchased the Managers shall be entitled to the Units represented by a Transaction Receipt such Transaction Receipt until the same be sold by them to a purchaser and in the case of Units contracted to be subscribed the same shall be deemed never to have been in issue and such part of the subscription moneys as shall have been paid to the Trustees in respect thereof shall be repaid to the Managers.

## 6. REDEMPTION OF UNITS

- 6.1 (i) Subject to Clauses 6.3 and 6.4 the Managers shall on receipt by them or by their duly authorised agent request in writing by a Holder (other than the Managers) purchase from such Holder before such time as may be agreed between the Managers and the Trustees on a Market Day, all or any part of the Units (including any fraction of a Unit) comprised in his holding at a price per Unit (and proportionately in respect of any fraction of a Unit) ascertained by dividing the Value of the Deposited Property as at the close of business on the date of receipt of the request by the number of Units then in issue and deemed to be in issue, after deducting therefrom such sum as the Managers may consider represents the appropriate allowance for Duties and Charges in relation to the redemption of the Deposited Property and by adjusting the resulting quotient downwards to the nearest ten cents (Rs. 0.10) which may be retained by the Managers with the approval of the Trustees. The Trustees shall be under no obligation to check the calculation of the amount payable in connection with any purchase of Units pursuant of this Clause, but shall be entitled at any time to require the Manager to justify the same.
- (ii) In the event that the Trustees shall at any time determine (after consultation with the Managers and having obtained such advice as they may deem necessary) that it would be detrimental to remaining Holders to realise or continue to realise Units at a price ascertained on the basis of the Value of the Deposited Property as described in this Clause then the Trustees shall instruct the Managers either to substitute such Value with the latest available Value or to adjust the redemption price within the limits permitted by this Deed. The Trustees may instruct the Managers to temporarily suspend the redemption of Units during any period of consultation or adjustment arising from the provisions of this sub-clause and Clause 13.6.
- (iii) The Trustee and/or the Manager shall immediately inform the Commission if either of them believes that the redemption of Units is about to cease or be suspended.
- (iv) If the redemption of Units is suspended the fact of suspension must be published at least once a month during the period of suspension by advertisement in the local newspapers in the Sinhala, Tamil and English languages.

6.2 In relation to the provisions of Clause 6.1 the following provisions shall apply :-

(i) No such request to purchase shall be valid unless the Holder shall have made a written request to that effect to the Managers or their authorised agent;

(ii) A Holder shall not be entitled to require the Managers to purchase his Units otherwise than in multiples of Hundred (100) Units or to purchase part only of his Units if as a result of such purchase he would remain a Holder of less than the Minimum Holding

(iii) Where a Holder intends to redeem Units which amounts to Three percent (3%) or more of the Deposited Property he shall give to the Manager at least fourteen (14) Market Days notice in writing of such intention. The price applicable for the redemption of Units shall be the price prevailing on the Market Day following the completion of the period of such notice.

(iv) The price shall be payable to the Holder within fourteen (14) Market Days after the Market Day on which the relevant Units are realised.

6.3 The Managers may at any time with the approval of the Trustees suspend the right of all Holders to require redemption of any Units and/or may delay the payment of moneys in respect of such redemption during any period when the issue of Units is suspended.

6.4 With a view to protecting the interests of all Holders the Managers shall be entitled with the approval of the Trustees to limit the total number of Units which Holders are entitled to realise, and the Managers are entitled to have cancelled pursuant to Clause 5 hereof, on any Market Day to one half of one percent (1/2%) of the total number of Units in issue (disregarding any Units which have been agreed to be issued), such limitation to be applied pro rata to the Managers and Holders who have validly requested redemptions on such Market Day so that the proportion realised of each holding so requested to be realised (or, in the case of Managers, to be cancelled under Clause 5 hereof) is the same for the Managers and for all such Holders. Any Units which, by virtue of the powers conferred on the Managers by this paragraph, are not realised or, as the case may be, cancelled shall be realised or cancelled (subject to any further application of the provisions of this sub-clause 15.4) on the next succeeding Market Day; Provided that if on such next succeeding Market Day the total number of Units to be cancelled or realised (as the case may be), including those carried forward from any earlier Market Day, shall exceed the aforesaid limit the Managers shall be entitled to further carry forward the requests for redemption (or cancellation, in the case of the Managers) until such time as the total number of Units to be cancelled or realised (as the case may be) on a Market Day fall within the aforesaid limit. If redemption requests are carried forward as aforesaid, the Managers will give notice to the

Holders of the Units affected thereby within seven days that such Units have not been realised or cancelled and that (subject as aforesaid) they shall be realised or cancelled on the next succeeding Market Day.

- 6.5 Any moratorium, which may at any time be applied to payments in respect of stock exchange transactions or banking transactions, shall apply equally to payments due from the Managers pursuant to this Clause or due to the Managers pursuant to Clause 5.

## **7. PROVISIONS AS TO TRANSACTION RECEIPTS**

- 7.1 A Transaction Receipt shall be in the form of computer generated documents in a format agreed on between the Manager and the Trustee and shall bear no signature. A Transaction Receipt (i) shall be dated, (ii) bear the names and addresses of the Managers and the Trustees, and (iii) shall specify the number of Units represented thereby and the name, address and account number of the Holder as appearing in the Register. Transaction Receipts issued in the aforesaid manner shall legally bind the Trustees and the Managers and shall be valid and binding notwithstanding that before the date of delivery thereof, the Trustees or any person who issued the Transaction Receipts may have ceased to be the Trustees or as the case may be an authorised signatory
- 7.2 Transaction Receipts may be issued in such denominations of Units as may be prescribed in writing by the Managers with the approval of the Trustees only against payment or transfer to the Trustees (or as it may direct) of monies in respect of the issue of the Units concerned and upon payment to it such other sum sufficient in the opinion of the Managers to cover Duties and Charges payable in connection with the issue of such Transaction Receipt, to be retained by the Managers. The Trustees shall also from time to time deliver Transaction Receipts required to be issued pursuant to any provision of this Trust Deed upon due compliance with the conditions applicable thereto.
- 7.3 The Trustees may appoint the Managers as their agent for the purpose of issuing Transaction Receipts, subject to the Managers first undertaking in writing with the Trustees:
- (i) to issue Transaction Receipts in a manner directed by the Trustees;
  - (ii) to permit no change in the manner of their issue without the written consent of the Trustees; and
  - (iii) to supply on request any information or explanation that the Trustees might require in relation to the issue of Transaction Receipts
- 7.4 Trustees or their agents shall (subject to the provisions of Clause 7.1) issue Transaction Receipts in such denominations (subject to the provisions of Clause 7.2) as may be required for Units agreed to be issued or sold.
- 7.5 Transaction Receipts to be issued as herein provided to purchasers of or subscribers for Units purchased or subscribed for shall be issued before the expiry of [thirty (30)] days from the date of closure of the offering of such Units or the registration of a transfer of such Unit as the case may be and shall be sent to the Holder by registered post or by personal delivery.
- 7.6 In the case of Units held jointly by several persons, the Managers shall not issue more than one

Transaction Receipt there for and delivery of such Transaction Receipt to the person named first therein shall constitute sufficient delivery to all joint Holders.

- 7.7 A Transaction Receipt in respect of Units shall be delivered to a third party only on the Trustees being satisfied that the consideration paid for such Units (less any charges that may be retained by the Managers) has been or will be, vested in the Trustees.
- 7.8 Subject to the provisions of this Trust Deed and in particular to limitations imposed pursuant to Clause 7.2 and subject to any regulations from time to time made by the Managers, every Holder shall be entitled to exchange any or all of his Transaction Receipts for one or more Transaction Receipt/s of such denominations as he may require representing the same aggregate number of Units. Before any such exchange as aforesaid is carried out, the Holder shall surrender to the Managers the Transaction Receipt/s to be exchanged and shall pay to the Managers all moneys (if any) payable hereunder.
- 7.9 In case any Transaction Receipt becomes mutilated or defaced, the Managers in their discretion may issue to the person entitled in exchange for and upon surrender to the Managers of the mutilated or defaced Transaction Receipt, a new Transaction Receipt representing the same aggregate number of Units. In case any Transaction Receipt shall be lost, stolen or destroyed, the Managers may in their discretion issue to the person entitled, a new Transaction Receipt in lieu thereof. No such new Transaction Receipt shall be issued unless the applicant shall previously have (i) furnished to the Managers evidence satisfactory to them and to the Trustees of the mutilation, defacement, loss, theft or destruction of the original Transaction Receipt; (ii) paid all expenses incurred in connection with the investigation of the facts; (iii) (in the case of defacement or mutilation) produced and surrendered to the Managers the defaced or mutilated Transaction Receipt; and (iv) (if so required by the Managers and/or the Trustees so to do) furnished to the Managers and/or the Trustees such indemnity as the Managers and/or the Trustees may require. Neither the Managers nor the Trustees shall incur any liability for any action which they may take in good faith under the provisions of this paragraph.
- 7.10 In the event of the Managers or the Trustees being required to pay any stamp duty (if applicable) or any additional stamp duty (if applicable) thereon after the issue of any Transaction Receipt (whether original or balance or duplicate), the Managers or Trustees shall be entitled to deduct the amount of such stamp duty (if applicable) or additional stamp duty (if applicable) from any subsequent distribution to the Holder of such Transaction Receipt or from any other monies whatsoever, which may subsequently become payable to such Holder.
- 7.11 Every Transaction Receipt issued hereunder shall be in the name of the Holder of the Units represented by the Transaction Receipt surrendered or lost, stolen or destroyed.

## **8. TRUSTS AND EQUITIES**

- 8.1 The Holder shall be the only person to be recognized by the Trustees or by the Managers as having any right title or interest in or to Units registered in his name in a Transaction Receipt (if any) and the Units represented thereby and the Trustees and the Managers shall recognize such Holder as absolute owner of such Units. The Trustees shall not be bound by any notice of or see to the execution of any trust save as herein expressly provided; or as ordered by some court of competent jurisdiction to recognize any trust or equity or other interest affecting the title to any Units or the Transaction Receipts (if any) representing such Units.

- 8.2 No person other than the Managers shall have any rights against the Trustees except during the period in which Units are registered in the name of the Holder.

## 9. HOLDERS

- 9.1 The following persons are eligible to apply for the Units

### *In the case of Sri Lankan Nationals*

- (a) citizens of Sri Lanka who are resident within Sri Lanka and are above 18 years of age;
- (b) companies, corporations or institutions incorporated or established within Sri Lanka;
- (c) approved provident funds and approved contributory pension schemes registered / incorporated / established in Sri Lanka. In the case of approved provident funds and approved contributory pension schemes, the application should be made in the name of the Trustee / Board of Management

### *In the case of Foreign Nationals*

Citizens of foreign states, whether resident in or outside Sri Lanka, companies with limited liability or bodies corporate established or incorporated outside Sri Lanka, may apply for the purchase of Units subject to the general or special permission and subject to the terms and conditions of such permission, if any, of the Controller of Exchange of the Central Bank of Sri Lanka and the Commission.

- 9.2 Applications will NOT be accepted from individuals under the age of 18 years or in the name of sole proprietorships, partnerships, unincorporated trusts or non-corporate bodies.
- 9.3 The Managers shall at their absolute discretion carry out a detailed verification of a Holder in terms of the obligations placed on them in terms of applicable law as set out in the Explanatory Memorandum prior to registering the name of such Holder in the Register as hereinafter provided.
- 9.4 The Managers reserve the right to restrict or prevent any person from acquiring Units, in the event the Managers are of the view that such acquisition contravenes the provisions of any applicable law in any jurisdiction as set out in the Explanatory Memorandum or shall cause the Fund any financial or fiscal disadvantage.

