

Consolidated Establishment deed
for the Aspiring Fund

Aspiring Asset Management Limited
Manager

**The New Zealand Guardian Trust Company
Limited**
Supervisor

Date **17 September 2015**

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The **Deed** is made on 17 September 2015

Parties

- 1 **Aspiring Asset Management Limited ('Manager')**
- 2 **The New Zealand Guardian Trust Company Limited ('Supervisor')**

Background

- A The Manager and the Supervisor are parties to an amended and consolidated Master Trust Deed dated 15 November 2007 (the '**Trust Deed**') as amended by Deeds of Amendment dated 31 March 2009 and 9 September 2014, and an amended and consolidated Establishment Deed for the Aspiring Fund (the '**Existing Establishment Deed**') dated 23 September 2010.
- B Clause 33.1(b) of the Trust Deed provides that the Supervisor and the Manager may make an alteration, modification, variation or addition to the provisions of the Existing Establishment Deed if in the opinion of the Supervisor the change is necessary or desirable for the more convenient, economical or advantageous working, management or administration of any of the Funds or for safeguarding or enhancing the interests of any of the Funds or Unitholders and is not or not likely to become materially prejudicial to the general interests of all Unitholders of the relevant Funds.
- C The Manager and the Supervisor wish to amend the Existing Establishment Deed by substituting this Deed for the Existing Deed with effect from 18 September 2015 ('**Effective Date**') to:
- a reflect the requirements of the Financial Markets Conduct Act 2013 ('**Act**'), in order to allow the Fund to become registered as a managed investment scheme under the Act; and
 - b that the Supervisor and the Manager consider appropriate in connection with the Fund becoming registered as a managed investment scheme under the Act.
- D It is intended that the amendments recorded in this Deed will take effect immediately prior to the amendments to be made to the Trust Deed on the Effective Date.
- E The amendments recorded in this Deed have been approved by the Supervisor and it has confirmed that in its opinion the amendments are necessary or desirable for the more convenient, economical or advantageous working, management or administration of the Fund or for safeguarding or enhancing the interests of the Fund or Unitholders and is not or not likely to become materially prejudicial to the general interests of all Unitholders of the Fund.
- F Accordingly, the Supervisor and the Manager have agreed to enter into this Deed to amend and restate the Existing Establishment Deed.

It is agreed

In accordance with the powers of amendment contained in clause 33.1(b) of the Trust Deed it is declared that with effect from immediately prior to the amendments to be made to the Trust Deed on the Effective Date the Existing Establishment Deed is amended by substituting the provisions of the Existing Establishment Deed with all of the provisions of this Deed so that from the Effective Date the Fund will be administered in accordance with the provisions of this Deed.

1 Interpretation

1.1 Trust Deed Definitions

In this Deed all terms defined in the Trust Deed which are not separately defined in this Deed have the same meanings where used in this Deed.

1.2 Additional Definitions

'Adjusted Net Asset Value' means, subject to clause 1.4, the Net Asset Value adjusted by adding back any liability for the Manager's performance fees which have been deducted in calculating the Net Asset Value.

'Distribution Period' means a period of 6 months commencing on the day following a Distribution Date;

'Distribution Date' means the last day of September and March, or such other day which the Manager may determine by 1 month's written notice to the Unitholders.

'Entry Fee' means the fee of 0.5% of the Unitholder's application moneys payable by a Unitholder on the issue of Units.

'Exit Fee' means the fee of 0.5% of the Unitholder's aggregate Redemption Price payable by a Unitholder on the redemption of Units.

'Fund' means the unit trust fund governed by this Deed.

1.3 References to Trust Deed

References to the Trust Deed means the Trust Deed as from time to time amended or supplemented.

1.4 Frameworks or methodologies

Where FMA has published frameworks or methodologies that require certain matters to be calculated, determined, fixed, or carried out in a particular way, the Manager and the Supervisor (as applicable) shall comply with the requirements of those frameworks or methodologies. Any such frameworks or methodologies shall apply notwithstanding, and prevail over, anything to the contrary in this Deed and the provisions of this Deed shall be construed accordingly.

2 Creation of Fund

2.1 Establishment of Fund

Upon execution of this Deed, the continuation of the trusts created by the original Establishment Deed for the Fund and the original master trust deed in respect of the Fund is confirmed.

2.2 Name of the Fund

The Fund governed by this Deed is named the Aspiring Fund.

3 Authorised Investments

3.1 For the purposes of the Fund, **Authorised Investments** means any interest of any nature in any real or personal property of any nature whatsoever and includes derivatives or other treasury products and any right or option to acquire or take up any such interest.

