

NOTICE OF ANNUAL MEETING



The 2011 Annual Meeting of unitholders of Argosy Property Trust will be held at the Newmarket Room, Ellerslie Event Centre, 80 Ascot Avenue, Greenlane, Auckland, on Tuesday 30 August 2011, commencing at 2.00pm.

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- ▶ This is an important document and requires your immediate attention. Please read it carefully.

If you are in doubt as to anything contained in this document, you should consult a person authorised to undertake trading activities by NZX or a financial or legal adviser.

Capitalised terms used in this document have the meaning in the glossary in Schedule 2.

CONTENTS

NOTICE OF MEETING	02
EXPLANATORY MEMORANDUM PART 1 / INTERNALISATION PROPOSAL	07
EXPLANATORY MEMORANDUM PART 2 / RESOLUTION REQUESTED BY UNITHOLDERS ON 8 JUNE 2011	15
EXPLANATORY MEMORANDUM PART 3 / RESOLUTIONS REQUESTED BY UNITHOLDERS ON 24 JUNE 2011	17
EXPLANATORY MEMORANDUM PART 4 / INCREASE IN DIRECTORS REMUNERATION AND ELECTION OF INDEPENDENT DIRECTOR	19
DIRECTORY	21
SCHEDULE 1 / TRUST DEED AMENDMENTS	22
SCHEDULE 2 / GLOSSARY	36
SCHEDULE 3 / INFORMATION REQUIRED BY CLAUSES 2 AND 13 OF SCHEDULE 4 OF THE SECURITIES REGULATIONS 2009	37
SCHEDULE 4 / NZX WAIVERS	39

NOTICE OF MEETING

NOTICE IS HEREBY GIVEN THAT THE 2011 ANNUAL MEETING OF ARGOSY PROPERTY TRUST UNITHOLDERS WILL BE HELD AT THE NEWMARKET ROOM, ELLERSLIE EVENT CENTRE, 80 ASCOT AVENUE, GREENLANE, AUCKLAND ON TUESDAY 30 AUGUST 2011, COMMENCING AT 2.00PM.

AGENDA

INTERNALISATION

RESOLUTION 1 / Approval of Internalisation

To consider and, if thought fit, pass the following as a resolution in accordance with section 18 of the Unit Trusts Act 1960:

That the Manager and the Trustee be authorised to do everything required to enter into and give effect to the transactions described in paragraph 1.14 in Part 1 of the explanatory memorandum, on such terms (not being inconsistent in any material respect with those so described) as the Trustee and the Manager consider appropriate. The Trustee is directed to do everything referred to in the preceding sentence, including without limitation to:

- a) pay to the Manager from the Trust Fund the sum of \$20 million (plus GST); and
- b) take all steps necessary to cause the Manager to cease to be manager of the Trust and Argosy Property No 5 Limited to be appointed as manager of the Trust; and
- c) enter into the amendments of the Trust Deed contemplated by Resolution 2; and
- d) without limiting (a), (b) and (c), enter into, and perform its obligations under, all documents which are necessary to give effect to those transactions.

RESOLUTION 2 / Amendments to Trust Deed to Effect Internalisation

To consider and, if thought fit, pass the following as an Extraordinary Resolution:

That pursuant to clause 30.1(c) of the Trust Deed, the Manager and the Trustee be authorised to make the amendments, additions and deletions to the Trust Deed shown in the revisions set out in Schedule 1 to this notice of meeting.

RESOLUTION 3 / Approval of Internalisation – Listing Rule 9.2

To consider and, if thought fit, pass the following resolution as an Ordinary Resolution:

That the transaction described in Resolution 1, including the payment referred to in paragraph (a) of Resolution 1, be approved for the purposes of Rule 9.2 of the NZSX Listing Rules (Transactions with Related Parties).

None of Resolutions 1, 2 or 3 shall take effect unless all of those Resolutions are passed.

Further information relating to Resolutions 1, 2 and 3 is set out in Part 1 of the explanatory memorandum.

RESOLUTION PROPOSED BY UNITHOLDERS ON 8 JUNE 2011

RESOLUTION 4 / Ordinary Resolution

To consider and if thought fit pass the following resolution as an Ordinary Resolution:

That:

- a) the Unit Holders (“**Unit Holders**”) of the Argosy Property Trust (“**Trust**”) record their view that it is in the interests of the Unit Holders that Argosy Property Management Limited cease to hold office as manager of the Trust; and
- b) the Unit Holders formally request that The New Zealand Guardian Trust Company Limited, as trustee of the Trust, consider as a matter of urgency whether it is appropriate to exercise its discretion (pursuant to clause 24.1(b) of the trust deed relating to the Trust) to certify that it is in the interests of the Unit Holders that Argosy Property Management Limited cease to hold office as manager of the Trust; and
- c) the Unit Holders request that the Trustee, when appointing any new temporary manager of the Trust in place of the Manager, consider requiring the new manager, as a condition of its appointment, to:
 - i) prepare a proposal for the management of the Trust to be undertaken internally, for consideration by the Unit Holders; and
 - ii) agree to assist and support the transition of the provision of management services to such person (including the Trust) that is approved by the Unit Holders.

Resolution 4 has been proposed by Accident Compensation Corporation, The Guardians of New Zealand Superannuation, Westpac Banking

Corporation and BT Private Selection, which held between them 9.57% of the units in the Trust as at 8 June 2011, being the date the resolution was proposed. The Trust Deed requires the Manager to put those resolutions to unitholders. An explanation of reasons for the resolution provided by those parties is set out in Part 2 of the explanatory memorandum. Comments by the directors of the Manager in respect of those resolutions are also set out in Part 2.

RESOLUTIONS PROPOSED BY UNITHOLDERS ON 24 JUNE 2011

RESOLUTION 5 / Amendment of the Trust Deed

To consider and if thought fit pass the following resolution as an Extraordinary Resolution:

“Pursuant to clause 30.1(c) of the Trust Deed, that the Unit Holders resolve to amend clause 28.3 of the Trust Deed by inserting the following subclause after subclause (b):

“(c) Notwithstanding clause 28.3(b) the resolutions passed at the meeting of Unit Holders at which this subclause (c) was inserted, which resolutions were also the subject of the same requisition by Unit Holders for a meeting, shall be binding on the Trustee and the Manager.””

RESOLUTION 6 / Evaluation of alternatives to the Argosy Internalisation Proposal

A. To consider and if thought fit pass the following resolution as an Extraordinary Resolution:

“That the Unit Holders request and, if Resolution 5 is passed, direct the Manager, acting through its nominated independent directors, being at the date of this resolution Peter Brook and Trevor Scott, to take all reasonable steps to engage co-operatively and (where necessary) negotiate in good faith with appropriate third parties who have provided, or who provide, credible Alternative Proposals (including preparation of documentation for those proposals), and co-operate and consult with the independent adviser appointed pursuant to Resolution 7 (if Resolution 7 is passed), in order to progress Alternative Proposals which have the potential to be in Unit Holders’ best interests (including the merger proposal which DNZ has publicly notified, and the proposal to terminate the Manager which Accident Compensation Corporation and others have publicly notified).”

B. Or, if not passed as an Extraordinary Resolution, to consider and if thought fit pass the above resolution as an Ordinary Resolution.

RESOLUTION 7 / Directions to the Trustee

A. To consider and if thought fit pass the following resolution as a Special Resolution:

“That the Unit Holders (to the extent lawful) direct, and otherwise request, the Trustee to immediately select and appoint an independent adviser (being a suitably qualified person who is not currently and who (for the avoidance of doubt) has not at any time been engaged in relation to the Argosy Internalisation Proposal) to:

- a) determine and prepare a written report to the Trustee and the Unit Holders on the merits of the Alternative Proposals which have the potential to be in Unit Holders’ best interests (including the merger proposal which DNZ has publicly notified, and the proposal to terminate the Manager which Accident Compensation Corporation and others have publicly notified), and the Argosy Internalisation Proposal, including comparative analysis of the merits of the proposals; and
- b) engage with the Manager, acting through its nominated independent directors, being at the date of this resolution Peter Brook and Trevor Scott, in relation to the findings of its report, with the costs of the independent adviser appointed by the Trustee in accordance with this resolution to be met by Argosy. And further that the Unit Holders request that the Trustee consider acting on any recommendations in the report to the extent that such action by the Trustee does not require a vote of Unit Holders.”

B. Or, if not passed as a Special Resolution, to consider and if thought fit pass the above resolution as an Ordinary Resolution.