## 10. REGISTRATION OF HOLDERS

Registration of Holders shall be done by the Manager through the Registrar of the Fund. The following provisions shall have effect with regard to the registration of Holders:-

- 10.1 A Register of the Holders shall be kept by the Registrar at its registered office in the Republic of Sri Lanka. The Register may be kept either in written form or by such other means (including electronic recording) to the extent that it is admissible as evidence in a court of law, as the Trustees shall from time to time approve. A duplicate of the Register or in the case of electronic recording, a backup copy updated from time to time and duly authenticated as agreed with the Trustees shall be kept at a location different to the location where the Registrar is housed. The

Managers and/or Registrar shall inform the Trustees in writing the address at which the duplicate register or the backup copy is kept.

There shall be entered in the Register:-

- (a) the full name and address of each Holder, PROVIDED that the Registrar shall not be obliged to register more than two persons as joint Holders except in any case or cases otherwise decided upon by the Managers, Registrar and the Trustees for good reason;
- (b) the number of Units held by every such Holder and the distinctive serial number of the Transaction Receipt/s (if any) issued in respect thereof;
- (c) the date at which the name of every such Holder was entered in respect of the Units standing in his name;
- (d) the number of Units for the time being in issue
- (e) the full name and address of any person who has obtained any right over the Units as a result of hypothecation of Units; and
- (f) the date on which any transfer by or from such Holder is registered.

- 10.2 Any change of name or address of any Holder shall forthwith be notified in writing to the Registrar, who on being satisfied therewith and on compliance with such formalities as the Registrar may require, shall alter the Register or cause it to be altered accordingly and in the case of a change of name, may issue a new Transaction Receipt to such Holder.
- 10.3 The Registrar shall at all reasonable times during business hours give the Trustees and its representatives access to the Register and to all subsidiary documents and records and to inspect the same with or without notice and without charge, but neither the Trustees nor any subsidiary or associate company of the Trustees shall be entitled to remove the same or to make any entries therein or alterations thereto; and except when the Register is closed in accordance with the provisions in that behalf hereinafter contained, the Register shall during business hours (subject to such reasonable restrictions as to the provision of prior notice or otherwise as the Managers/Registrar may impose but so that not less than two hours in each Market Day shall be allowed for inspection) be open in legible form to the inspection of any Holder without charge.
- 10.4 The Trustees shall be entitled to obtain free of charge certified copies of statements from the said Register, documents and records and such copies shall be supplied by the Registrar within a reasonable time.
- 10.5 The Register may be closed at such times and for such periods as the Registrar may from time to time determine in consultation with the Trustees PROVIDED THAT it shall not be closed for more than thirty (30) normal Market Days in any one (1) year and the Registrar shall give notice of every such closure by advertisement in the local newspapers in Sinhala, Tamil and English languages.
- 10.6 The Register shall be conclusive evidence as to the persons respectively entitled to the Units entered therein and no notice of any trust express implied or constructive shall be entered in the

Register in respect of any Unit except any right obtained as per Clauses 8 and 10.1(d).

- 10.7 At any time during the continuance as a registered member, or when transferring Units to another party, the Registrars or the Managers shall have the right to request for additional documentation for the purpose of complying with Anti Money Laundering laws and regulations.

## **11. HOLDERS BOUND BY DEED**

- 11.1 The terms and conditions of this Trust Deed and of any deed supplemental hereto shall be binding on each Holder and all persons claiming through or under him as if he had been a party to and had executed this Trust Deed and any such supplemental deed. Each Holder and all persons claiming through or under him has hereby covenanted himself to observe and be bound by all provisions thereof, and authorises the Trustees and the Managers respectively to do all such acts and things as this Trust Deed or any such supplemental deed may require.

- 11.2 The Managers shall make available a copy of this Trust Deed and any supplemental deed for inspection free of charge to any member of the public at the offices of the Managers at all times during usual business hours and the Managers shall make available copies to any person on application at a charge of Rupees Five Hundred (Rs.500/=) per copy (or such other amount as the Trustees and the Managers may from time to time agree) to be retained by the Managers.

## **12. MANAGERS AS HOLDER**

- 12.1 Nothing herein contained shall prevent the Managers from becoming a Holder, provided such holding is not contrary to any other provisions of this Trust Deed and is subject to the limitations on voting provided in Clause 2 of the Schedule.
- 12.2 The Managers shall be deemed to hold and (except as otherwise provided herein) be treated for all purposes of this Trust Deed and of any deed supplemental hereto as the Holder of each Unit during such time as neither the Managers nor any other person shall be entered in the register as the Holder thereof so long as such Unit is deemed to be in issue.

## **13. TRANSFER AND TRANSMISSION**

- 13.1 Every Holder shall be entitled to transfer Units held by him by an instrument in writing in such form as the Managers and the Trustees may from time to time approve.
- 13.2 Every instrument of transfer must be signed (or in the case of a body corporate signed on behalf of or sealed) by the transferor who shall subject to the provisions of Clause 8 be deemed to remain the Holders of and to be entitled to the Units transferred until such time as the name of the transferee is entered in the Register in respect thereof. The instrument of transfer need not be a deed.
- 13.3 Every instrument of transfer must be duly stamped if required by law, and left with the Managers

for registration accompanied by any necessary declarations or other documents that may be required in consequence of any legislation for the time being in force, and by the Transaction Receipt (s) (if any) relating to the Units to be transferred and such other evidence as the Managers or Trustees may require to prove the title of the transferor or his right to transfer the Units or in the case of a body corporate the authority of the signatory on its behalf. The Managers may dispense with the production of any Transaction Receipt which shall have become lost, stolen or destroyed upon compliance by the transferor with the like requirements to those arising in the case of an application by him for the replacement thereof.

- 13.4 A fee of Rupees Two Hundred and Fifty (Rs.250.00) (or such other amount as the Trustees and the Managers may from time to time agree) may be charged by the Managers for the registration of each transfer in the name of the transferee, to be retained by the Managers. Such fee must if required by the Managers, be paid before the registration of the transfer. Prior to registering the transferee the Manager has a right to request him to produce documentation to establish the source of funds.
- 13.5 In case only some of the Units represented by any Transaction Receipt are transferred, the transferors shall be entitled to a new Transaction Receipt free of charge in respect of the balance.
- 13.6 A receipt signed or purporting to be signed by the Holder for any moneys payable in respect of the Units held by him shall (without prejudice to the application of Clause 17) be a good discharge to the Managers and the Trustees and if several persons are registered as joint Holders or in consequence of the death or bankruptcy of a Holder are entitled to be registered, any one of them may give effectual receipts for any such moneys.
- 13.7 In case of the death of any one of the joint Holders, the survivor or survivors shall be the only persons recognized by the Managers and the Trustees as having any title to or interest in the Units held by such joint Holders; upon production of such evidence of the death as the Managers may require and the delivery of the relevant Transaction Receipt the remaining Holder or Holders shall be entitled to have such Transaction Receipt duly marked or to have a fresh Transaction Receipt duly issued in his or their name or names.
- 13.8 The executors or administrators or a person holding a certificate of heirship or a nominee named in a valid nomination made under s.544 of the Civil Procedure Code shall be the only persons recognized by the Managers and the Trustees as having title to or any interests in the Units held by such deceased Holder except in the case of a joint holding.
- 13.9 Any person becoming entitled to a Unit in consequence of the death or bankruptcy of any sole Holder or of the survivor of joint Holders may, subject as hereinafter provided, upon producing such evidence as to his title as the Managers and the Trustees shall think sufficient, either be registered himself as Holder of such Unit upon giving to the Managers notice in writing of such desire, or transfer such Unit to some other person. All the provisions of this Trust Deed relating to transfer of Units shall be applicable to any such notice or transfer as if the death or bankruptcy of the Holder had not occurred and such notice or transfer were a transfer signed by such Holder.
- 13.10 A person becoming entitled to a Unit in consequence of death or bankruptcy as aforesaid shall be entitled to receive and may give a discharge for all moneys payable in respect of the Unit, but he shall not be entitled to receive notices of or to attend or vote at any meeting of Holders until he

has been registered as a Holder in respect of such Unit.

- 13.11 The Managers may at their discretion retain any moneys payable in respect of any Unit of which any person is entitled to be registered as the Holder or which any person is entitled to transfer, until such person shall be registered as the Holder of such Unit or shall duly transfer the same.
- 13.12 In respect of the registration of any probate, letters of administration, power of attorney, marriage or death certificate, judgment or order of court, deed poll or other document relating to or affecting the title to any Unit, there shall be paid to the Managers a fee of Rupees One Hundred and Fifty (Rs.150.00) (or such other amount as the Trustees and the Managers may from time to time agree and duties and charges if any).
- 13.13 No transfer or purported transfer of a Unit other than a transfer made in accordance with this Clause shall entitle the transferee to be registered in respect thereof. Neither shall any notice of such transfer or purported transfer (other than as aforesaid) be entered upon the Register.
- 13.14 Without prejudice to the generality of the above, the Managers may at their absolute discretion refuse to register a transfer of Units if the transfer to, or the holding of Units by the transferee cause or be likely to cause a pecuniary, tax, legal or regulatory disadvantage to the Fund or any other Unit holder. The registration of a transfer of Units may be suspended at such times and for such periods as the Managers may from time to time determine.

#### 14. LIMITATION ON INVESTMENT

- 14.1 Subject to Clause 14.2, the Trust will make investments within the investment parameters set out by the Commission and subject to Section 10 of the Unit Trust Code and changes made from time to time therein.
- 14.2 The Fund shall adopt a dynamic asset allocation strategy between equity and fixed income securities as shall be more fully described in the Explanatory Memorandum. All decisions relating to Investments shall be made by the Managers who will invest within the parameters set out by the Commission and the Trust Deed, provided that
- (a) If the percentage limitation on investment or use of assets set forth above is complied with at the time a transaction is effected, any later changes in the percentage resulting from changed values shall be remedied to ensure that they are in conformity with the above limitations, taking due account of the interest of the Holders and the Commission will be notified immediately of any limit being exceeded and shall inform the steps for rectification of same.
- (b) Subject to Clause 2, all cash and other property which ought, in accordance with the provisions of this Trust Deed, to form part of the Deposited Property shall be paid or transferred to the Trustees forthwith on receipt by the Managers. All assets of the Trust must be held by and under the control of the Trustees. Any investment in registered form shall as soon as reasonably practicable after receipt of the necessary documents by the

Trustees be registered in the name of the Trustees and all cash shall be applied at the discretion of the Managers (but subject always to the provisions of this Trust Deed and any limitations placed by the Commission or any other authority) in the acquisition of Authorized Investments. PROVIDED THAT all or any amount of cash in any currency may during such time or times as the Managers may think fit be retained in cash or in short-term deposit with any commercial bank or financial institution approved by the Trustees (and in the case of financial institutions, approved by the Commission as well) and on such terms as the Managers may think fit. Further, in the case of any cash forming part of the Deposited Property which is deposited with the Managers for a period exceeding 72 hours or with any connected person of the Managers, interest must be received on such deposit at a rate not below the prevailing rate for a deposit of that term.