4 Issue and Valuation Dates and Issue Price

4.1 Issue dates

Units may only be issued on, or with effect from, a Valuation Day. Units will be issued on the Valuation Day following receipt of application moneys or, if application moneys are received by 2pm on a Valuation Day, Units will be issued on that Valuation Day. If an application is received after 2pm on a Valuation Day, the application will be processed on the next Valuation Day. All application moneys will be held on trust for subscribers in the Applications Bank Account (as at the Effective Date called the 'NZGT Aspiring Applications' bank account) until the Units are issued. Any interest earned on application moneys pending issue of Units will be credited to the Manager to cover the costs of administering this bank account.

4.2 Valuation Days

The Valuation Day for the Fund is the last Business Day of each month.

4.3 Alternative Valuation Days

The Manager may value the Fund less frequently if, for reasons beyond the Manager's control, valuation is impossible on the day in question.

4.4 Issue Price

The Issue Price of Units calculated on each Valuation Day shall equal the Net Asset Value per Unit on that day.

4.5 Entry Fee

On the issue of Units, a Unitholder will pay an Entry Fee of 0.5% of the Unitholder's application moneys. This fee will be deducted from the Unitholder's application moneys and paid into the Fund. The Manager may in its sole discretion waive the Entry Fee from time to time, provided that if the waiver is exercised it must be applied in respect of all Unitholders which invest in the period.

4.6 **Number of Units issued**

The number of Units that a Unitholder will receive will be determined by dividing the Unitholder's application moneys, after deduction of the Entry Fee, by the Unit Price on the Valuation Day on which the Units are issued. Fractions of Units will be rounded up or down to two or more decimal places.

5 **Minimum investment and minimum transfers**

5.1 **Minimum Amount**

The minimum initial amount that can be invested in the Fund (if any) will be determined by the Manager and disclosed in the Offer Documents. The Manager may accept applications for amounts less than the minimum initial amount so disclosed.

5.2 **Minimum Transfer**

The minimum number of Units which can be transferred (if any) will be determined by the Manager and disclosed in the Offer Documents. The Manager may waive any such minimum requirement at its discretion.

6 **Distributions**

6.1 **Distributable Income**

On or before each Distribution Date, the Manager shall decide whether to make a Distribution on that date and if so how much that Distribution should be. No prior notice to Unitholders is required of the Manager's decision. The Manager is under no obligation to make a Distribution.

6.2 **Capital or income**

Distributions may be of capital and/or income as determined by the Manager.

6.3 **Distributions**

- a On each Distribution Date, the Manager shall calculate the Distribution (if any) per Unit by dividing the gross amount to be distributed on such Distribution Date by the number of Units on Issue.
- b Each Unitholder on the relevant Distribution Date shall receive the same Distribution per Unit irrespective of the period during which the Unitholder has held the relevant Units.

6.4 **Period for Distribution**

Following calculation of the Distribution per Unit pursuant to clause 6.3, the Distributions (if any) shall be distributed by the Manager as soon as practicable (but no later than 30 Business Days) after the Distribution Date together with a distribution statement.

7 Borrowing

- 7.1 The aggregate of the principal money borrowed and outstanding in respect of the Fund or secured against the investments of the Fund may not exceed 20% of the Gross Asset Value of the Fund.

8 Redemption of Units

8.1 Redemption dates

Subject to clauses 8.11 and 8.12 of the Trust Deed, Units will be redeemed with effect from the first Valuation Day which occurs following the day which is 30 days after the date on which the relevant Withdrawal Request is received by the Manager. If a Withdrawal Request is received after 5pm on any day, it will be deemed to have been received on the following Business Day. The Manager may in its sole discretion redeem Units with effect from an earlier Valuation Day.

8.2 Exit Fee

On the redemption of Units, a Unitholder will pay an Exit Fee of 0.5% of the Unitholder's aggregate Redemption Price. This fee will be deducted from the Unitholder's aggregate Redemption Price and paid into the Fund. The Manager may in its sole discretion waive the Exit Fee from time to time, provided that if the waiver is exercised it must be applied in respect of all Unitholders which exit in the period.

8.3 Payment of Redemption Price

The Redemption Price, less the Exit Fee, shall be paid within 7 Business Days of the relevant Valuation Day.

9 Fees

9.1 Application Fee

There shall be no Application Fee for the Fund.