RESOLUTION 8 / Directions to the Trustee

A. To consider and if thought fit pass the following resolution as a Special Resolution:

“That the Unit Holders (to the extent lawful) direct, and otherwise request, the Trustee to immediately select and appoint an independent adviser (being either, if Resolution 7 is passed,

the adviser appointed pursuant to Resolution 7, or, if Resolution 7 is not passed, a suitably qualified person who is not currently and who (for the avoidance of doubt) has not at any time been engaged in relation to the Argosy Internalisation Proposal) to determine and prepare a report to the Trustee and the Unit Holders (to be provided to the Trustee and the Unit Holders, if Resolution 7 is passed, at the same time as the report provided pursuant to Resolution 7) advising (a) whether it is in the interests of the Unit Holders that the Manager should cease to hold office as Manager of the Trust and (b) whether the Trustee should certify pursuant to section 19(2) of the Act that it is in the interests of the Unit Holders that the Manager should cease to hold office as Manager of the Trust.”

- B. Or, if not passed as a Special Resolution, to consider and if thought fit pass the above resolution as an Ordinary Resolution.

**RESOLUTION 9 /
Manager to refrain from calling a Unit Holder meeting to consider Argosy Internalisation Proposal without first engaging in relation to Alternative Proposals**

- A. To consider and if thought fit pass the following resolution as an Extraordinary Resolution:

“That the Unit Holders request and, if Resolution 5 is passed, direct the Manager, to refrain from convening a meeting of Unit Holders to consider the Argosy Internalisation Proposal until it can put before Unit Holders:

- a) full information in relation to the Argosy Internalisation Proposal and:
 - i) information third parties providing Alternative Proposals reasonably request be provided to Unit Holders; and
 - ii) if Resolution 6 is passed, details of the outcome of negotiations and the key terms of any agreed documentation; and
 - iii) if Resolution 7 is passed, the report of the independent adviser; and
- b) for their vote at the same meeting, to progress the Argosy Internalisation Proposal or to progress any such Alternative Proposals.”

- B. Or, if not passed as an Extraordinary Resolution, to consider and if thought fit pass the above resolution as an Ordinary Resolution.

**RESOLUTION 10 /
Release full details of exclusivity arrangements with OnePath (NZ) Limited and voting arrangements with any Unit Holders**

- A. To consider and if thought fit pass the following resolution as an Extraordinary Resolution:

“That the Unit Holders request and, if Resolution 5 is passed, direct the Manager to immediately disclose to Unit Holders and the Trustee:

- a) full details of the exclusivity arrangements which it has entered into with OnePath (NZ) Limited, or any affiliates of OnePath (NZ) Limited, in relation to the Argosy Internalisation Proposal; and
- b) full details of any voting Arrangement which the Manager or any Associated Person has entered into whether on a formal or an informal basis with any Unit Holder in relation to the Argosy Internalisation Proposal; and
- c) full copies of all arrangements relating to the management of Argosy or the management of its properties and all related management or other charges.”

- B. Or, if not passed as an Extraordinary Resolution, to consider and if thought fit pass the above resolution as an Ordinary Resolution.

DEFINITIONS /

The following definitions form part of Resolution 5 to 10

For the above purposes:

“**Alternative Proposals**” means proposals of other reasonably possible alternatives to the Argosy Internalisation Proposal, that have been presented to the Manager at the date of the Resolutions or that are subsequently presented to the Manager, including the merger proposal which DNZ has publicly notified;

“**Argosy**” means Argosy Property Trust;

“**Argosy Internalisation Proposal**” means the internalisation proposal currently being progressed by the Manager;

“**Arrangement**” means an agreement, arrangement, or understanding, whether express or implied, and whether or not legally enforceable;

“**Associated Person**” has the meaning given to that term in Listing Rule 1.8 of the NZSX/NZDX Listing Rules of NZX Limited;

“**DNZ**” means DNZ Property Fund Limited;

“**Extraordinary Resolution**” means a resolution passed at a meeting duly convened and held in accordance with the provisions of the Schedule of the Trust Deed and carried by a majority of not less than 75% of the persons entitled to vote and voting thereat (either personally or by representative) on a show of hands, or if a poll is duly demanded, by a majority consisting of not less than 75% of the votes given on such poll;

“**Manager**” means the manager of Argosy, Argosy Property Management Limited;

“**Ordinary Resolution**” means a resolution that is approved by a simple majority of the votes of those Unit Holders which are entitled to vote and do vote on the question;

“**Special Resolution**” means a resolution of Unit Holders pursuant to section 18 of the Unit Trusts Act 1960;

“**Trust Deed**” means the trust deed in respect of Argosy;

“**Trustee**” means the trustee of Argosy, The New Zealand Guardian Trust Limited; and

“Unit Holders” means holders of units in Argosy.

Resolutions 5 to 10 have been proposed by DNZ Property Fund Limited, Accident Compensation Corporation, Westpac Banking Corporation and BT Private Selection, Superlife Trustees Nominees Limited and Albany Power Centre Limited (in liquidation), which held between them 11.21% of the units of the Trust as at 24 June 2011, being the date the resolutions were proposed. The Trust Deed requires the Manager to put those resolutions to unitholders. Explanatory notes provided by those parties are set out in Part 3 of the explanatory memorandum. Comments by the directors of the Manager in respect of the resolutions and their legal effect are also set out in Part 3.

CHAIRMAN OF THE MANAGER AND GENERAL MANAGER PRESENTATIONS

DIRECTORS' REMUNERATION AND APPOINTMENT

To consider and, if thought fit, pass the following Ordinary Resolutions:

RESOLUTION 11 / Directors' Remuneration

To authorise, for the purpose of NZSX Listing Rule 3.5.1, an increase in the total amount of remuneration payable from the Trust Fund to Directors of the Manager in their capacities as such by \$248,000 per annum, from \$252,000 plus GST (if any) per annum to \$500,000 plus GST (if any) per annum, for which the Trustee and the Manager are entitled to be reimbursed out of the Trust Fund.

Further information relating to Resolution 11 is set out in Part 4 of the explanatory memorandum.

RESOLUTION 12 / Election of Independent Director

That either of Mr Trevor Scott or Mr Steven Blakeley be elected as an independent director of the Manager.

Further information relating to Resolution 12 is set out in Part 4 of the explanatory memorandum. Voting on the election of Mr Scott or Mr Blakeley will be conducted by way of a poll. The candidate who receives the most votes will be appointed by the shareholder of the Manager as an independent director.

By Order of the Manager



P Michael Smith
Chairman, Argosy Property Management Limited

NOTES

1. All unitholders are entitled to attend the meeting.
2. A unitholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of that unitholder. A proxy need not be a unitholder. A unitholder may appoint the Chairman of the meeting, or another person, to act as proxy. A proxy form is enclosed. **If the Chairman of the meeting is appointed to act as proxy and is not directed how to vote, he/she will vote in favour of Resolutions 1 to 3 and 11, against Resolutions 4 to 10 and in favour of the election of Mr Scott.** If a unitholder who is prohibited from voting in favour of Resolution 3 is appointed as proxy, that person will not be permitted to vote an undirected proxy given in their favour by any other unitholder in respect of Resolution 3.
3. A unitholder wishing to appoint a proxy should complete the enclosed proxy form. All joint holders must sign the proxy form.
4. A proxy granted by a company must be signed by a duly authorised officer or attorney who is acting under the company's express or implied authority.
5. If the proxy is signed under a power of attorney or other authority, that power of attorney or other authority or a certified copy of such power of attorney or authority (unless previously produced to the Trust) and a completed certificate of non-revocation, must accompany the proxy form.
6. Completed proxy forms must be received by the Registrar, Computershare Investor Services Limited at either Level 2, 159 Hurstmere Road, Takapuna, Auckland or Private Bag 92119, Auckland 1142, or corporateactions@computershare.co.nz or facsimile +64 9 488 8787, by no later than 2.00pm on 28 August 2011 (being 48 hours before the meeting).
7. This notice of meeting has been approved by NZX Limited in accordance with NZSX Listing Rule 6.1.1.
8. The view of NZX Limited is that the internalisation proposal constitutes a transaction governed by Rule 9.2 of the NZSX Listing Rules, which deals with transactions with Related Parties. On that basis, an ordinary resolution approving the proposal is contained in Resolution 3. The voting restrictions in respect of that resolution are dealt with in paragraph 16 below.
9. A glossary of capitalised terms used in this notice of meeting is contained in Schedule 2.
10. Every unitholder, or that unitholder's proxy or representative, is entitled to attend the meeting and vote. On a poll, each unitholder has one vote for each unit. Other than as noted in paragraphs 16 and 17 below, there are no unitholders precluded from voting.
11. If you are attending the meeting and voting in more than one capacity (eg also as proxy, attorney or representative for one or more other unitholders) you must fill out separate voting papers in respect of each capacity in which you vote.