- (c) Investments comprised in the Deposited Property on ceasing to be Authorized Investments as hereinafter provided shall be realized by the Managers and the net proceeds of realization shall be applied in accordance with the provisions of this Trust Deed but the Managers may with the approval of the Trustees postpone the realization of any such Investments for such period as they may determine to be in the interest of the Holders unless the Trustees shall require the same to be realized.
  - (d) Without prejudice to the foregoing or any other provision of this Trust Deed, any Investment comprised in the Deposited Property may at any time be realized at the discretion of the Managers either in order to invest the proceeds of sale in other Authorized Investments or to provide cash required for the purpose of any provision of this Trust Deed or in order to retain the proceeds of sale in cash or on deposit as aforesaid or partly for one of such purpose and partly for another.
  - (e) The Trustees shall have sole responsibility for the safekeeping of all investments comprised in the Deposited Property, and wholly or partly represented by paper whether in bearer or registered form, or represented in any other article.
- 14.3 The Managers shall at all times ensure a level of liquidity required to meet the scheduled dividends and maturity proceeds as envisaged in this Trust Deed and as specified in the Code and changed from time to time.
- 14.4 It shall not be necessary for the Managers to effect changes of investment merely because owing to appreciation or depreciations of the Investments of the Trust, the limits prescribed by this Clause shall be exceeded nor by reason of the said limits being exceeded as a result of the receipt by the Trustees or its nominee of any rights bonuses or benefits in the nature of capital;
- 14.5 Subject to the provisions of Clause 14.2 and this Clause, the selection of Investments (whether partly paid or not) shall in all respects be the responsibility of the Managers solely and not of the Trustees, and Investments may be made abroad with the permission of the Commission and subject to law.
- The Managers shall take into account when investing in shares that there would be liquidity, growth, dividend yield and any other special circumstances.
- 14.6 The Managers shall not be entitled, without the prior consent of the Trustees, to apply any part of the Deposited Property in the acquisition of any Investments, which are in the opinion of the

Trustees likely to involve the Trustees in any liability (contingent or otherwise). In any such case, the Trustees shall be entitled but not bound to appropriate and set outside cash or other property approved by the Managers and acceptable to the Trustees sufficient to provide for paying up such Investment in full or (as the case may be) for meeting such other liability. The cash or other property so appropriated shall form part of the Deposited Property but shall not be available for application without the consent of the Trustees in any way otherwise than as may be required for paying up the Investment and/or meeting the liability in respect of which the appropriation was made so long and to the extent that such Investment remains partly-paid and part of the Deposited Property or (as the case may be) such liability continues in relation to the Deposited Property.

- 14.7 The Trustees shall be entitled at any time at its entire discretion and without assigning any reason to give notice to the Managers that it is not prepared to accept the transfer of any property which in the opinion of the Trustees infringes the terms of this Trust Deed and the Trustees shall be entitled to require the Managers to deposit in place of any such property other property acceptable to the Trustees.
- 14.8 The Manager shall not make or grant loans out of the Deposited Property or act as guarantor or indemnitor for any party.

## 15. INVESTMENT COMMITTEE

- 15.1 The Managers shall establish an Investment Committee ("the Committee") consisting a minimum of Two (2) members.
- 15.2 The Managers shall obtain the advice of the Committee in regard to asset allocation between equity and fixed income securities, and sector allocation of equity securities.
- 15.3 The Managers may in consultation with the members of the Committee make such regulations for the conduct of the meetings of the Committee, for fixing a quorum as the Managers think fit and except as provided in such regulations the members of the Committee may conduct their business in such manner as they may from time to time determine.
- 15.4 The Managers shall be responsible for paying the remuneration of the members of the Committee and all reasonable charges incurred by the Committee in the course of its duties. The Trustees shall not be liable to the members of the Committee for any remuneration or otherwise.
- 15.5 The Managers may in the management of the Fund take into consideration any advice stated in Clause 15.1 given by the Committee provided always that, the Managers or the members of the Committee shall not incur any liability to the Holders by reason of the Managers having acted or having not acted based on the advice of the Committee.

## 16. DISTRIBUTIONS

- 16.1 The primary objective of the Trust is capital appreciation as set out in the Explanatory Memorandum. Therefore no distribution shall be made save as otherwise provided hereinafter.

The Managers may however, at their sole discretion make a distribution from moneys lying to the credit of the Distribution Account arising out of dividend and interest income received and from realisation of investments.

- 16.2 All income shall as and when received by the Trustees be paid into a special account (the "Income Account") and shall be held therein pending capitalisation or distribution in accordance with the provisions of this Trust Deed.
- 16.3 The proceeds of sales of rights and all other receipts deemed by the Managers, after consulting the Auditors, to be in the nature of capital accruing from Investments shall not be regarded as income but shall be retained as part of the Deposited Property.
- 16.4 In the event of a distribution being made, an appropriate amount shall first be transferred out of the Income Account and paid into the Distribution Account. The amount standing to the credit of the Distribution Account shall not, for any purposes of this Trust Deed, be treated as part of the Deposited Property but shall be held by the Trustee upon trust to distribute the same as herein provided.
- 16.5 In the event of a distribution being made, the amount of the income qualifying for distribution in respect of the relevant period shall be ascertained by deducting:
- (i) the Management Participation for the relevant period (if the Managers decide to deduct the Management Participation out of income) and
  - (ii) all interest paid during the relevant period (together with any amount of interest accrued but remaining unpaid at the end of the relevant period) on any borrowings effected by the Trust for the time being outstanding.

from the total net amount receivable by the Trustee in respect of such period of all interest, dividends and all such receipts deemed by the Managers after consulting the Auditors to be in the nature of income, and by making such permitted adjustments hereinafter mentioned as the Managers after consulting the Auditors may think fit and appropriate to the circumstances.

Permitted adjustments shall be:

- (i) addition of a sum representing any interest accrued but not received by the Trustee at the end of the relevant period, and to the extent that an adjustment by way of addition had been made in respect of any previous period, deduction of the sum representing such interest accrued at the end of such previous period. Income from an Investment quoted on a Recognised Stock Exchange shall be deemed to have accrued on the first date on which that income is declared payable. Income from any other Investment shall be deemed to have accrued on the date which, in accordance with the normal practice of the Managers, is treated as being the first date on which the value of such Investment would for the purpose of this Trust Deed be calculated excluding such income;
- (ii) addition of a sum representing amounts included in the price of Units for income accrued prior to the date of issue, and deduction of a sum representing all participations in income distributed upon the cancellation of Units or upon a reduction of the Trust during the relevant period;

- (iii) deduction of all professional fees (including disbursements) in connection with matters pertaining to the affairs of the Trust and of any expenses incurred by the Trustee in effecting registration or safe custody of the documents of title to all Investments held on trust by this Trust;
  - (iv) addition or deduction of such sums as the Auditors shall certify to be appropriate to take account of liability for tax and of repayments receivable or received on account of double taxation or other tax relief;
  - (v) deduction of a sum representing expenses directly incurred in the effecting, maintaining and terminating of borrowings, which in the opinion of the Managers and the Auditors are properly payable out of income.
- 16.6 Once the amount of income qualifying for distribution in respect of the relevant period has been computed, the Managers shall forthwith determine the amount to be distributed.
- 16.7 In the event that a distribution is made, the Managers shall cause to be made up and audited a statement showing the amount qualifying for distribution in respect of the relevant period. The statement with the Auditors' report annexed shall be filed with the Trustee and shall be conclusive and binding, and copies thereof shall be open for inspection during usual business hours by any Holders at the offices of the Managers. The Trustee and the Managers shall not incur any liability in relying on and acting upon such an audited statement provided that they have acted in good faith and exercised due care and diligence in so doing.
- 16.8 Neither the Trustee nor the Managers shall be responsible for any error in any estimates of tax repayments expected to be obtained or of any sums payable by way of taxation, provided that they have acted in good faith and exercised due care and diligence in so doing. If the same shall prove incorrect in some respects, any deficiency or surplus shall be adjusted on the next subsequent distribution, and the amount already distributed or added to capital, as the case may be, shall not require to be adjusted.
- 16.9 If any distribution is made in respect of an Accounting Period, during which a Unit/s is/are issued and/or redeemed by the Managers (but not otherwise), then the first such distribution and, if appropriate, any subsequent distribution so made following the issue or redemption thereof, shall be of the same net amount as the distribution to be made in respect of other Units, but shall be or shall include a capital sum which shall, subject as hereinafter provided, be equal to the Equalization Payment in respect of such Unit/s, provided that such capital sum may, if the Managers think fit and the Auditors so agree, be a sum ascertained by dividing the aggregate of all such Equalization Payments relating to the relevant accounting period by the number of Units in respect of which such capital sums are payable.
- 16.10 In the event that any of the amounts to be distributed remains unclaimed by the Holder three (03) years after the date of distribution, the Managers reserve the right to forfeit the right of the Holder for such distribution and shall have the right to re-invest such funds.
- 16.11 Every Holder may, by notice in writing, elect to receive *in lieu* of his entitlement to a distribution the equivalent in value of further Units. The Manager shall in such event, subject to the provisions of this Trust Deed, (i) issue such number of Units equivalent in value and (ii) apply the respective Holder's entitlement to a distribution in full payment therefor.

- 16.12 The Managers may from time to time, after consulting the Auditors and with the approval of the Trustee, distribute among the Holders in accordance with Clauses 16.9-16.11 an amount representing part of the capital of the Deposited Property. PROVIDED THAT the Trustee is satisfied that any such distribution shall not result in any prejudice to the interests of the Holders.

## 17. PAYMENTS

- 17.1 Any money payable by the Managers or the Trustees to a Holder in respect of any Unit under the provisions of this Trust Deed may be paid by a crossed cheque or warrant or bank transfer made payable to the order of the Holder in case of a cheque or warrant sent through the post to the registered address of such Holder. In the case of Joint Holders the payment shall be made to the joint Holder who is first named in the Register. The to the first named of joint Holders shall be as effective a discharge to the Managers and the Trustees as if such first named joint Holder had been a sole Holder. Every such cheque or warrant shall be sent at the risk of the person to whom it is sent and payment of every such cheque or warrant shall be a satisfaction of the moneys payable and shall be a good discharge to the Managers and the Trustees. Where an authority in writing in that behalf shall have been received by the Managers or the Trustees from the Holder or in the case of joint Holders from all of them in such form as the Managers or the Trustees shall consider sufficient the Managers or the Trustees (as the case may be) shall pay the amount distributable to the Holder or joint Holders as the case may be to his or their banker or other agent in the same manner and with the same effect as hereinbefore provided as though such banker or other agent were the sole Holder. No amount payable to any Holder shall bear interest.
- 17.2 Before making any payment in or outside Sri Lanka in respect of any Unit, the Trustees or the Managers may make such deductions as may be required by the law of any such country in which such payment is made, it is or they are required or entitled to make in respect of any income or other taxes, charges or assessments whatsoever.
- 17.3 In respect of each Accounting Period, the Managers shall issue to the Holder concerned such tax certificates as may from time to time be required, such certificates to be prepared by the Auditors or by the Managers in a form to be approved by the Trustees and by or on behalf of the taxation authorities. On liquidation of the Trust, each tax certificate shall show what proportion of the distribution represents capital and what proportion represents income. The Managers shall prepare and pay for all cheques, warrants, statements, accounts, certificates and notices which the Trustees have to issue, send or serve as is required in this Trust Deed, and shall stamp and (where authorised by the Trustees) sign the same on behalf of the Trustees and dispatch the same on the proper day or deposit the same (together with the necessary stamped addressed envelopes) with the Trustees so as to afford the Trustees reasonable time to examine and check the same and to sign such cheques, warrants, statements, accounts, certificates and notices and dispatch them on the day on which they ought to be dispatched.
- 17.4 Notwithstanding the above and subject to applicable law of Sri Lanka, the Managers may at their absolute discretion, on the written request of Holders who are Foreign Nationals make arrangements to make payments by way of telegraphic transfers.