9.2 Management Fee

The Manager shall be entitled to charge the Fund and retain for its own use a monthly management fee of 0.08333% of the Gross Asset Value of the Fund on the last Business Day of each month. The monthly management fee is payable by the Supervisor out of the Fund within 14 days of the end of each calendar month.

9.3 Administration Fee

The Manager shall be entitled to charge the Fund and pay to an administration manager employed by the Manager (or retain for its own use if the Manager provides administrative services), an annual administration fee of up to 0.09% per annum of the Gross Asset Value of the Fund, subject to minimum annual fees of \$25,000. The annual administration fee is payable monthly by the Supervisor out of the Fund within 14 days of the end of each calendar month.

9.4 Manager's Performance Fee

- a On each Valuation Day (the '**Relevant Valuation Day**'), the Manager shall be entitled to charge the Fund and retain for its own use a performance fee calculated as follows, subject to clause 1.4, but only where $EP > 0$:

$$F = EP \times PF$$

where

$$EP = (MV_1 + D) - HRV$$

where

$$HRV = (MV_0 \times (1 + HR)) + \sum CF_N \times (1 + HR_N)$$

and where:

F	=	The monthly performance fee, if any
EP	=	Excess performance
PF	=	10%
MV ₁	=	Net Asset Value on the Relevant Valuation Day before any accrual of the performance fee (if any) due on the Relevant Valuation Day.
MV ₀	=	Net Asset Value on High Water Mark Day
CF _N	=	Net amount of investors' application and redemption amounts during each period N (taking redemptions as a negative amount), calculated as if the net amount of applications (positive or negative) occurred on the first day of each period.
HR	=	The increase in the NZX 90 Day Bank Bill Index from the High Water Mark Day to the end of the Relevant Valuation Day adjusted for tax at the NZ corporate tax rate.
HR _N	=	The increase in the NZX 90 Day Bank Bill Index from the beginning of period N to the Relevant Valuation Day, adjusted for tax at the NZ corporate tax rate.
N	=	Each month (if more than one) during the Relevant Period, so that for example, if the Relevant Period is 4 months, there will be 4 periods of N
High Water Mark Day	=	The Valuation Day, prior to the Relevant Valuation Day, on which the Redemption Price of a Unit was last at its highest.
Relevant period	=	The period commencing on, but not including the High Water Mark Day and ending on, and including, the Relevant Valuation Day.
D	=	Distributions (excluding imputation credits) since the High Water Mark Day.

- b The Manager may change the method of calculating the performance fee by three months' prior notice to Unitholders, subject to no Unitholder being charged directly or indirectly any more than 10% of the Excess Performance attributable to that Unitholder's Units during a Relevant Period.

9.5 Supervisor's Fee

- a The Supervisor shall be paid a fee at the times and in the amounts agreed in writing by the Manager and the Supervisor but not exceeding 0.10% per annum of the Gross Asset Value of the Fund, subject to minimum annual fees for the period of \$20,000.
- b The Supervisor may also charge special fees in accordance with clause 23.2 of the Trust Deed for the services and in the amounts agreed in writing by the Manager and the Supervisor.

10 Trust Deed

- 10.1 Except as modified by the terms of this Deed, all the terms and conditions set out in the Trust Deed shall apply to the Fund.

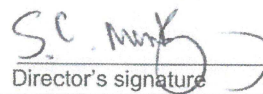
11 Counterparts

- 11.1 This Deed may be executed in two or more counterpart copies each of which will be deemed an original and all of which together with constitute one and the same instrument. A party may enter into this Deed by signing a counterpart copy and sending it to the other parties (including by email).

Execution

Executed as a Deed

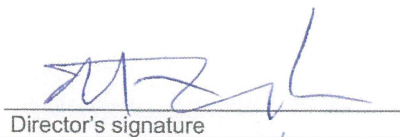
Signed for **Aspiring Asset Management Limited**
by two of its directors:



Director's signature

STEPHEN MONTGOMERY

Director's name

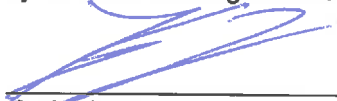


Director's signature

M. R. Doyle

Director's name

Signed for and on behalf of
The New Zealand Guardian Trust Company Limited
by its authorised signatories in the presence of:



Authorised signatory

HRVOJE KOPRIVCIC

Authorised signatory's name



Authorised signatory

MARK PATRICK JEPHSON

Authorised signatory's name

Witness to Authorised Signatories' signatures:

Witness signature



Full name

Simon Sharp

ACT 406

Occupation

Manager

Town/city

1/38 Wakea Rd, Torbay