VOTING REQUIREMENTS

12. In order for a resolution to be passed in accordance with section 18 of the Act, it must be approved by the holders of 75 percent or more of units who are entitled to vote and vote on the resolution, in person or by proxy, and who hold 25 percent or more of the value of all the interests in the Trust held by unitholders.
13. In order for an Extraordinary Resolution to be passed, it must be approved by 75 percent or more of the votes of unitholders who are entitled to vote and vote on the resolution, in person or by proxy.
14. In order for an Ordinary Resolution to be passed, it must be approved by a simple majority of the votes of unitholders who are entitled to vote and vote on the resolution, in person or by proxy.
15. Resolutions 1, 7 and 8 are proposed as resolutions to be passed under section 18 of the Act. Resolutions 2, 5, 6, 9 and 10 are proposed as Extraordinary Resolutions. Resolutions 3, 4 and 11 are proposed as Ordinary Resolutions. Note, however, that Resolutions 6, 7, 8, 9 and 10 have been proposed on the basis that if they are not passed as Extraordinary Resolutions or resolutions under section 18 (as the case may be) they may be passed as Ordinary Resolutions. Voting on the election of Mr Scott or Mr Blakeley (Resolution 12) will be conducted by a way of a poll. The candidate who receives the most votes will be appointed by the shareholder of the Manager as an independent director.
16. The Manager, OnePath and Associated Persons of both are prohibited by the NZSX Listing Rules from voting in favour of Resolution 3. NZX has granted waivers which authorise MFL Mutual Fund Limited ("MFL"), and the Independent Directors and their Associated Persons, to vote as they see fit in respect of that resolution. The conditions subject to which the waivers have been granted are set out in Schedule 4.
17. Directors, or their Associated Persons, who hold units in the Trust are prohibited from voting on Resolution 11 in accordance with NZSX Listing Rule 9.3.1.

ATTENDANCE AND VOTING RIGHTS

PART 1

EXPLANATORY MEMORANDUM

THIS PART DEALS WITH THE INTERNALISATION PROPOSAL DEVELOPED AND NEGOTIATED BY THE INDEPENDENT DIRECTORS. THAT PROPOSAL IS DEALT WITH BY RESOLUTIONS 1, 2 AND 3.

1. INTERNALISATION PROPOSAL

PRINCIPAL FEATURES

- Payment to the current Argosy Manager (wholly owned by ANZ) for the relinquishment of its management arrangements
 - Manager ceases to hold office, provides transition facilities and supports the appointment of a new manager
 - Trust deed amended to eliminate manager's remuneration (Base and Incentive fee) components
 - New manager operates on cost recovery basis only - no profits to be earned or incentives paid
 - All directors of the new manager appointed at the direction of unitholders
 - New manager cannot be sold without unitholder approval
 - Cost savings and enhanced financial returns to unitholders
- 1.1 The internalisation proposal, if approved, will fundamentally change the financial, management and governance arrangements relating to the Trust's management structure.
 - 1.2 As unitholders will be aware, in October 2010, ANZ National Bank Limited ("ANZ") the ultimate shareholder of the Trust's manager, Argosy Property Management Limited (the "Manager"), advised the Manager that it had received expressions of interest from third parties indicating a desire to acquire the management rights of ANZ's property management business, including the right to manage the Trust. This is in an environment where shareholders, and unitholders, of externally managed vehicles generally, have expressed a preference for the internalisation of their management structures.
 - 1.3 Internalisation, in this context, generally refers to the transfer of management functions from a third party owned manager to a management team employed directly by the entity concerned, and

accountable to a board of directors which is itself accountable to, and appointed by, shareholders or unitholders, as the case may be. External management models exist both in respect of company and unit trust structures. The proposal to which the accompanying notice of meeting relates achieves the same financial, management and governance outcomes as internalisation, while maintaining the separate management entity structure required by the Unit Trusts Act 1960 (the "Act"), and on this basis is referred to in these materials as "internalisation".

- 1.4 Earlier this year, the independent directors of the Manager (Trevor Scott and Peter Brook) formed an independent committee in response to the announcement from ANZ, to evaluate the terms on which an internalisation proposal might be developed, for the benefit of unitholders.
- 1.5 The Independent Directors of the Manager have conditionally agreed with ANZ to internalise the rights to manage the Trust. This part of the explanatory memorandum provides background information to the proposal, outlines the terms of the agreement and the basis for the recommendation by the independent directors that the proposal be approved by unitholders.

WHY INTERNALISE?

- 1.6 The Act (the legislation under which the Trust, and unit trusts generally, are constituted and governed) provides for separation between the manager and the trustee. In practice, this separation requirement has seen the development of externally managed trusts where the manager is owned by a third party, with management fees payable to that manager on the basis recorded in the trust deed.
- 1.7 The management fee structures generally have enabled managers to operate profitably, and with a profit making motive. In addition, directors of the manager have generally been appointees of the manager's shareholders, not exclusively the appointees of unitholders. There have been suggestions that, as a consequence of this approach and as a result of the fee structures and profit motive, the interests of the manager (and its shareholders) may at times diverge from the interests of unitholders.
- 1.8 The relatively secure income stream to which a manager is entitled under the trust deed also results in the management company having value.

This value can be captured by its shareholders (and not unitholders of the trust) through dividends and selling their shareholdings. Typically, trust deeds have not contained any restriction on the ability of shareholders of the manager to sell their shareholdings, resulting in changes of ownership of a manager in which unitholders have had little or no say.

- 1.9 This model has resulted in management capability, institutional knowledge, and systems and processes being developed by an entity which is not ultimately owned or controlled by unitholders.
- 1.10 These factors have caused a trend toward internalised management both in New Zealand and abroad, with the perception that having management services provided “in-house” better aligns the interests of unitholders with those of the manager and as such will maximise unitholder returns. In addition to cost saving, another benefit of internalised management in this case is improved corporate governance, with unitholders having the ability to direct the appointment of all directors of the new manager under the proposal being put forward by the independent directors. Internalising management has further benefits for unitholders as it makes a takeover easier and more likely as potential acquirers do not need to consider management arrangements when launching an offer.

IS INTERNALISATION THE SAME AS CORPORATISATION?

- 1.11 A number of unit trusts which have proceeded down the internalisation path have done so through changing their fundamental nature from a unit trust to a company. Proposals combining an internalisation with a corporatisation are relatively complex, costly, and time consuming to implement.
- 1.12 The proposal to which this notice of meeting relates, does not involve a corporatisation of the Trust, nor does it impact on the current capital structure of the Trust. However, it does not preclude a corporatisation in the future, should unitholders, or the directors of the new manager, determine that a corporatised model is preferable. The independent directors will evaluate the merits of proceeding with a corporatisation of the Trust, should the internalisation proposal be approved. Corporatisation would require unitholder approval.
- 1.13 The proposal presented will have substantially the same financial and alignment outcomes for unitholders as a corporatisation:
- a) enhanced governance rights for unitholders, with appointment and removal rights in respect of all directors of the new manager and ability to direct the transfer of shares in the new manager vesting in unitholders;

- b) orderly transfer of staff, information systems and banking arrangements;
- c) management incentivised to operate in an efficient manner, rather than in a manner which maximises returns to a third party external manager,

and the proposal is able to be implemented more quickly and cost effectively. The independent directors of the Manager will, however, give favourable consideration to corporatisation in the near future.

THE PROPOSAL

- 1.14 The proposal before unitholders involves the following key elements:
- a) A number of amendments to the existing Trust Deed, the principal effect of which is to remove the remuneration (base fee and incentive fee) entitlements of the Manager and its compensation rights if removed from office following implementation of the proposal. On implementation of these changes, the Manager will operate on a cost recovery basis only. A number of other consequential changes to the Trust Deed are required. These are described in paragraph 1.29 and set out in full in Schedule 1.
 - b) The Manager receives payment of the sum of \$20 million (plus GST) out of the Trust Fund, payable on the date the transaction is implemented, in consideration for it agreeing to the termination of its management rights by way of variations to the Trust Deed, relinquishing its entitlement to the ongoing fee entitlements, the termination of all management arrangements (including property management agreements between OnePath and the Trust) and the transfer of assets associated with the management of the Trust. That payment is apportioned as to \$22,256 (plus GST) for a transfer of assets and \$19,977,744 (plus GST) for the termination of its management rights.
 - c) The Manager retains its existing rights to any incentive fee for the quarter ending 30 September 2011, if and to the extent that the Manager would qualify for this under the Trust Deed as it currently stands. That fee may be affected by movements in the price of units after the Manager has ceased to hold office. It will be pro rated to reflect the proportion of the quarter ending 30 September 2011 for which the Manager holds office.
 - d) A new manager is appointed, the shares in which are owned by a Shareholding Trustee, (Public Trust has agreed to assume this role), separate from the existing Trustee, The New Zealand Guardian Trust Company Limited.
 - e) On termination, the Manager will transfer its systems and records to the new manager.

Existing employees engaged exclusively in the management of the Trust (including general manager Mr Peter Mence) will (subject to their agreement) also transfer to the employment of the new manager. The Manager will provide some transitional services and assistance to the new manager for a period of up to nine months after appointment of the new manager.