## 18. ACCOUNTS

18.1 The accounts of the Trust shall be prepared in accordance with the provisions of the Sri Lanka Accounting Standards applicable in the Republic of Sri Lanka in respect of each financial year.

18.2 The responsibility for the keeping and maintaining of the accounts pertaining to the Unit Trust and the preparation, publication and distribution of any Reports and the frequency of the preparation, publication and distribution of the same shall be in accordance with the provisions of Section 27 and 28 of the Unit Trust Code.

The accounting period of the Managers and the Trust shall coincide wherever possible.

If any connected persons of the Managers have become entitled to profits which derive from transactions in Units or from the management of the Trust, those persons must be named and the profit which each such person has become entitled to must be disclosed in the Annual Report.

18.3 If the Managers, or any other person acting on its behalf or with its permission has –

(a) acquired or disposed of any securities listed on a Recognized Stock Exchange, for the account of the Trust, otherwise than on the trading floor of a Recognized Stock Exchange or;

(b) disposed of Units at a price lower than the Issue Price then current, or;

(c) acquired Units at a price higher than the cancellation price then current;

it must be disclosed that this has been done and to what extent. The Managers are at liberty to append explanations. The Managers and any other connected person mentioned in the above transactions are liable and obliged to act in the best interest of the Holders in every instance listed above.

## 19. AUDIT OF ACCOUNTS

19.1 The accounts shall be audited by the Auditors and shall be accompanied by a certificate of the Auditors in accordance with the Companies Act No. 7 of 2007 and to the effect that the accounts and statements attached thereto have been examined in accordance with the relevant auditing standards applicable in Sri Lanka and that the Auditors have obtained all the explanations and information they have required. The Auditors shall further report whether the accounts are in their opinion properly drawn up in accordance with such books and records and all disclosures required to be made by the Trustees in accordance with the requirements of the Commission have been made.

19.2 The Auditors shall be appointed by the Trustees in accordance with the provisions of the Unit

Trust Code with the approval of the Commission subject to the provisions of Clause 19.3 and Clause 31.1. The Auditors shall hold office until such time as they may voluntarily retire by notice in writing of the Trustees.

- 19.3 The Trustees with the consent of the Managers and subject to the approval of the SEC, may from time to time, remove the Auditors and appoint other Auditors in their place.
- 19.4 The fees and expenses of the Auditors in connection with the audit of the accounts shall be paid by the Trustees out of the Deposited Property. Save as aforesaid and except as provided by Clause 21.4, the other fees and expenses of the Auditors shall be paid by the Managers.
- 19.5 For appointment as Auditors of the Trust, the Auditors shall have the qualifications specified by the rules of the Commission and if they cease to possess such qualifications, they shall retire from the office of auditors when the Commission requires them to do so.

## **20. COVENANTS BY THE MANAGERS AND TRUSTEE**

### **20.1 The Managers hereby covenant as follows:**

- (i) that they will use their best endeavours to carry on and conduct their business in a proper and efficient manner and will ensure that the Unit Trust is carried on and conducted in a proper and efficient manner;
- (ii) that they will pay to the Trustees (or as it may direct) within three (3) working days of receipt by the Manager, any moneys which are payable hereunder by the Managers to the Trustees. However this time bar could be varied in exceptional circumstances with the approval of the Trustees. The Managers shall be responsible for any money which are payable to the Trustees till such time that it is transferred to the Fund. Further if any moneys which are payable hereunder by the Managers to the Trustees are not transferred as per this clause, interest must be paid by the Managers at a rate not below the weighted average fixed deposit rate prevailing at the time of transfer or any other rate with the consultation of the Trustees;
- (iii) that they will not sell any Units otherwise than on the terms and at a price calculated in accordance with the provisions hereof;
- (iv) that they will calculate and publish on a daily basis the Net Asset Value of the Fund in three daily news papers in Sinhala, Tamil and English and on the website of the Fund;
- (v) that they will, redeem all Units in issue held by Holders on the terms and at a price calculated in accordance with the provisions hereof;
- (vi) that they will, to the same extent as if the Trustees were a director of the Managers:

- (a) make available to the Trustees, or any approved company auditor appointed by it, for inspection the whole of the books of the Managers whether kept at the registered office of the Managers or elsewhere; and
  - (b) give to the Trustees or any such auditor such oral or written information as it or he requires with respect to all matters relating to the Managers;
- (vii) that they will make available or ensure that there is made available to the Trustees such details as the Trustees require with respect to all matters relating to the Trust;
- (viii) that they will within Fifteen (15) Market Days after an application is delivered to the Managers at their registered office, being an application by Holders of not less than one fifth of Units call a meeting of Holders :
- (a) by sending notice by post of the proposed meeting at least five (5) Market Days before the proposed meeting to each of those Holders in accordance with Clause 32; or
  - (b) by publishing in all three languages at least ten (10) Market Days before the proposed meeting an advertisement giving notice of the meeting in a newspaper circulating generally in Sri Lanka.
- (ix) appoint a designated compliance officer who will be responsible for ensuring that the Managers and its directors, officers and employees comply with the laws, rules, directives and Code pertaining to the operation of the Trust, within three (3) months of the signing of this Trust Deed.
- (x) appoint a Registrar to deal with Unit transactions and to maintain the Registry subject to the requirements of the Commission.

20.2 The Trustees hereby covenant that it will:

- (i) Exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of Holders;
- (ii) Keep or cause to be kept proper books of account in relation to those interests;
- (iii) Cause those accounts to be audited at the end of each Accounting Period by the Auditors;
- (iv) Send or cause to be sent by post a statement of the accounts with the Report of the Auditors thereon to each Holder, in accordance with Clauses 18 and 19;

20.3 The Managers and the Trustees hereby covenant that no monies available for investment hereunder will be invested in or lent to the Managers or to the Trustees or with any connected person, except where the Trustees is also a Bank.

20.4 If an Approved Broker is under common control with the Managers or the Trustees, this fact shall

be disclosed in the Explanatory Memorandum and to the Commission, and any special commission negotiated with such Approved Broker shall also be disclosed to and approved by the Commission.

- 20.5 The Trustees, the Managers and their Connected Person shall disclose their interest, whenever any business in which they have a material interest is being discussed at any meeting of the Trust.

## 21. REMUNERATION OF MANAGERS AND TRUSTEES

### 21.1 Remuneration of the Managers:

- (i) The Management Participation shall be a sum not exceeding such percentage as is hereinafter mentioned based on the Net Asset Value of the Deposited Property.

The Management Participation shall be payable to the Managers in arrears at the end of each calendar month; in respect of any period other than a full calendar month, the amount payable shall be computed based on the number of days for which it has accrued as a proportion of the total number of days in the calendar month concerned.

The percentage hereinbefore referred to shall not be more than Four Percent (4%) *per annum* of the Net Asset Value of the Deposited Property or such other higher percentage as may be fixed by agreement supplemental hereto and approved by the Trustee and sanctioned by an Extraordinary Resolution of the Unit Holders payable daily on each Market Day taking into account the subscriptions and redemptions of Units processed on such day. The Managers may from time to time, by giving at least Three (03) months' notice in writing to the Trustee, fix as the appropriate percentage some smaller percentage than hereinbefore provided, and in that event and for such period as may be specified in such notice (or if no period is so specified then until further notice in writing shall be given to the Trustee cancelling the previous notice) such smaller percentage shall be the appropriate percentage, but any such notice shall be *ipso facto* cancelled upon the Managers who gave such notice in writing as aforesaid ceasing to be the Managers of the Trust.

- (ii) The Management Participation shall be payable out of the Deposited Property as the Managers in their discretion shall decide.
- (iii) The Management Participation shall be paid to the Managers for their own account as soon as possible after the respective dates by reference to which they are calculated pursuant to sub-paragraphs (i) and (ii) of this sub-clause, respectively, PROVIDED THAT unless and until the Trustee shall be satisfied that adequate provision has been or will be made for the future management and expenses of the Trust, the Trustee shall have a lien on and shall be entitled to retain the Management Participation for the purpose of paying, discharging or providing for such expenses including its remuneration and shall pay to the Managers only the balance (if any) after all such payments, discharges and provisions have been made.

### 21.2 Remuneration of the Trustee

- (i) The Trustee shall be entitled to a remuneration of 0.25% of the Net Asset Value and Rs.15,000 per month or such other higher amount as may be fixed by agreement with the Managers supplemental hereto and sanctioned by an Extraordinary Resolution of the Unit Holders.
  - (ii) The said remuneration of the Trustee shall not be payable out of the Management Participation but shall be made over and above the capital or income of the Deposited Property as the Managers in their discretion shall decide.
  - (iv) The Trustee shall, in addition to such remuneration, on demand be entitled to be paid out of the capital or income of the Deposited Property the amount of all their respective disbursements wholly and exclusively incurred in the performance of their respective duties hereunder.
- 21.3 The Managers shall be responsible for the payment of all expenses incurred from time to time in connection with the management or trusteeship of the Trust, except such expenses as are expressly authorised hereunder to be payable out of the Deposited Property.
- 21.4 In consideration of the foregoing and save as aforesaid, neither the Trustee nor the Managers shall make any charge against the Holders or against the Deposited Property or against any distribution for their services or for their normal expenses hereunder with the exception of:
- (i) costs of dealing in the Deposited Property, including but not limited to the costs of printing and distributing dividend warrants, Transaction Receipts and accounts and reports of the Trust;
  - (ii) taxes and duties payable in respect of the Deposited Property and/or the issue of Units and/or Transactions Receipts (if any) as well as any taxes and/or other duties payable on this Trust Deed or in connection with or arising from the establishment, execution, management or termination of the Trust;
  - (iii) any costs, including legal costs, incurred or to be incurred (a) in the preparation or modification of the Trust Deed and any documents related thereto, (b) in the preparation and bringing into effect any amendments and/or supplements to the Trust Deed and any documents related thereto, and/or (c) on the behalf of the Holders of a Unit/s of the Trust;
  - (iv) any costs incurred in respect of a meeting/s of Unit Holders, in preparing and publishing and/or sending communications to the Holders of Units of the Trust;
  - (v) the audit fees and any expenses of the auditor incurred in preparing any special reports required by the Commission and/or any other regulatory authority;
  - (vi) licensing fees imposed by the Commission and all costs incurred to enable the Trust to comply with all legislation and/or other official requirements;
  - (vii) all direct and indirect taxes that are required to be charged to the Deposited Property as imposed by the Government from time to time;

- (viii) all expenses, including legal expenses, incurred in safeguarding the Deposited Property, including all expenses incurred by the Trustee in effecting registration or safe custody of the documents of title to all Investments held upon the trusts of the Trust; and
- (ix) any and all other charges or fees expressly authorised by this Trust Deed or by law;

any and all of which may be discharged out of the Deposited Property.

PROVIDED HOWEVER that this limit does not apply to any litigation expenses related to the affairs of the Trust.