- f) Initially all the existing directors of the Manager will be the directors of the new manager. The directors of the Manager are satisfied that on their appointment to the board of the new manager, all except The Rt. Hon. Philip Burdon, will be independent in terms of the NZSX Listing Rules. The Rt. Hon. Philip Burdon is a director of MFL Mutual Fund Limited which holds 22.25% of the units in the Trust. All the directors of the new manager will be subject to appointment and removal at the direction of unitholders. There will also be provision for annual rotation of directors, consistent with an NZSX listed company model.
- g) The new manager will operate on a cost recovery basis only. The directors of the new manager intend to regularly benchmark the operating costs of the new manager against other industry participants to ensure it is operating in as cost efficient a manner as practicable. Under the terms of the revised trust deed, the new manager will have the responsibility of approving such costs. The Trustee will not have responsibility to verify or approve those costs.
- h) The shares in the new manager, held by the Shareholding Trustee, will be held on trust with the beneficiary of that trust being a charity selected by the board of the new manager (the “**Beneficiary**”). The Shareholding Trustee will act on the direction of the Trust’s unitholders with regard to the appointment and removal of directors, and on any voting or dealing in the shares in the new manager. Should the new manager make any profits then, to the extent these are not used to defray its future operating costs, these moneys will be paid to the Beneficiary. The intent is that, as the new manager is to operate on a cost recovery basis only, profits will not be made by the new manager. The Shareholding Trustee will be paid a fee by the Trust for performing its role, and will be reimbursed for expenses out of the Trust Fund, and indemnified by the Trust Fund. Further details are set out in paragraph 1.34.
- i) The payment of \$19,977,744 above will constitute a complete settlement of any present or future claims of the Manager against the Trust Fund, and vice versa, except that the Manager will retain its

current right under the Trust Deed to be indemnified out of the Trust Fund for any claims arising in respect of the period up to completion of the proposal. None of the directors of the Manager, or the Trustee are aware of the existence of any such claims. The indemnity does not extend to circumstances where the Manager has failed to show the required levels of care and diligence. The Manager will also be released from all liability in respect of the Trust, other than for fraudulent acts of the Manager, such that the Trustee retains its rights under the Trust Deed against the Manager in respect of any fraudulent acts of the Manager in the period up to implementation of the proposal.

- j) The new manager will be a “sole purpose company” the objectives of which will be restricted to the management of the Trust, and ancillary activities.
 - k) The Trust will fund the payments described in paragraph 1.14(b) above through the use of debt and future property sales. The Manager has negotiated an amended banking facility with an updated loan to value ratio of 50% for the period to 30 June 2012. It is the Manager’s objective to maintain its gearing at less than 40% of property assets over the medium term.
 - l) The new manager is required by the Act to provide a bond in favour of the Crown of \$40,000. The new manager will arrange for that bond to be provided by a bank. The fee charged by that bank for providing the bond will be recovered by the new manager from the Trust Fund.
- 1.15 The non-recurring costs of implementing the proposal are estimated to be \$1.279 million (including relocation costs of approximately \$75,000). In addition to these costs, pursuant to an amendment of the facility agreement that the Trust has with its banking syndicate (see paragraph 1.19(c) below) an additional \$562,500 will become owing by the Trust to the banking syndicate upon internalisation of management. All of these costs have been taken into account in the Grant Samuel Report. Under the Trust Deed, they are recoverable out of the Trust Fund.

AGREEMENT WITH ONEPATH

- 1.16 On 14 July 2011, a Transaction Implementation Deed was signed by OnePath, the Manager, the proposed New Manager, the Independent Directors and Argosy Property No. 4 Limited, under which the parties agreed to proceed with the steps required to implement the proposal. The Trustee has not executed that deed, but will do so if the proposal is approved by unitholders, and as a result the Trustee receives a direction from unitholders to so proceed.

1.17 The Transaction Implementation Deed is conditional on a number of matters, including unitholder approval and the approval of the Trust's financiers. The parties are in the process of seeking the approval of the Trust's financiers. This approval may or may not be obtained, and may be granted subject to conditions. The Transaction Implementation Deed may be terminated if the conditions are not fulfilled with the result that, even if the internalisation proposal is approved by unitholders, implementation of the internalisation proposal may not occur. In addition, if the approval of financiers is subject to conditions and the conditions are material, the Trustee may seek the directions of the Court or further directions from unitholders, even if unitholders approve the internalisation proposal. Each of OnePath and the Manager (acting through the Independent Directors) has the right to terminate the Transaction Implementation Deed if the Independent Directors consider that any other proposal relating to the Trust or the management of the Trust is a superior proposal.

1.18 The Transaction Implementation Deed deals principally with transaction logistics, people, premises and asset transfer arrangements, communications and transition arrangements.

UNITHOLDERS RIGHTS TO REMOVE THE MANAGER

1.19 The Trust Deed includes provision (in accordance with the requirements of the Act) for unitholders, by resolution under section 18 of the Act, to remove the Manager and appoint a replacement manager. In this circumstance, the Trust Deed provides that the Manager is entitled to a compensation payment calculated in accordance with the relevant provision in the Trust Deed, which in the present case would amount to approximately \$21.3 million if the resolution were passed before 30 September 2011, reducing to approximately \$11 million if the resolution were passed after 30 September 2011. The variation is due to an additional fee payment on termination for available excesses at previous quarter end under the incentive fee formulation in the Trust Deed. The amount of available excesses varies from quarter to quarter resulting in significant variations in the compensation payment that would be payable on removal depending on when the resolution to remove is passed. Removal of the Manager is an option available to unitholders and has been taken into account in negotiating the transaction price with ANZ. However, the Independent Directors have not recommended that unitholders proceed in this manner. A resolution to remove the Manager would be disruptive and would in their view be likely to impact value. In particular:

- a) all management staff are employees of the Manager, meaning if the Manager is removed

there is no management structure in place and the institutional knowledge and tenant relationships of those staff may be lost;

- b) the systems and information technology relating to the operation of the Trust are owned by the Manager and would not transfer to the replacement manager;
- c) the Trust's banking facilities are provided by a syndicate consisting of ANZ (which provides 62.5% of those facilities), Bank of New Zealand (which provides 25%) and HSBC (which provides 12.5%). It is possible that the removal of the Manager following a "section 18" resolution of unitholders could result in an event of default under the Trust's banking facilities and/or that the new manager would need to renegotiate its banking facilities. It is possible that the removal of the Manager by unitholder vote may influence the manner in which the banking syndicate viewed the Trust's credit profile;
- d) on removal of the Manager, the unitholders would initially have no say on the appointment of a temporary manager by the Trustee, such appointment to be subsequently ratified at a unitholder meeting;
- e) on removal of the Manager, the replacement manager would be subject to the existing fee structure (including both the base and incentive elements) contained in the Trust Deed and the majority of the board would be appointed by the shareholder of that replacement manager; and
- f) a change in control of the replacement manager or a potential sale of the management contract, each without the requirement for unitholder approval, may remain a prospect.

1.20 Further, with a removal of this nature unitholders and the Trust would not derive the benefits of the smooth transition and cooperation arrangements which have been agreed with ANZ. If a resolution to remove the Manager is passed, the Manager is removed immediately and must desist from all activities relating to the Trust.

1.21 These rights of removal and replacement (but not the provision for a compensation payment) will continue to apply in unitholders favour, in respect of the new manager under the proposed internalisation model.

TRUSTEE'S POWER TO REMOVE THE MANAGER

1.22 The Trust Deed provides that the Manager ceases to hold office if the Trustee certifies pursuant to section 19(2) of the Act that it is in the interest of unitholders that the Manager should cease to hold office. If the Manager were removed in that manner, the issues in paragraph 1.19(a) to 1.19(f) would be applicable, but the compensation

payment referred to in paragraph 1.19 would not be payable. A resolution which invites the Trustee to consider whether it is appropriate to exercise this power has been proposed by unitholders and is Resolution 4 in the notice of meeting. Comments by the directors of the Manager in respect of that Resolution are set out in paragraph 2 of Part 2 of this explanatory memorandum.

UNITHOLDER APPROVAL REQUIRED

1.23 The internalisation proposal to which Resolutions 1, 2 and 3 relate requires amendments to the Trust Deed. Accordingly, an extraordinary resolution of unitholders is required to approve the proposal, being 75% of those unitholders entitled to vote and voting at the meeting. The Trustee requires that the resolution include a direction by unitholders under section 18 of the Act. This means that in terms of section 18 of the Act, the unitholders who vote in favour of the resolution are required to hold not less than 25% of all units of the Trust. In addition, as explained in Note 8 of the notes to the notice of meeting, an ordinary resolution, requiring a 50% majority, is required by the NZSX Listing Rules. That resolution is subject to the voting restrictions described in Note 16 of those notes.