For the avoidance of doubt, no expense or cost attributable to the management of the Manager or the Trustee or the sponsors and placement agents shall be charged to the Deposited Property.

## 22. CONCERNING THE ADMINISTRATION OF THE TRUST

### 22.1 Neither

- (i) the Trustees nor
- (ii) the Managers, or (their Directors, officers and employees) nor
- (iii) any company controlled by either of them nor
- (iv) any person firm or body corporate entitled to exercise any powers or discretions pursuant to a delegation by the Managers made under Clause 24 hereof,

shall as principal sell or deal in the sale of Investments to the Trustees for account of the Trust or vest Investments in the Trustees against the issue of the Units or purchase Investments from the Trustees and each shall (without incurring any liability for failure so to do) use its best endeavours to procure that no such sale or dealing or vesting shall be made by a Connected Person of the Trustee and the Manager PROVIDED THAT nothing shall prevent any sale to or any purchase for account of the Trust of any Investment from the trustees, a custodian or manager of any other unit trust scheme or mutual fund company or investment company of account of such scheme or company notwithstanding that the Trustees and/or the Managers and/or any Connected Person may be or be interested in the trustees or the custodian or the managers of or any person, firm or body corporate to whom any investment powers or discretions may have been delegated under or by such scheme or company provided that:

- (a) the value of the Investment in question is certified in writing for the purpose of the transaction by a Recognized Stock Exchange or other professionally recognized person; and
- (b) the Trustees shall be of the opinion that the terms of such transaction shall not be such as are likely to result in any prejudice to Holders.

For the purposes of this sub-clause the expressions "mutual fund company" and "investment company" shall mean and include any company carrying on the business of holding and managing investments.

- 22.2 Nothing in this Trust Deed contained shall prevent the Trustees or the Managers or any Connected Person from becoming the owner of Units and holding, disposing or otherwise dealing with the same rights which they would have had if neither the Trustees nor the Managers nor any Connected Person were a party to or a connected person for purposes of this Trust Deed and the Trustees and the Managers and any such connected person may buy, hold and deal in any Investments upon their respective individual accounts notwithstanding that similar Investment may be held under this Trust Deed as part of the Deposited Property. Every transaction between the Managers or any Connected Person and the Trust shall only be with the prior written consent of the Trustee and such transactions shall be disclosed in the annual report of the Trust as per Rule 27 of the Unit Trust Code.
- 22.3 All transactions between the Trust and an associate, joint venture, subsidiary or holding company of the Managers, shall be with the prior written consent of the Trustee and all such transactions shall be disclosed in the annual report of the Trust as per under Rule 27 of the Unit Trust Code.
- 22.4 No Units shall at any time be quoted or sold by or for account of the Manager at a price higher than the issue price for the time being applicable to Units issued for cash pursuant to this Trust Deed. No Units shall at any time be quoted or purchased by or for account of the Managers at a price lower than the realization price for the time being applicable to Units realized by the Managers pursuant to this Trust Deed. The Trustees shall be responsible to verify the price of any such quotation or dealing but the Managers shall justify such quotation or dealing if so requested by the Trustees at any time.
- 22.5 Neither the Trustees nor the Managers nor any Connected Person shall be liable to account either to any other or others of them or to the Holders or any of them for any profits or benefits made or derived by or in connection with any such transaction permitted as aforesaid.
- 22.6 Nothing herein contained shall be construed so as to prevent the Managers and the Trustees in conjunction or the Managers or the Trustees separately from acting as managers or trustees for trusts separate and distinct from the Trust. Provided however, that the Managers shall not act as the trustees of another trust and provided further that the Trustees shall not act as the managers of another trust.
- 22.7 Neither the Managers nor the Trustees shall be liable to account to any Holder or otherwise for any payment made or suffered in good faith to any duly empowered fiscal authority of Sri Lanka for taxes or other charges in any way arising out of or relating to any transaction of whatsoever nature under this Trust Deed notwithstanding that any such payments ought not to or need not have been made or suffered.
- 22.8 In no event shall a Holder have or acquire any rights against the Trustees and the Managers or either of them save such as are expressly conferred upon such Holder by this Trust Deed nor shall the Trustees be bound to make any payment to any Holder except out of funds held by or paid to it for that purpose under the provisions of this Trust Deed. Provided however that nothing herein shall exempt the Trustees from or indemnify it against any breach of trust occasioned by the Trustees' fraud or negligence as set out in Clause 23.5
- 22.9 Neither the Trustees nor the Managers shall incur liability in respect of any action taken or thing suffered by either of them in good faith in reliance upon any notice resolution direction instruction consent certificate affidavit statement (without prejudice to the generality of the foregoing) other paper or document believed to be genuine and to have been passed sealed or signed by the proper parties.

- 22.10 Neither the Trustees nor the Managers shall incur liability for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto or of any decree order or judgment of any Court of competent jurisdiction or by reason of any direction request announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any Government (whether legally or otherwise) either the Trustees or the Managers shall be directed or requested to do or perform or to forbear from doing or performing, or if for any reason it becomes impossible to perform any of the obligations hereunder.
- 22.11 Neither the Trustees nor the Managers shall be responsible for the authenticity of any signature on or any seal affixed to any endorsement or any certificate or to any transfer or form of application, endorsement or other document affecting the title to or transmission of Units or be in any way liable for any forged or unauthorized signature on or a seal affixed to such endorsement, transfer or other document or for acting on or giving effect to any such forged or unauthorized signature or seal. The Trustees and the Managers respectively shall nevertheless be entitled but not be bound to require that the signature of any Holder or joint Holder to any document required to be signed by him under or in connection with this Trust Deed shall be verified by a banker or broker or other responsible person or otherwise authenticated to its or their reasonable satisfaction.
- 22.12 Any indemnity expressly given to the Trustees and/or the Managers in this Trust Deed is in addition to and without prejudice to any indemnity allowed by law PROVIDED NEVERTHELESS THAT nothing in any of the provisions of this Trust Deed shall in any case in which the Trustees and/or the Managers, as the case may be, have failed to show the degree of diligence and care required by them by the provisions of this Trust Deed exempt them from or indemnify them against any liability for breach of trust or any liability which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of duty or trust of which they may be guilty in relation to their duties.
- 22.13 Any Investment in registered form shall unless otherwise instructed by the Trustees, be registered in the name of the Trustees as soon as reasonably practicable after receipt of the necessary documents by the Trustees and shall remain so registered until disposed of pursuant to the provisions of this Trust Deed. The Trustees shall be entitled if it considers that it is expedient to do so to cause to be deposited in safe custody with any banker of the Trustees the documents of title to any Investments held upon the Trusts of this Trust Deed. Subject as aforesaid the Trustees shall retain the documents of title to all investments held upon the trusts of this Trust Deed in its possession in safe custody. Any expense of whatever nature incurred by the Trustees in effecting such registration or providing such safe custody shall be payable out of the Deposited Property. Notwithstanding the provisions of this sub-clause the Trustees shall be entitled if it considers that it is expedient to do so to deposit with any banker the documents of title of any Investments held upon the trusts of this Trust Deed for the purpose of securing any borrowings effected by the Trust.
- 22.14 The Trustees (or the Managers on its behalf) shall subject as hereinafter provided, be entitled to destroy -
- (i) all instruments of transfer which have been registered at any time after the expiration of six (6) years from the date of registration thereof
  - (ii) all Transaction Receipts and distribution mandates which have been cancelled at any time

- after the expiration of one (1) year from the date of cancellation thereof
- (iii) all notifications of change of address after the expiration of one (1) year from the date of the recording thereof
  - (iv) all forms of proxy in respect of any meeting of Holders one (1) year from the date of the Meeting at which the same are used and
  - (v) all registered statements and other records and documents relating to the Trust at any time after the expiration of six (6) years from date of origin. Neither the Trustees nor the Managers shall be under any liability whatsoever in consequence thereof and unless the contrary be proved every instrument of transfer so destroyed shall be deemed to have been a valid and effective instrument duly and properly registered and every other document hereinbefore mentioned so destroyed shall be deemed to have been a valid and effective document in accordance with the recorded particulars thereof.

PROVIDED ALWAYS that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereof) to which the document might be relevant;
- (b) nothing in this sub-clause shall be construed as imposing upon the Trustees or the Managers any liability in respect of the destruction of any document earlier than as aforesaid or in any case where the conditions of proviso (a) above are not fulfilled;
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

22.15 The Trustees and the Managers shall be entitled to rely absolutely on any declaration of residence which may be received from a Holder, or a prospective Holder or applicant for Units.

22.16 The Trustees and the Managers shall maintain or cause to be maintained a Register setting out all particulars of the documents and all other materials destroyed under Clause 22.14 hereof and the date of such destruction together with the authority for such destruction and such Register shall not be destroyed for a period of twenty (20) years from the date of the last entry hereof.

## 23. CONCERNING THE TRUSTEE

23.1 With regard to any provision in this Trust Deed

- (i) providing for any act or matter to be done by the Trustees such act or matter may be performed on behalf of the Trustees by any officer or responsible official of the Trustees or by any nominee appointed by the Trustees with the approval of the Managers and any act or matter so performed shall be deemed for all the purposes of this Trust Deed to be

- the act of the Trustees, and
- (ii) as to the vesting of investment such provision shall be deemed also to relate to any nominee of the Trustees. The Trustees shall be entitled to procure:

- (a) the Trustees; or
- (b) any officer or responsible official of the Trustees jointly with the Trustees; or
- (c) any such nominee and the Trustees;

to be registered as proprietor of any Investment held upon the trusts of this Trust Deed PROVIDED ALWAYS that the Trustees shall remain liable for any act or omission of any such person or nominee in relation to any Investment of which such person or nominee is registered as proprietor.

- 23.2 The Trustees shall not be under any liability on account of anything done or suffered by the Trustees in good faith in accordance with or in pursuance of any request of the Managers. Whenever pursuant to any provision of this Trust Deed, any certificate, notice direction, instruction or other communication is to be given by the Managers to the Trustees, the Trustees may accept as sufficient evidence thereof a document signed or purporting to be signed on behalf of the Managers by any person whose signature the Trustees is for the time being authorized in writing by the Managers to accept.
- 23.3 The Trustees may accept as sufficient evidence of the value of any Investment or foreign currency or the cost or sale price of any Investment or of any stock exchange quotation or of any other matter within his competence a certificate by an Approved Broker.
- 23.4 The Trustees
- (i) may act upon any advice or information obtained from the Managers or any bankers accountants brokers, lawyers acting as advisers of the Trustees or the Managers and the Trustees shall not be liable for anything done or omitted or suffered in good faith in reliance upon such advice or information. Any such advice or information may be obtained or sent by letter to the Trustees shall not be liable for acting on any such advice or information purporting to be conveyed as above although the same contains some error or shall not be authentic.
  - (ii) shall not be responsible for any act, omission, misconduct, error of judgment, or want of prudence on the part of the Managers.
- 23.5 Except in and so far as herein otherwise expressly provided, the Trustees shall as regards all the trusts, powers, authorities and discretions vested in it have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner of or as to the time for the exercise thereof. Nothing in this Trust Deed shall exempt the Trustees from nor indemnify them against breaches of Trust through the Trustees' fraud or wilful neglect. In the absence of fraud or negligence by the Trustees, the Trustees shall not be in any way responsible for any loss costs damages or inconvenience that may result from the exercise or non-exercise thereof.
- 23.6 Nothing herein contained shall prevent the Trustees from purchasing, holding, dealing in or disposing of Transaction Receipts or Units or any part of the securities of which form part of the Deposited Property or from being interested in any such contract or transaction or from acting as

bankers to the Trust or from any time contracting or entering into any financial banking insurance or other transaction with the Managers or any Holder or any company or body or from holding any shares or any investment in any such company or body and the Trustees shall not be in anyway liable to account either to the Managers or to the Holders or any of them for any profits or benefits made or derived by the trustees thereby or in connection therewith.