FINANCING THE TRANSACTION - ANTICIPATED FINANCIAL BENEFITS TO UNITHOLDERS

1.24 The Trust's banking syndicate (which comprises ANZ National Bank, BNZ and HSBC) has agreed to increase the Trust's permitted loan to value ratio from 45% of total assets to 50% for the period to 30 June 2012. This will enable the transaction to be financed with additional borrowings of \$21.8 million by the Trust. The Manager continues to target a ratio of interest bearing debt to total assets over the longer term of less than 40%. Additional facility fees and interest expense have been taken into account in the estimates set out in the following paragraph.

1.25 As a result of the transaction, the Trust's normalised gross distributable earnings per unit is expected to increase by approximately 8.1% from 6.2 cents to 6.7 cents, reflecting the following key assumptions:

- a) reduction in operational costs of approximately \$3.8 million, reflecting the difference in the base fee paid to the Manager of approximately \$5.5 million, a notional performance fee paid to the Manager (for the period from 1 April 2011 to 30 June 2011) of approximately \$0.5 million, directors' fees of \$0.3 million, property management fees of \$1.4 million and removal of time-in-attendance fees of approximately \$0.2 million, compared to the underlying costs of \$4.1 million to run the Trust following the transaction;
- b) assumed tax benefit of \$6.2 million, resulting from a deduction on the transaction purchase price and associated internalisation expenses,

with the tax benefit for the purpose of this calculation allocated against the purchase price (in respect of taxation, see paragraphs 1.26 and 1.27); and

- c) additional financing costs on the net transaction cost of approximately \$0.6 million, based on tax deductibility of the acquisition price, associated transaction costs and tax benefit, and assuming that all marginal income from management fee savings is applied to a reduction of the Trust's interest-bearing debt.

In addition, the Manager expects future earnings growth to be at a higher rate than anticipated under external management, principally through a further reduction in costs.

TAXATION POSITION

1.26 The Manager has received advice (including from a leading tax barrister) that the payment of \$19,977,744 to be made by the Trust should be deductible for tax purposes by the Trust. The payment of \$22,256 for the transfer of assets will not be deductible. A binding ruling is being sought from the Inland Revenue Department to confirm that the payment of \$19,977,744 will be deductible. If that ruling is not obtained (so that that payment is not deductible for tax purposes by the Trust) the transaction will nevertheless proceed.

1.27 The benefit of any unutilised tax losses could be lost if changes of ownership of units in the Trust took place to the extent that tax losses were no longer able to be carried forward by the Trust.

1.28 While the circumstances of each unitholder will differ, the internalisation proposal is not expected to have any adverse taxation implications for unitholders. The proposal will not impact on the current capital structure of the Trust.

AMENDMENTS TO TRUST DEED

1.29 The amendments to the Trust Deed which unitholders are being asked to approve are described below, and are set out in full in Schedule 1:

- a) deletion of the provisions relating to the remuneration of the Manager and the insertion of provisions whereby the new manager shall not be entitled, in respect of its services, to any fee in the nature of remuneration but shall be entitled to reimbursement and indemnification in accordance with the provisions of the Trust Deed;
- b) deletion of the provisions under which the Manager is entitled to receive a payment on cessation of office;
- c) clarification of the reimbursement of expenses provisions contained in the Trust Deed to provide that all costs, charges, disbursements

and expenses incurred by the Manager in performing its functions of and incidental to the management of the Trust are reimbursable out of the Trust Fund;

- d) unitholders are given the right, by means of an Ordinary Resolution, to direct the shareholder of the new manager as to the individuals in respect of whom the shareholder of the new manager shall exercise its right to appoint and remove as directors under the constitution of the new manager;
 - e) unitholders are given the right, by means of an Extraordinary Resolution, to direct the shareholder of the new manager (including as to terms) to dispose of all or any of the shares in the new manager or to vote its shares in the new manager;
 - f) the Trustee is authorised to pay the apportioned incentive fee referred to in paragraph 1.14(c); and
 - g) other minor variations of a consequential nature.
- 1.30 In addition to the amendments referred to in paragraph 1.29, the Trust Deed is to be amended to update certain figures to reflect the current position under the NZSX Listing Rules.
- 1.31 A consolidated copy of the Trust Deed incorporating all the amendments proposed can be obtained from the Manager upon request by a unitholder at no charge or viewed at www.argosypropertytrust.co.nz.
- 1.32 In accordance with clause 30.1(c) of the Trust Deed, if Resolution 2 is passed, the Manager and the Trustee will execute a deed of variation to effect the approved amendments to the Trust Deed. A copy of that deed will be registered with the Registrar of Companies and made publicly available on the Companies Office website at www.business.govt.nz/companies under the name of the Trust.
- 1.33 The amendments to the Trust Deed which are proposed by Resolution 2 have been approved by NZX Limited in accordance with NZSX Listing Rule 6.1.1.

TERMS ON WHICH THE PUBLIC TRUST WILL HOLD THE SHARE IN THE NEW MANAGER

- 1.34 The Public Trust will hold the share in the new manager on the following principal terms:
- a) Public Trust will hold the share in the new manager on trust for a charity selected by the board of the new manager (the “Beneficiary”).
 - b) All profits, gains and benefits received by Public Trust in respect of the share in the new

manager will be paid to the Beneficiary. The intent is that, as the new manager is to operate on a cost recovery basis only, profits will not be made by the new manager.

- c) Public Trust will appoint and remove all directors of the new manager, and approve the remuneration of directors, in accordance with directions from unitholders given at a meeting of unitholders (by ordinary resolution). Director nomination rights and rotation provisions will be consistent with the standard NZSX Listing Rule provisions.
- d) Public Trust will deal with and vote (except in respect of procedural or administrative matters) its share in the new manager in accordance with directions from unitholders given at a meeting of unitholders (by extraordinary resolution). Unitholders may also by extraordinary resolution direct the Public Trust to dispose of the share in the new manager.
- e) Public Trust has the right to be paid a fee of \$15,000 per annum (plus GST) together with an hourly charge based on hours spent in fulfilling its obligations. This remuneration may be increased by agreement between Public Trust and the new manager. In addition, Public Trust is entitled to be reimbursed for other expenses incurred in the course of performing its services (eg legal fees, work of an unusual or onerous nature, costs of attending unitholder meetings).
- f) Public Trust is also entitled to be indemnified by the new manager (which is in turn indemnified out of the Trust Fund) in respect of any liability arising out of any action taken in connection with its obligations.
- g) Public Trust’s appointment will terminate on the transfer of the share in the new manager to another shareholder following a direction from unitholders. Public Trust may retire at any time by giving 90 days’ written notice to the new manager and any retirement will only take effect on the appointment of a new shareholder of the new manager. Any replacement shareholder must be an entity licensed under the Securities Trustees and Statutory Supervisors Act 2011.
- h) Under the Trust Deed (once it is amended) the new manager will be responsible for approving all amounts payable from the Trust Fund to Public Trust or a replacement shareholder.

A copy of the deed recording the terms on which Public Trust will hold the share in the new manager can be obtained from the Manager upon request by a unitholder at no charge or viewed at www.argosypropertytrust.co.nz.

SECURITIES ACT 1978 EXEMPTION

- 1.35 Due to the various elements of the proposal, including the proposed amendments to the Trust Deed, the internalisation proposal involves a variation of the terms and conditions of the units of the Trust (a “security” under the Securities Act 1978).
- 1.36 The Securities Act (Renewals and Variations) Exemption Notice 2002 (the “Notice”) exempts variations of existing securities from the prospectus and investment statement requirements contained in the Securities Act. However, the Notice does not apply if the variation changes the issuer of the existing security. In the case of the Trust, the issuer is the Manager. The internalisation proposal includes the termination of the Manager’s rights to manage the Trust and the appointment of a new manager – hence there is a change of issuer and the Notice does not apply.
- 1.37 The Independent Directors applied to the Securities Commission (now the Financial Markets Authority) for an exemption from the prospectus and investment statement requirements of the Securities Act on the same basis as the Notice, except that the exclusion from the Notice of a situation where there is a change of issuer will not apply.
- 1.38 The Financial Markets Authority granted the Securities Act (Argosy Property Trust) Exemption Notice 2011 on 3 August 2011 subject to the inclusion in this notice of meeting of certain information in relation to the proposed variation, the new manager and its directors. The required information is included in this notice of meeting. Set out in Schedule 3 is the information which would be required to be provided in a prospectus relating to an offer of units in the Trust by clauses 2 and 13 of Schedule 4 of the Securities Regulations 2009.

TIMETABLE

- 1.39 If unitholder approval of the proposal is obtained, it is intended that settlement of the transactions required to implement the proposal will occur in mid September 2011.

LITIGATION AND DISPUTES

- 1.40 As at 20 working days before the date of this notice of meeting the Manager was not aware of any litigation or disputes which are material to unitholders’ decision whether to approve the internalisation proposal referred to in Resolutions 1, 2 and 3.