- 23.7 The Trustees shall not be under any obligation to appear in, prosecute or defend any action, suit, arbitration or inquiry in respect of the provisions hereof or in respect of the Deposited Property or any part thereof or any corporate or shareholder's action in which in its opinion would or might involve it in expense or liability unless the Managers shall so request in writing in which case they shall so often as required by the Trustees furnish it with an indemnity satisfactory to or against any such expense or liability provided that no such indemnity shall be given in respect of any actions taken against the Trustees for negligence or breach of fiduciary duty in connection with its duties as trustees under this Trust Deed.
- 23.8 Subject as herein provided the Trustees shall be entitled for the purpose of indemnity against any action costs claims damages expenses or demands to which it may be put as Trustees to have recourse to the Managers.
- 23.9 Before making any distribution or other payment in respect of any Unit or in respect of the Management Participation, the Trustees may make such deductions as by the law of Sri Lanka the Trustees is required or entitled to make in respect of any income or other taxes, charges or assessments whatsoever and the Trustees may also deduct the amount of any stamp duties (if required by law) or other Governmental taxes, duties or charges payable by it or for which it might be made liable in respect of such distribution or any documents signed by it or by a Holder or his agent in connection therewith.
- 23.10 The Trustees shall not be responsible for acting upon any resolution purporting to have been passed at any meeting of the Holders in respect whereof minutes shall have been made and signed even though it may be subsequently found that there was some defect in the constitution of the meeting or the passing of the resolution or that for any reason the resolution was not binding upon all the Holders.
- 23.11 The Trustees shall not be responsible for verifying or checking any valuation of the Deposited Property or any calculation of the prices at which Units are to be issued or purchased by the Managers except as herein expressly provided.
- 23.12 Where any trust property is registered in the name of a lender as security for a loan obtained by the Trust, the Trustees shall not be liable for any act or omission of the lender or his agent with respect to such property.
- 23.13 The Trustees shall, when required by the Commission, deposit security guaranteeing against loss due to its own misconduct or negligence.

## **24. CONCERNING THE MANAGERS**

- 24.1 The Managers shall keep or cause to be kept at their own expense proper books of accounts and records subject to Section 29 of the Unit Trust Code, in which shall be entered all transactions effected by the Managers for account of the Trust and shall permit the Trustees from time to time on demand to examine and take copies of or extracts from any such books of accounts or records.

- 24.2 In the absence of negligence or wilful default, the Managers shall not incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith hereunder and shall not (save as herein otherwise provided) be liable for any act or omission of the Trustees. Provided that nothing in these presents shall exempt the Managers from any liability imposed on it by law nor shall indemnify it against such liability at the expense of the Holders.
- 24.3 Nothing herein shall prevent the Managers from contracting or entering into any financial banking or other similar transactions with the Trustees (when acting other than in its capacity as Trustees of the Trust) or any Holder or any company or body any of whose shares or securities form part of the Deposited Property or from being interested in any such contract or transaction and the Managers shall not be in anyway liable to account either to the Trust or the Trustees or to the Holders or any of them for any profit or benefit made or derived by the Managers thereby or in connection therewith. Notwithstanding the foregoing provisions the Managers must secure the Trustees' prior written approval for any transaction other than transactions with the Trustees by the Manager as principal with such Holder, company or body.
- 24.4 The Managers shall be entitled to delegate their functions, powers, discretions, privileges and duties hereunder or any of them to any person, firm or body corporate approved in writing by the Trustees and any such delegation may be on such terms and conditions as the Managers think fit (including the power to sub-delegate). PROVIDED, always that the Managers shall remain liable hereunder for any act or omission of any such person firm or body corporate as if such act or omission was their own.

## 25. BORROWING POWERS

- 25.1 Subject to the provisions of statutory requirements, the Trustees may, at any time at the request of the Managers, make and vary arrangements for the borrowing by Trustees for the account of the Trust for the purpose of enabling the Managers to meet requirements to administer the fund.
- 25.2 Any such borrowing may be effected from any Commercial Bank or other financial institution (including, the Managers or the Trustees, if they be a bank or a financial institution).
- 25.3 The principal amount of all such borrowings at any given time outstanding shall at no time exceed an amount equivalent to Fifteen percent (15%) of the Deposited Property of the Trust or other percentage which the Commission may determine, whichever is less.
- 25.4 Any such borrowing shall be subject to provisions whereby:
- (i) such borrowing shall become repayable in the event of the termination of the Trust; and
  - (ii) such part of such borrowing as may be necessary to enable compliance with Clause 25.3 may be repaid on not more than thirty (30) days notice from the Trustees.
- 25.5 For the purposes of securing any such borrowing and any interest, and expenses in respect thereof the Trustees may with the agreement of the Managers mortgage, charge or pledge in any manner all or any part of the Deposited Property provided that all such mortgages, charges, pledges do not exceed fifteen percent (15%) of the total assets of the Trust. Where any part of the Deposited Property or any document of title thereto is for the time being under the custody or control of

some person other than the Trustees in consequence of any such mortgage, charge or pledge, the provisions of this Trust Deed as to the custody and control of the Deposited Property or documents of title thereto (including registration of investments) shall be deemed not to have been infringed thereby. Any such mortgage, charge or pledge shall be made upon the terms that the lender or its nominee shall not pledge or obligate any part thereof to any other person or use any part thereof to margin, guarantee, secure, discharge or settle any indebtedness, trade or contract, or dispose of any part thereof, or treat the same as if any person other than the Trustees (as trustees of the Trust) and the lender had any interest therein, and that no step shall be taken to enforce the security constituted by such mortgage, charge or pledge until thirty (30) days after notice in writing has been given to the Trustees demanding repayment of the moneys thereby secured. If such a notice is given the Trustees shall promptly advise the Managers who shall promptly effect such sales of Investments as may be necessary to enable such repayment to be effected in due time.

- 25.6 Any interest on any such borrowing and any expenses incurred in negotiating, entering into, varying and carrying into effect, with or without variation, and terminating such borrowings shall be payable out of the Deposited Property.
- 25.7 If any arrangements for borrowing pursuant to this clause are made with the Managers or the Trustees, the Managers or the Trustees (as the case may be) may retain any benefits arising therefrom.
- 25.8 Where the Deposited Property or any part thereof is registered in the name of a lender as security for a loan obtained by the Managers, the Trustees shall not in any event be liable for any act or omission of the lender or his agent with respect to such property.
- 25.9 Where borrowing is undertaken for the account of the Trust, assets forming part of the Deposited Property may be registered in the lender's name or in that of a nominee appointed by the lender, provided that the lender or its nominee as the case may be enters into a written commitment that under no circumstances will it pledge or obligate any part of such assets to any other person or use any part of them to "margin" guarantee, secure, discharge or settle any borrowing trades or contracts, or dispose of any part of them, or treat them as if any person other than the Trustees and the lender had any interest in them.
- 25.10 Leveraging by borrowing against Investments or buying on margin by the Trustees or Managers are prohibited, except in case of Investments with determinable future maturity dates, with the approval of the Commission.

## 26. ADVERTISEMENTS

- 26.1 The Managers covenant and undertake that it shall and will not without the prior written approval of the Trustees and the Commission publish, issue, circulate, or cause to be published issued or circulated any edition of the Explanatory Memorandum, application form, sales literature or other printed matter for issue to prospective buyers, advertisement, report, announcement (other than announcement of prices or yields) addressed to the general body of Holders or to the public or to the press or other communication media.
- 26.2 In all letters or circulars or advertisements or other publications referring to the issue or sale of Units reference shall be made to the Trustees only in terms previously approved by the Trustees.

- 26.3 The Managers shall be responsible for obtaining all requisite consents for the issue or publication of any such advertisement, circular, document or other publication from the relevant authorities in any country or state in which issue or publication thereof is effected by the Managers or their agents.

## 27. APPOINTMENT, RETIREMENT AND REMOVAL OF TRUSTEE

- 27.1 Deutsche Bank AG, Colombo Branch is hereby expressly appointed as Trustees for the Holders and Deutsche Bank AG, Colombo Branch does hereby accept such appointment.
- 27.2 The Trustees shall not be entitled to retire voluntarily except upon the appointment of a new Trustee. In the event of the Trustees desiring to retire it shall give 3 months notice in writing to that effect to the Managers and the Managers (or in default the Trustees) may by deed supplemental hereto under the seal of the Managers or the Trustees (as the case may be) appoint any company incorporated in Sri Lanka which is permitted by statute or the relevant statutory authority to act as Trustees of a Unit Trust scheme to be the Trustees in the place of the retiring Trustees and also provide in such deed for the vesting in the new Trustee of the instruments and the securities standing in the name of the retiring Trustee.
- 27.3 If the Trustees go into liquidation otherwise than for the purpose of amalgamation or reconstruction or ceases to carry on business or a receiver of its undertaking is appointed, the Managers shall forthwith by instrument in writing remove the Trustees from its appointment under this Trust Deed and shall by the same or some other instrument in writing appoint as Trustees hereof some other trustees duly approved as may be required by the law for the time being applicable to this Deed.
- 27.4 The Trustees may be removed and another Trustee (duly approved as may be required by the Commission) may be appointed by Extraordinary Resolution duly passed at a meeting of Holders held in accordance with the provisions contained in the Schedule and of which not less than Fifteen (15) Market Days notice has been given to the Trustees and the Managers.
- 27.5 A new trustee may not be appointed without the approval of the Commission.

## 28. RETIREMENT AND REMOVAL OF MANAGERS

- 28.1 The Managers for the time being shall be subject to removal by notice in writing given by the Trustees to the Managers with the approval of the Commission, in any of the following events:
- (i) if the Managers go into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustees) or if a receiver is appointed of the undertaking of the Managers or any part thereof;
  - (ii) if for good and sufficient reason the Trustees are of the opinion and so state in writing to the Managers that a change of Managers is desirable in the interests of the Holders.
  - (iii) if the Holders resolve pursuant to Clause 31 that the Managers be removed.

In any of the cases aforesaid the Managers for the time being shall upon receipt of such notice by the Trustees as aforesaid but subject as in paragraph (ii) above provided *ipso facto* cease to be the Managers, and the Trustees shall by writing under its seal immediately appoint another company incorporated in Sri Lanka and approved by Commission to be the Managers of the Trust upon and subject to such company entering into such deed or deeds as the Trustees may be advised to be necessary or desirable to be entered into by such company in order to secure the due performance of their duties as Managers during the remainder of the period of the Trust. This provision shall not prejudice the right of the Trustees herein contained to terminate the Trust in any of the events in which in accordance with the provisions herein contained the right of terminating the trust is vested in the Trustees.

Such removal of the existing managers and appointment of a new manager as aforesaid shall be duly notified to the Holders as per the Section 6 of the Unit Trust Code.