RECOMMENDATION

- 1.41 **THE INDEPENDENT DIRECTORS BELIEVE THAT THE PROPOSAL WILL BE OF BENEFIT TO ALL UNITHOLDERS, AND ACCORDINGLY RECOMMEND THAT UNITHOLDERS VOTE IN FAVOUR OF THE PROPOSAL. THE INDEPENDENT DIRECTORS WILL VOTE UNITS HELD IN THEIR CONTROL IN FAVOUR OF THE PROPOSAL.**

2. APPROACH BY DNZ PROPERTY FUND LIMITED

- 2.1 On 11 May 2011, DNZ notified NZX of its desire to take over the Trust, and in doing so provide an alternative to the internalisation strategy described above. The Manager has met with representatives of DNZ, considered the proposal from DNZ, and taken advice on that proposal from financial and tax advisers.
- 2.2 The Manager’s view is that at this time a takeover by DNZ is unlikely to be in unitholder interests. However, an initiative of that nature may be considered in the future. The principal reasons for the Manager’s view are:
- a) At an appropriate exchange ratio, a takeover of the Trust by DNZ may have benefits to unitholders in the form of earnings and value accretion, synergy, scale, size, liquidity, the avoidance of some minor internalisation costs (however, those costs are not expected to be significant), and the potential use of DNZ’s corporate structure.
 - b) However, the Manager sees no urgency in progressing discussions with DNZ at this stage, as the internalisation proposal described above will allow unitholders to keep 100% of the costs savings achieved from internalisation, rather than being shared, as originally proposed by DNZ.
 - c) The Manager does not accept that in the case of a takeover, the exchange ratio should necessarily be based on net tangible assets of the Trust and DNZ, as originally suggested by DNZ because:
 - i) units in the Trust are trading at a smaller discount to net tangible assets than DNZ, which indicates that DNZ has more to gain from a net tangible asset based exchange ratio;
 - ii) based on closing market prices on 15 July 2011, the Trust’s consensus forecast FY2012 net yield was 6.9% as against DNZ’s consensus forecast 2012 net yield of 6.4% (Iress);

- iii) the Manager's view, supported by consensus estimates, is that the Trust will have higher future earnings per unit growth than DNZ, and a net tangible asset base merger allows DNZ to capture some of that growth;
 - iv) the Trust has a lower risk property portfolio, with a longer weighted average lease term and higher property yields than DNZ. DNZ has a higher proportion of its property portfolio in more volatile regional markets.
- d) The Manager also believes that any takeover should take the best parts of both entities, and not be focussed, as DNZ proposes, on DNZ taking over the Trust. The Trust is a larger entity than DNZ. The Manager believes that the Trust could manage a combined Trust/DNZ portfolio more cost effectively than DNZ currently manages its own portfolio.
- e) Any takeover by DNZ may see the forfeiture of tax losses, and the incurrence of transaction costs, significantly reducing overall transaction economics, particularly in the first year.
- 2.3 It is of course open to DNZ at any time (whether before or after an internalisation proposal has been effected), to put a proper formal takeover proposal to unitholders for consideration. Despite making a number of public announcements, DNZ has chosen not to do that.
- 2.4 Unitholders should also take into account the comments in respect of the DNZ proposal in the Grant Samuel Report.

PART 2

THIS PART DEALS WITH THE RESOLUTION REQUESTED BY UNITHOLDERS ON 8 JUNE 2011. THIS IS RESOLUTION 4.

1. Resolution 4 has been included at the request of Accident Compensation Corporation, The Guardians of New Zealand Superannuation, Westpac Banking Corporation, and BT Private Selection as unitholders. Comments by the Board in respect of the Resolution are set out in paragraph 2. An explanation of reasons for the resolution provided by the unitholders which requested it is set out in paragraph 3.

2. COMMENTS BY THE DIRECTORS OF THE MANAGER

In the Manager's view, unitholders should consider the following issues in respect of Resolution 4:

a) If Resolution 4 is passed, that will not necessarily result in the removal of the Manager from office. That is a matter which is entirely at the discretion of the Trustee. Whether or not the Trustee would remove the Manager if Resolution 4 is passed will depend on the Trustee's views of its duties under the Act and the Trust Deed. The Grant Samuel Report states:

"Grant Samuel is not aware of any instance where a Trustee in similar circumstances has exercised its discretion under section 19(2) of the Unit Trusts Act and believes that the Trustee may find it difficult to form the opinion that termination is in the interests of unitholders".

The Trustee has provided its views on this matter in the Trustee's Letter.

b) The explanation provided by these unitholders in paragraph 3 below assumes that the amount to be paid to the Manager upon internalisation will be \$32.5 million. As recorded elsewhere in this explanatory memorandum, that amount will be \$20 million.

c) The explanation refers to the property management agreement between the Trust and OnePath which will remain in force until October 2012. The property management agreement allows the property manager, OnePath, to charge a management fee based on market rates which shall not be greater than 4% of gross income actually received

from each property, including annual rental, parking charges and naming and signage rights fees. There is also provision for a leasing fee charged on a "time in attendance" basis for new leases and renewals.

- d) It is possible that if the Manager was removed by unitholder vote the new manager would need to renegotiate its banking facilities (see paragraph 1.19(c) of Part 1). It is possible that the removal of the Manager by unitholder vote may influence the manner in which the banking syndicate viewed the Trust's credit profile.
- e) Unitholders should also have regard to the comments in respect of the proposal dealt with by Resolution 4 in the Grant Samuel Report.

3. EXPLANATION OF REASONS PROVIDED BY UNITHOLDERS FOR ORDINARY RESOLUTION

"On 19 April 2011, Argosy Property Trust ("**Argosy**") announced a proposal to internalise the management of Argosy. Further details of the proposal were released on 16 May 2011. Key elements of the proposal include:

- a) a payment of \$32.5 million to the current manager of Argosy, Argosy Property Management Limited ("**Manager**"); and
- b) the Manager agreeing to retire its position as manager of Argosy and support the appointment of a new manager.

A subsequent letter from the independent directors of the Manager argues that the key benefits of the proposal include placing control of Argosy in the hands of unit holders of Argosy ("**Unit Holders**") and delivering on-going cost savings to Unit Holders.

The proposal states that OnePath (the owner of the Manager and a subsidiary of the ANZ Banking Group) has accepted that it is likely to be in the best interests of the Unit Holders to internalise the management of Argosy.

Accident Compensation Corporation, the Guardians of New Zealand Superannuation, and BT Funds Management (collectively "we") strongly oppose the proposal that Argosy pay OnePath/ANZ \$32.5 million to cancel the current management arrangements, as we consider this to be far too high a price. We agree with OnePath's view that internal management would be preferable to a continuation of the current management arrangements, but seek

to achieve this same outcome without an inappropriate \$32.5 million payment to OnePath.

We are proposing a resolution which seeks to:

- a) record the Unit Holders' view that it is in the interests of the Unit Holders that the Manager cease to hold office as Manager of Argosy;
- b) formally request that The New Zealand Guardian Trust Company Limited (the "**Trustee**"), as trustee of Argosy, consider as a matter of urgency whether it is appropriate to exercise its discretion contained in clause 24.1(b) of Argosy's trust deed ("**Trust Deed**") to certify the same; and
- c) request that the Trustee, when appointing any new temporary manager, consider requiring that they prepare a proposal for the internalisation of Argosy's management, and agree to assist and support the transition of the provision of management services to such person (including Argosy) that is approved by the Unit Holders.

If the resolution is passed, the Trustee will not be bound to exercise such discretion, although it will be appropriate for the Trustee to take account of the views of Unit Holders. If the Trustee does exercise such discretion, the Manager will cease to hold office as manager of the Trust. Where the Manager ceases to hold office in this manner, the Trust Deed does not require Argosy to pay any termination fees to the Manager.

OnePath is essentially asking Unit Holders to pay it \$32.5 million in order to ensure that in the future Argosy will be managed in the best interests of Unit Holders. Unit Holders should not have to pay \$32.5 million to achieve this outcome, because it is already a fundamental right of Unit Holders to have Argosy managed in their best interests. This is supported by the Unit Trusts Act, which requires that the manager cease office if the Trustee certifies that it is in the interest of unit holders for the manager to do so.

The proposal that Argosy pay \$32.5 million to terminate the current management arrangements represents an implicit admission that it is in the best interest of Unit Holders for the Manager to cease to hold office. For this reason, we are asking other Unit Holders to endorse our view that it would be the interest of Unit Holders that the Manager cease to hold office, before any consideration is given to paying \$32.5 million to OnePath. Unit Holders need not pay \$32.5 million for a right that is already theirs.

There is some risk of disruption involved with the Manager ceasing to hold office as a result of the Trustee's certification. This risk should not be overstated. The removal of the Manager means that it will no longer make high level decisions on buying or selling properties and treasury management for the Trust. Given the disappointing performance of Argosy since listing,

we believe that there would be no significant harm to Unit Holders if the Manager ceasing to hold office results in a "rest period" during which the bare minimum of such decisions are made.

It is important to appreciate that the provision of property management services to Argosy (such as collecting rent, leasing vacant space, organising maintenance & repairs) is provided for under a property management agreement that does not expire until 2013. This means that the day to day management of Argosy's properties will continue even if Argosy Property Management ceases to act as manager of Argosy.

If the Manager is removed, the Trustee will likely appoint a temporary manager. Paragraph (c) of our resolution requests that the Trustee consider requiring that the temporary manager prepare a proposal for the management of Argosy to be undertaken internally. Our expectation is that this would include forming and staffing a management company whose directors are appointed by Unit Holders and whose shares are beneficially owned by Unit Holders.

In summary, Unit Holders deserve better. Unit Holders already have a fundamental right to have Argosy managed in their best interests, and Argosy should not therefore have to pay \$32.5 million to the ANZ Banking Group in order to crystallise this right. We consider that the proposal that \$32.5 million of Argosy's funds be paid to the Manager indicates that Argosy is not currently being managed in the best interest of Unit Holders, and it is therefore important that the Manager cease to hold office as manager of Argosy.

By voting in favour of our resolution, Unit Holders can communicate to the Trustee their view that it is in their interest as a Unit Holder that the Manager cease to hold office and that they do not support the payment of \$32.5 million of Argosy's funds to the ANZ Banking Group."

PART 3

THIS PART DEALS WITH THE RESOLUTIONS REQUESTED BY UNITHOLDERS ON 24 JUNE 2011. THESE ARE RESOLUTIONS 5 TO 10.

1. These resolutions have been included at the request of DNZ Property Fund Limited, Accident Compensation Corporation, Westpac Banking Corporation & BT Private Selection, Superlife Trustees Nominees Limited and Albany Power Centre Limited (in Liquidation). Comments by the Board in respect of those resolutions are set out in paragraph 2. Explanatory notes provided by the unitholders which requested those resolutions are set out in paragraph 3.

2. COMMENTS BY THE DIRECTORS OF THE MANAGER

EFFECT OF THE RESOLUTIONS

It is important that unitholders understand the effect of Resolutions 5 to 10, and the approach which the Manager and the Trustee would adopt if they are passed. That is summarised below.

Resolution 5: This would, if passed, resolve to amend the Trust Deed to render Resolutions 6 to 10, if those resolutions, in turn, are passed, binding on the Manager and the Trustee. However, under the Trust Deed, an amendment to the Trust Deed is made only if the Manager and the Trustee so agree. The Manager is of the view that Resolutions 6 to 10 are misconceived, and would not be prepared to agree to an amendment to the Trust Deed to render those resolutions binding if passed. The Trustee has provided its views in the Trustee's Letter. On that basis, Resolution 5, if passed, will have no effect.

Resolutions 6, 9 and 10: These resolutions are proposed initially as Extraordinary Resolutions. However, the Trust Deed allows for only certain things to be done by Extraordinary Resolution, and the subject matter of these resolutions is not amongst those things. In addition, these resolutions (whether passed as Extraordinary Resolutions or Ordinary Resolutions) cannot "direct" the Manager. There is no provision in the Act or the Trust Deed for a resolution of unitholders to direct the Manager. Insofar as these resolutions request the Manager to act in a certain way, the Manager would have regard to them if they are passed. However, the Manager has already considered alternatives to the internalisation proposal. These are dealt with in this explanatory memorandum (see paragraphs 1.19 to 1.22, and

paragraph 2, of Part 1) and in the Grant Samuel Report. The Manager will also continue to consider and deal with any other reasonable proposals that are made in respect of the Trust, its ownership or management.

Resolutions 7 and 8: These resolutions propose directions to the Trustee. If these resolutions are passed by the majority required by section 18 of the Act (that is by the holders of 75% or more of the units who are entitled to vote and vote on the resolution, in person or by proxy, and who hold not less than 25% or more of the value of all of the interests in the Trust held by unitholders) they will be directions to the Trustee for the purposes of that section. The Act provides that the Trustee may comply with any such direction, and shall not be liable for anything done or omitted by the Trustee by reason of following that direction, and also that if the Trustee is of the opinion that a direction conflicts with the trusts or any rule of law or is otherwise objectionable, the Trustee may apply to the High Court for directions in the matter. The Trustee has provided its views in the Trustee's Letter.

For all of the above reasons, the Independent Directors do not consider that Resolutions 5 to 10 have any merit.

3. EXPLANATORY NOTES PROVIDED BY UNITHOLDERS

"On 17 May 2011, in a NZX announcement and media release, Argosy acknowledged receipt of a written proposal from DNZ and stated that "the Independent Directors [of the Manager] are focused on achieving the best value enhancing options to Argosy Unit Holders. First NZ Capital and Harmos Horton Lusk continue to assist in the process of evaluating the internalisation proposal, the DNZ approach and any other proposals...The Independent Directors wish to carefully evaluate the potential of any merger and, in particular, how the properties owned by DNZ could be integrated into a combined portfolio, tax, gearing, distribution and other relevant matters."

Notwithstanding this statement, the Manager (through the Independent Directors) remains focussed on continuing to pursue the Argosy Internalisation Proposal and do not appear to be prepared to constructively engage with other parties to properly consider and evaluate alternative proposals.

The purpose of Resolution [5] is to amend the Trust Deed to ensure that any other resolutions

which are passed at the same meeting as Resolution [5] and which are the subject of a requisition by Unit Holders for a meeting are binding on the Trustee and the Manager.

The purpose of Resolution [6] is to require the Manager to give due consideration to any alternatives to the Argosy Internalisation Proposal, including the DNZ proposal, that have the potential to be in Unit Holders' best interests. If passed, the resolution will be binding on the Manager and it will be required to take all reasonable steps to engage co-operatively and (where necessary) negotiate in good faith with appropriate third parties who have provided, or who provide, credible Alternative Proposals, and co-operative and consult with the independent adviser appointed pursuant to Resolution [7] (if Resolution [7] is passed), in order to progress Alternative Proposals which have the potential to be in Unit Holders' best interests (including the merger proposal which DNZ has publicly notified).

The purpose of Resolution [7] is to (to the extent lawful) direct, and otherwise request, the Trustee to appoint an independent adviser to:

- a) report back to the Trustee and Unit Holders on the merits of any alternatives to the Argosy Internalisation Proposal, including the DNZ proposal, that have the potential to be in Unit Holders' best interests; and
- b) engage with the Manager in relation to the findings of its report on the merits of the alternatives to the Argosy Internalisation Proposal.

The purpose of Resolution [8] is to (to the extent lawful) direct, and otherwise request, the Trustee to appoint an independent adviser to report back to the Trustee and Unit Holders on:

- a) whether it is in the interests of the Unit Holders that the Manager should cease to hold office as Manager of the Trust; and
- b) whether the Trustee should certify pursuant to section 19(2) of the Act that it is in the interests of Unit Holders that the Manager should cease to hold office as Manager of the Trust.

The purpose of Resolution [9] is to request and (if Resolution [5] is passed) direct the Manager, to refrain from convening a meeting of Unit Holders to consider the Argosy Internalisation Proposal until it can put before Unit Holders:

- a) full information in relation to the Argosy Internalisation Proposal and any Alternative Proposals which have the potential to be in the Unit Holders' best interests, including the DNZ merger proposal including, without limitation, if Resolution [7] is passed, the report of the independent adviser; and
- b) for their vote, the Argosy Internalisation Proposal and all such Alternative Proposals.

The purpose of Resolution [10] is to request and (if Resolution [5] is passed) direct the Manager to disclose to the Trustee and the Unit Holders details of:

- a) the exclusivity arrangements with OnePath in relation to the Argosy Internalisation Proposal; and
- b) any voting arrangement which the Manager or any of its associates has entered into with any Unit Holder in relation to the Argosy Internalisation Proposal; and
- c) full copies of all arrangements relating to the management of Argosy."

PART 4

THIS PART DEALS WITH THE RESOLUTIONS TO INCREASE DIRECTORS' REMUNERATION AND ELECT AN INDEPENDENT DIRECTOR. THESE ARE RESOLUTIONS 11 AND 12.