28.2 The Managers shall have the power to retire in favour of another company incorporated in Sri Lanka approved in writing by the Trustees and any relevant statutory authority, upon and subject to fulfilment of the following conditions;

- (i) The retiring Managers shall appoint such company by writing under the seal of the retiring Managers as Managers of the Trust on their behalf and assign to such appointees all their rights and duties as such Managers.
- (ii) Such company shall enter into such deed or deeds as are mentioned in Clause 28.1.
- (iii) Upon payment to the Trustees of all sums due by the retiring Managers to the Trustees hereunder at the date of such retirement the retiring Managers shall be absolved and released from all further obligations hereunder but without prejudice to the rights of the Trustees or of any Holder or other person in respect of any act or omission on the part of the retiring Managers prior to such retirement and the new Managers may and shall thereafter exercise all the powers and enjoy all the rights and shall be subject to all the duties and obligations of the Managers hereunder as fully as though such new Managers had been originally a party hereto.

28.3 Upon any removal or retirement of the Managers, the removed or retiring Managers shall remain entitled to all Units which they hold or are deemed to hold and they shall be entitled to require the Trustees to issue to them a Transaction Receipt in respect thereof and to be registered in the Register in respect thereof and thereafter to have and exercise all rights of a Holder of such Units.

## 29. TERMINATION OF THE TRUST

29.1 The Trustee may terminate the Trust upon the happening of any one of the following events:

- (i) If the Managers go into liquidation (other than voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the

Trustee) or if a receiver is appointed for the undertaking of the Managers or any part thereof and an alternate manager cannot be found.

- (ii) If, on the expiration of Three (03) months after notifying the Managers that in the Trustee's opinion a change of Managers is desirable, the Trustee has not found another company ready to accept the office of Managers of the Trust and of which the Trustee and Commission approve.
- (iii) If it becomes illegal or if any law shall be passed which renders it illegal or in the opinion of the Trustee impracticable or inadvisable to continue the Trust.
- (iv) If, in the opinion of the Trustee, it is impracticable or inadvisable to continue the Trust and the Holders resolve pursuant to Clause (31) (1) (vi) that the Trust be terminated.

29.2 Either the Trustee or the Managers may, by giving not less than Three (03) months' notice to the other, with the concurrence of the Commission decide to terminate the Trust. The party hereto terminating the Trust shall, unless the matter shall have been referred to arbitration, give notice thereof to all Holders and by such notice fix the date at which such termination is to take effect; provided, however, that such date shall not be less than Three (03) months after service of the said notice.

### 30. OBLIGATIONS UPON TERMINATION

30.1 Upon the Trust being terminated:

- (i) the Trustees shall, subject to such orders, if any, as may be made by any court of competent jurisdiction, sell all Investments then remaining in its hands as part of the Deposited Property and shall repay any borrowings effected by the Trust (together with any interest thereon accrued but remaining unpaid) for the time being outstanding and such sale and for moneys due to any service providers such as Managers and Registrars and the repayment shall be carried out and completed in such manner and within such period after the termination of the Trust as the Trustees in its absolute discretion think advisable.
- (ii) The Trustees shall from time to time at such time or times as it shall deem convenient and in its absolute discretion distribute to the Holders and the Managers *pro rata* to the number of Units held or deemed to be held by them respectively all net cash proceeds derived from the realisation of the Deposited Property and any other cash then forming part thereof.

**PROVIDED THAT** the Trustees shall be entitled to retain out of any moneys in its hands under the provisions of this Clause full provision for all costs, charges, expenses, claims and demands incurred made or apprehended by the Trustees in connection with or arising out of the liquidation of this Trust and out of the moneys so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands. Every such distribution shall be made to a Holder upon a request in writing by the Holder upon delivery to the Trustees of such form of request for payment and receipt

if any as the Trustees shall in its absolute discretion require.

- 30.2 Any unclaimed proceeds or other moneys held by the Trustees under the provisions of this Clause may at the expiration of twelve (12) months after the date upon which the same were payable be paid to the Public Trustee of the Republic of Sri Lanka subject to the right of the Trustees to deduct therefrom any costs, charges and expenses it may incur in making such payment.

### **31. HOLDERS' MEETING**

- 31.1 A meeting of the Holders held in accordance with the provisions contained in the Schedule shall in addition to all other powers conferred upon it by any state or by this Trust Deed or otherwise have the following powers exercisable by Extraordinary Resolution only namely:

- (i) to remove the Managers for default or non-compliance with the provisions of the Trust in terms of this Trust Deed;
- (ii) to remove the Trustees;
- (iii) to remove the Auditors;
- (iv) to appoint a committee of Holders and define its constitution and powers (including power for the committee to institute or defend legal proceedings on behalf of one or more Holders), to remove all others of the members of such committee and appoint others in their place or to dissolve such committee and to provide for payment of its costs and expenses out of the Deposited Property;
- (v) to assent to any modification of the provisions contained in this Trust Deed which shall be proposed by the Managers and assented to by the Trustees;
- (vi) to terminate the Trust.

- 31.2 The provisions contained in the Schedule shall have the effect in the same manner as if such provisions were herein set forth. All expenses of and incidental to the holding of a meeting in accordance with the provisions of the Schedule shall be borne as follows:

- (i) If the meeting is held at the request of Holders or the Trustees certify that in its opinion the meeting is held for the benefit of Holders then the said expenses shall be borne by the Trust and paid by the Trustees out of the Deposited Property.
- (ii) In any other event the said expenses shall be borne by the Managers.

### **32. NOTICES**

- 32.1 Any notice or other document required to be served upon or sent to a Holder shall be deemed to

have been duly given or served if sent by registered post to or left at his address as appearing on the Register and in the case of joint Holders the address of whichever of such Holders is named first on the Register. Any notice or document so served or sent by post shall be deemed to have been served or received two (2) days after that on which the same was posted and in proving such service or receipt it shall be sufficient to prove that the envelope or wrapper containing such notice or documents was properly addressed, stamped and posted.

- 32.2 Service of a notice or document on any one or several joint Holders shall be deemed effective service on himself and the other joint Holders.
- 32.3 Any notice or document sent by post to or left at the last known address of a Holder in pursuance of this Trust Deed shall notwithstanding that such Holder be then dead or bankrupt and whether or not the Trustees or the Managers have notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the Units concerned.

### 33. MODIFICATION OF TRUST DEED

Subject to the provisions of any statutory law and with the approval of the Commission, the Trustees and the Managers shall be entitled by a trust deed supplemental hereto to modify alter or add to the provisions of this Trust Deed in such manner and to such extent as they may consider expedient for any purpose. PROVIDED THAT unless the Trustees shall certify in writing that in its opinion such modification alteration or addition

- (i) does not prejudice the interests of the then existing Holders and does not operate to release the Trustees or the Managers from any responsibility to the Holders. PROVIDED ALSO that no such modification alteration or addition shall impose upon any Holder any obligation to make any further payment in respect of his Units or to accept any liability in respect thereof; or
- (ii) is necessary to comply with fiscal, statutory or other official requirements; and
- (iii) is not in conflict with the Code issued by the Commission or any condition laid down in the license granted by it.

Unless conditions (i) or (ii) and (iii) is met, no modification, alteration or addition shall be made to the Trust Deed except by an Extraordinary Resolution of the Holders. Where the Trust Deed has been altered or supplemented to comply with fiscal, statutory or other official requirements, Holders must be notified immediately.

### 34. GOVERNING LAW

The Managers and the Trustees covenant with each other and the Holders of the Units for the time being and from time to time to observe and otherwise comply with the provisions of the Unit Trust Code and any other law pertaining to the concept of trust in Sri Lanka wherever applicable.

35. **SECREC**

The Trustees and the Managers and every director, officer or employee of the Trustees and the Managers who are in any way engaged in the business of this Trust and all persons employed or engaged by the Trustees or the Managers in connection with the business of the Trust shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all matters relating to or concerning the Trust and all transactions of the Trust, its customers and all matters relating thereto and shall by such declaration pledge himself not to reveal any matter which may come to his knowledge in the discharge of his duties except when required to do so:

- (i) by the Board of the Trustees or Managers or
- (ii) by a court of law, or
- (iii) by the person to whom such matters relate, or
- (iv) in the performance of his duties, or
- (v) in order to comply with the provisions of any law

36. **INDEMNITY**

Without prejudice to the limitation of liability of Trustees for breaches of trust as provided in the Act or any subsisting amendment thereto, the Trustees shall not be liable and shall stand fully indemnified in respect of any loss, damage, claims or suit arising from or in connection with any matter or thing done by the Trustees in the proper exercise by the Trustees of the powers and duties of the Trustees under the Trust Deed or any instrument in law, except for any loss damage, claim or suit occasioned by fraud or negligence on the part of the Trustees, its officers or agents.

37. **INCORPORATION OF STATUTORY PROVISIONS AND REGULATIONS**

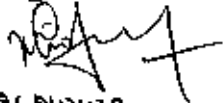

All those provisions of the Act, the Unit Trust Code and regulations duly promulgated thereunder shall be deemed for all purposes to be incorporated in this Trust Deed as a part and parcel hereof and have effect accordingly and nothing repugnant thereto in this Trust Deed.

IN WITNESS WHEREOF the common seal of Guardian Acuity Asset Management Limited was affixed in the presence of two directors of Guardian Acuity Asset Management Limited and the hands of the attorneys of Deutsche Bank AG, Colombo Branch were placed hereunto and one other of the same tenor at Colombo on this 21<sup>st</sup> day of September Two Thousand and Eleven


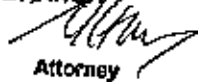
The Common Seal of Guardian Acuity  
Asset Management Limited was affixed hereunto  
in the presence of  
and  
on this 21<sup>st</sup> day of September 2011

)  
) *Ruvini Fernando*  
)  
)  
)

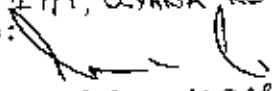

Witnesses:

1. Name: NILUO SANYAZI LAILA  
Address: 61 SANADHIPATHE MAWATHA, COLOMBO 1  
Signature: 
2. Name: AMALI ALAWWA  
Address: NO. 61, SANADHIPATHI MAWATHA, COLOMBO 01  
Signature: 

The signatures of RUVANATHI FERNANDO  
and THEONE HANNAN  
the authorized attorneys Deutsche Bank AG,  
Colombo Branch were placed hereunto  
on this 21... day of September 2011

For and behalf of  
DEUTSCHE BANK AG  
COLOMBO BRANCH  
 Attorney  
 Attorney

Witnesses:

1. Name: DELAN JESUDASON  
Address: 27/1, UYANA ROAD, MORATUWA  
Signature: 
2. Name: DUMINDU MADARAGAMAGE  
Address: 12/13, CHURCH ROAD, GONAVEMULLA  
Signature: 

## SCHEDULE

### MEETINGS OF HOLDERS

1. Convening of meetings of Holders

- (a) The Trustee or Managers may respectively and the Managers shall at the request in writing of the Holders of not less than one-fifth of the Units at any time convene a meeting of Holders at such time and place in Colombo (subject as hereinafter provided) as the parties convening the meeting may think fit and the following provisions of this Schedule shall apply thereto.
- (b) The Managers or the Trustees with concurrence of the other may at its discretion convene a meeting of Holders to transact any business.

2. The Manager and the Trustees and their Connected Persons shall be entitled to receive notice to attend and vote in respect of their holding (if any) of Units at any such meeting provided that the Trustees and Manager and any Connected Person of either shall be prohibited from voting their own Units at, or forming a quorum for, a meeting at which the Trustees management company and their connected person have a material interest in the business to be connected.

3. The Trustees, the Managers and the Connected Persons shall disclose their interest whenever any business in which they have a material interest in being discussed at any meeting of the Holders. If at such a meeting any resolution be passed by voting by proxy, and more than 50% Units from those present at such meeting object to such resolution so passed, such objection may be submitted in appeal to the Commission whose decision shall be final.

4. A meeting of the Holders shall be convened:

- (a) by giving at least fifteen (15) Market Days notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) to the Holders in the manner provided in this Trust Deed, and
- (b) by publishing at least fifteen (15) Market Days (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) before the meeting, the notice of the meeting in a daily newspaper circulating generally in Sri Lanka in the Sinhala, Tamil and English languages.

The notice shall specify the place, day and hour of the meeting and the terms of any resolution to be proposed thereat.

5. At any meeting not less than twenty-five (25) Holders present in person or by proxy shall form a quorum for the transaction of business. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business. Provided however, in the event the quorum is not satisfied the chairman shall adjourn the meeting to another date and time at which the meeting shall be held with any number present irrespective of whether the quorum is present

or not.

6. The Chairman

(a) The chairman of the Trustees or any party nominated by the Trustees shall preside as chairman at every meeting or adjourned meeting of the Holders. If there be no such Chairman of the Trustees or if at any meeting he be not present within five minutes after the time appointed for the holder of the meeting or be unwilling to act, then the chairman of the Managers shall preside as chairman of the meeting. If there also be no such Chairman of the Managers at any meeting he also be not present within a further five minutes after the first period of five minutes referred to above or be also unwilling to act then the Holders present shall choose one of their number to be chairman of the meeting provided, that at meeting where the Managers or Trustees is prohibited from voting in terms of Clause 2 above the Holders entitled to vote shall choose one of their number to be the Chairman of the meeting.

(ii) The term "chairman" in this schedule shall mean the chairman of the meeting, where the context so requires or admits.

7. If within a hour from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of holders shall be dissolved, in any other case it shall stand adjourned to such day and time not being less than Ten (10) Market Days thereafter and to such place in Colombo as may be appointed by the Chairman; and at such adjourned meeting the Holders present in person or by proxy shall be a quorum for the transaction of business including the passing of Extraordinary Resolutions. At least seven (7) days' notice of any adjourned meeting of Holders shall be given in the same manner as for an original meeting and such notice shall state that the Holders present at the adjourned meeting whatever their number and the number of Units held by them will form a quorum.
8. Such a meeting shall be held at the time and place in Colombo specified in the notice, being not later than two (02) months after the giving of notice and in accordance with the provisions of any statute.
9. The Chairman may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.
10. At any meeting an Extraordinary Resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman or by one or more Holders present in person or by proxy registered as holding in the aggregate not less than one twentieth (1/20th) of the number of Units for the time being in issue. A demand for a poll may be withdrawn. Unless a poll is so demanded and the demand be not withdrawn, a declaration by the chairman that a resolution has been carried unanimously or by a simple majority or by a particular majority of the Holders present and voting or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against such resolution.
11. If a poll is duly demand it shall be taken in such manner as the chairman may direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

12. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either immediately or at such time and place as the chairmen directs. No notice need be given of a poll not taken immediately. A demand for a poll may be withdrawn at any time.
13. Subject as aforesaid the demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
14. On a show of hands, every Holder who (being an individual) is present in person or (being a corporation) is present by one of its duly authorised officers as its proxy shall have one vote.
15. In the case of joint Holders the vote of the first named of the Joint Holders whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint Holders.
16. On a poll every Holder who is present in person or by proxy or by attorney duly authorised by a Power of Attorney deposited with the Trustees or Manager as may be directed shall have one vote for every complete Unit of which he or it is the Holder.
17. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation either under the Common Seal or under the hand of an officer or attorney authorised in writing. A person appointed to act as proxy need not be a Holder.
18. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited at such place as the Trustees or the Managers with the approval of the Trustees may in the notice convening the meeting direct or if no such place is appointed then at the Registered Office of the Managers not less than forty eight (48) hours before the time appointed for holding the meeting or adjourned meeting (or in the case of a poll before the time appointed for the taking of the poll) at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of twelve (12) months from the date named in it as the date of its execution.
19. An instrument of proxy may be in the following form or in any other form which the Trustees shall approve:
- "I.....of .....being a Holder of ..... Units numbered ..... of and in the Unit Trust known as Guardian Acuity Equity Fund hereby appoint ..... of ..... as my proxy to vote for me and on my behalf at the meeting of the Holders of Units of and in the said Trust to be held on the ..... day of ..... 20... and at any adjournment thereof.
- As witness my hand this ..... day of .....20...."
20. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the power of attorney or other authority under which the proxy was signed or the transfer of the Units in respect of which the proxy is given provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received at the place appointed for the deposit of proxies or if no such place is appointed at the Registered Office of the Managers before the commencement of the meeting or adjourned meeting at which the proxy is used.

21. The Register shall be closed for not more than three (03) consecutive days terminating on the day of the meeting and notice thereof shall be given by public advertisement as in the case of notice of all meetings.
22. Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be from time to time provided for that purpose by the Managers at their expense and any such minute as aforesaid if purporting to be signed by the Chairman of the meeting shall be conclusive evidence of the matters therein stated and until the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat to have been duly passed.
23. Every Extraordinary Resolution duly passed at a meeting shall be binding upon all Holders whether present or not present at the meeting and each of the Holders and the Trustees and the Managers shall subject to the provisions relating to the indemnity in this Trust Deed contained be bound to give effect thereto accordingly.
24. The words and expressions appearing in this Schedule shall have the same meanings as are assigned to them in the Trust Deed constituting the Trust of which this Schedule is a part.

## ADDENDUM TO DEED OF TRUST

### Guardian Acuity Equity Fund- UNIT TRUST

**THIS ADDENDUM TO DEED OF TRUST** (hereinafter referred to as the "**Addendum**") is made and entered into on this 31st day of March 2023, in the Democratic Socialist Republic of Sri Lanka, by and between;

**CT CLSA Asset Management (Private) Limited**, a Company duly incorporated in the Democratic Socialist Republic of Sri Lanka, bearing company registration number PV19841 and having its registered office at No. 4-15, Majestic City, 10, Station Road, Colombo 04 (hereinafter referred to as the "**Managers**") of the FIRST PART

**AND**

**Deutsche Bank AG**, a Bank duly incorporated in the said Republic of Sri Lanka having its Head Office at No. Level 21, One Galle Face Tower, 1A Central Road, Galle Face, Colombo 02 (hereinafter referred to as the ("**Trustees**") of the SECOND PART

The Managers and the Trustees shall hereinafter collectively be referred to as the "**Parties**" and individually as a "**Party**".

**WHEREAS** Guardian Acuity Asset Management Limited, a Company duly incorporated in the Democratic Socialist Republic of Sri Lanka, bearing company registration number PB4736 and having its registered office at No.61, Janadhipathi Mawatha, Colombo 01 ("**GAAM**"), have, under and by virtue of Deed of Trust dated 21<sup>st</sup> September 2011 ("**Principal Deed of Trust**"), established a UNIT TRUST called the "Guardian Acuity Equity Fund" ("**Unit Trust**") and appointed the Trustees as the original trustees of the said Unit Trust;

**AND WHEREAS** in the said Principal Deed of Trust, the Managers have been *inter alia* granted the right to modify and alter the provisions of the said Principal Deed of Trust;

**AND WHEREAS**, on the 31st day of March 2023, GAAM amalgamated with the Managers, under and in terms of Section 242 (1) of the Companies Act No.7 of 2007, with the remaining entity being the Managers (the "**Amalgamation**");

**AND WHEREAS**, subsequent to the said Amalgamation, the Parties are now desirous of (i) recording the change of name of the Managers of the Unit Trust; and (ii) changing the name of the Unit Trust to "CT CLSA Growth Equity Fund";

**AND WHEREAS**, the Parties hereto now wish to enter into this Addendum to the Principal Deed of Trust to record amendments thereto in light of the above.

**NOW THIS DEED OF TRUST WITNESSETH AND IT IS HEREBY DECLARED AS FOLLOWS:-**

1. *"Guardian Acuity Asset Management Limited" shall hereinafter be referred to as "CT CLSA Asset Management (Private) Limited", bearing company registration number PV 19841 and having its registered office at No. 4-15, Majestic City, 10, Station Road, Colombo 04;*
2. The words "Guardian Acuity Equity Fund" in recital one of the Principal Trust Deed shall be amended to read as *"CT CLSA Growth Equity Fund."*
3. The definition of the term "Managers" in existing Clause 1.1 (Definitions) of the Principal Trust Deed is hereby deleted in its entirety and replaced with the following:  
  
*"Managers" means CT CLSA Asset Management (Private) Limited or any other person for the time being duly appointed as managers of the Trust in succession to CT CLSA Asset Management (Private) Limited under the provisions of Clause 28."*
4. The definition of the term "Trust" or "Unit Trust" or "Fund" in existing Clause 1.1 (Definitions) of the Principal Trust Deed is hereby deleted in its entirety and replaced with the following:  
  
*"Trust" or "Unit Trust" or "Fund" means the unit trust constituted by this Trust Deed as modified or added from time to time with the approval of the Commission and called by the name "CT CLSA GROWTH EQUITY FUND" or such other name as the Trustees and the Managers may mutually agree upon from time to time."*
5. Any capitalized term used herein and not specifically defined herein shall have the same meaning ascribed thereto in the Principal Deed of Trust.
6. The amendments set out in this Addendum, and the provisions of this Addendum, shall come into force with effect from 31st March 2023.
7. The Parties acknowledge and agree that (i) the Managers name was changed in accordance with relevant laws and regulations of the Democratic Socialist republic of Sri Lanka; and (ii) the Certificate of Incorporation (pursuant to Section 8 (3) b of the Companies Act No. 7 of 2007) issued by the Department of Registrar of Companies has been received by the Parties, and that there is no need for the Parties to re-execute a deed of trust to reflect the change of name of the Managers; and (iii) the name of the Unit Trust was changed in accordance with the relevant laws and regulations of the Democratic Socialist Republic of Sri Lanka.
8. Except as otherwise expressly provided in this Addendum, all terms and conditions of the Principal Deed of Trust shall remain unchanged and in full force and effect.

9. This Addendum shall be supplemental to the Principal Deed of Trust and shall be read and construed in conjunction with the said Principal Deed of Trust which shall mutatis mutandis continue to be in full force and effect and be binding between the Parties hereto subject to the amendments and modifications hereby made.

*[Execution page to follow]*

IN WITNESS WHEREOF the Managers and the Trustees have caused their respective Common Seals to be affixed hereunto and to one other of the same tenor and date as these presents at the place and on the date in the beginning hereof set forth.

The Common Seal of the said  
CT CLSA ASSET MANAGEMENT (PRIVATE)  
LIMITED is hereunto affixed in  
the presence of  
and  
the Directors who do hereby  
attest the sealing thereof



Signed by Janath Ilangazileka  
And Prabath Samindra  
being the Authorised Signatories of  
DEUTSCHE BANK AG  
in the presence of

For and behalf of  
DEUTSCHE BANK AG.  
COLOMBO BRANCH  
[Signature] Attorney  
[Signature] Attorney  
29/5/2023