1. DIRECTORS' REMUNERATION (RESOLUTION 11)

- 1.1 In accordance with clause 31.3(m) of the Trust Deed and Rule 3.5.1 of the NZSX Listing Rules, any increase in the maximum aggregate fees payable to directors of the manager, for which the manager is entitled to be reimbursed out of the Trust Fund, is subject to unitholder approval.
- 1.2 To date, the pool of directors' fees has been subsidised by OnePath, with OnePath contributing \$57,500 per annum from its own resources to the total annual pool of \$310,000, in each case plus applicable GST. This has resulted in an underpayment of the actual director costs by the Trust.
- 1.3 Directors have been paid at the annual rate of \$57,500 each, with the Chairman receiving \$80,000 per annum, in each case plus applicable GST. There is an Audit and Risk Committee which meets quarterly, and in respect of which additional directors' fees are not paid. If internalisation is approved, an additional board committee, a Remuneration Committee, will be appointed to deal with the remuneration of the employees of the new manager. This function is currently not necessary as all employees of the Manager are employees of OnePath.
- 1.4 It is proposed to increase the sum available for payment of directors' fees to a maximum of \$500,000 plus GST (if any) per annum. This represents an increase of \$248,000 from the amount currently authorised by the Trust Deed, and includes a pool of \$100,000 per annum, plus GST (if any) to provide for flexibility for additional remuneration to be awarded to directors who assume additional responsibilities in connection with the internalisation proposal described in this notice of meeting, and additional extraordinary, one-off project work from time to time beyond the scope of typical board work. Unused portions of the pool in any year will not be carried forward to future years. OnePath currently contributes \$57,500 to the payment of directors' fees. If the internalisation proposal proceeds this amount will no longer be contributed by OnePath. However, there is no certainty that the contribution will continue to be provided by OnePath, even if internalisation does not proceed.
- 1.5 If the resolution is passed, it is proposed that the Chairman's remuneration will increase to \$120,000 per annum and other directors to \$62,500 per annum, in each case plus GST (if any). It is also intended that fees be paid to board committee chairs and members for committee attendances at the rate of \$10,000 per annum for the Chairman of the Audit Committee and \$5,000 per annum for members, and \$5,000 per annum for the Chairman of the Remuneration Committee and \$2,500 per annum for members, in each case plus GST (if any).
- 1.6 The maximum aggregate fees payable to directors of the manager were last increased at the 2005 annual meeting of the Trust, and prior to that had not been increased since the Trust was established in 2002.
- 1.7 Since the last increases in 2005, the Trust's operations have expanded and the property portfolio has increased from a value of \$804.9 million to a value of \$960.6 million as at 31 March 2011.
- 1.8 The directors have assumed additional responsibilities in connection with specific transactions, including the internalisation proposal, and other duties not normally expected from directors in the ordinary course.
- 1.9 Advice has been sought from Moyle Remuneration Consulting, independent remuneration information specialists, who have confirmed that they support the proposals and that in their view the proposed increase in directors' fees is appropriate.
- 1.10 Directors, or their Associated Persons, who hold units in the Trust are restricted from voting on this resolution in accordance with NZSX Listing Rule 9.3.1.
- 1.11 If the internalisation proposal referred to in Resolutions 1, 2 and 3 proceeds, the directors of the new manager will be entitled to be paid the same amounts as the directors of the Manager are currently paid (plus any increase authorised under Resolution 11, if passed).

2. ELECTION OF INDEPENDENT DIRECTOR (RESOLUTION 12)

2.1 Under the existing structure of the Trust, the Manager may have two independent directors nominated by unitholders. The two existing independent directors are Mr Peter Brook and Mr Trevor Scott. Mr Scott retires at this annual meeting and is eligible for reappointment.

2.2 A unitholder has nominated for election as an independent director Mr Steven Blakeley. As there is only one vacancy for an independent director, voting will be by way of a poll, and the candidate who receives the most votes will be appointed as independent director. Brief profiles of each candidate are set out below:

TREVOR DONALD SCOTT

Mr Scott is a Wanaka-based company director and Chairman of Arthur Barnett Limited, Mercy Hospital Dunedin Limited, Roslyn Mill Storage Limited, Whitestone Cheese Limited, Ashburton Guardian Limited and Harraway and Sons Limited. In addition, Mr Scott is a member of the Advisory Board of Marsh NZ Limited and a director of Neuron Pharmaceuticals Limited and several other private companies. Mr Scott has been a director of the Manager since the establishment of the Trust in 2002. He was inducted into the New Zealand Business Hall of Fame in 2007.

STEVEN DAVID BLAKELEY

The following information has been provided by Mr Blakeley.

Steven has twenty five years experience in investment banking, commercial & residential property, and more recently in the dairy and viticulture sectors. Steven's most significant governance role at present is as a non-executive director of Synlait Limited. Steven has been involved with Synlait since 2003 when it was a 25-30% cornerstone investor in four separate dairy farms which all supplied the Fonterra Co-operative. In the last eight years the business, based in Mid-Canterbury, has grown to a position where the company currently farms 14,000 cows on 4,400 hectares. Thirteen Synlait owned farms combined, are now the largest milk supplier and 49% shareholder with its Chinese partner, Bright Dairy & Food in Synlait Milk. Synlait Milk is an independent milk processor, currently building capacity to double output in the next two years and budgeting for \$400m in export sales revenue for the 2011/12 season, just its fourth season in operation. Steven is married with three young boys and lives in Queenstown. He enjoys snowboarding, mountain-biking and has a keen interest in contemporary art and architecture.

2.3 If the internalisation proposal referred to in Resolutions 1, 2 and 3 proceeds, the people who are directors of the Manager after the election has taken place will become directors of the new manager.

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MANAGER

ARGOSY PROPERTY MANAGEMENT LIMITED

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www.argosy.co.nz

DIRECTORS OF THE MANAGER

Philip Michael Smith, Auckland
Andrew Hardwick Evans, Auckland
Peter Clynton Brook, Auckland
Hon. Philip Ralph Burdon, Christchurch
Trevor Donald Scott, Wanaka

NEW MANAGER

ARGOSY PROPERTY NO. 5 LIMITED

Harmos Horton Lusk Limited
Vero Centre
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Auckland 1140

DIRECTORS OF THE NEW MANAGER

PETER CLYNTON BROOK

6 Rota Place
Parnell, Auckland

TREVOR DONALD SCOTT

557 Mt Barker Road
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THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED

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SCHEDULE 1

TRUST DEED AMENDMENTS

Set out in the table below are all the amendments to the Trust Deed that unitholders are being asked to approve. Additions to the Trust Deed appear as underlined text – for example ““Annual Meeting” means ...”. Deletions from the Trust Deed appear with a line through the text – for example “~~“Base Fee” means ...~~”. Where clause numbers have changed as a result of the amendments, corresponding changes to cross references have been made throughout.

TRUST DEED CLAUSE REFERENCE	AMENDMENT
Cover page	ARGOSY PROPERTY MANAGEMENT ARGOSY PROPERTY NO. 5 LIMITED AMENDED AND RESTATED AS AT 1 OCTOBER 2010 [] 2011
Clause 1.1	<p><u>“Annual Meeting”</u> means an annual meeting of Unit Holders convened in accordance with clause 28.2(a).</p> <hr/> <p>“Base Fee” means the fee calculated in accordance with clause 23.3.</p> <hr/> <p><u>“Director”</u> means a director of the Manager.</p> <hr/> <p><u>“Financial Year”</u> in relation to the Trust means the period of twelve months ending on 31 March in each year, provided that the first financial year of the Trust shall be deemed to be the period which commenced on 30 October 2002 and ended on 31 March 2003 and the last financial year of the Trust shall be deemed to be the period commencing on 1 April immediately preceding the date of termination of the Trust and ending on the date of termination of the Trust.</p> <hr/> <p>“Incentive Fee” means the fee calculated in accordance with clauses 23.4 to 23.6.</p> <hr/> <p><u>“Manager”</u> means the Manager for the time being of the Trust.</p> <hr/> <p><u>“Management Agreement”</u> means the management agreement between the Manager and Paramount Property Management Limited dated 30 October 2002, in relation to the provision of property management and related services to the Trust, together with the deed of assignment dated 1 September 2003 whereby Paramount Property Management Limited assigned its rights and obligations to ING (NZ) Limited.</p> <hr/> <p><u>“NZX”</u> means New Zealand Exchange NZX Limited and includes its successors and assigns and as the context permits includes any duly authorised delegate of NZX (including NZX Discipline Markets Disciplinary Tribunal).</p> <hr/> <p><u>“Ordinary Resolution”</u> means (subject to Listing Rule 1.1.7 1.6.8) a resolution that is approved by a simple majority of the Votes of those holders of Securities of the Trust which carry Votes, are entitled to vote and do vote on the question.</p> <hr/> <p><u>“Shareholder”</u> means the shareholder(s) for the time being of the Manager.</p> <hr/> <p><u>“Shareholding Deed”</u> means the deed or other document made between the Manager and the Shareholder recording (amongst other things) the terms on which the share(s) in the Manager are held by the Shareholder.</p>

TRUST DEED CLAUSE REFERENCE	AMENDMENT
<p>Clause 1.5</p>	<p>Manager: Upon Implementation (as defined in a Transaction Implementation Deed dated 14 July 2011 to which the Manager, the Trustee and others are party):</p> <p>(a) <u>Argosy Property Management Limited shall cease to be manager of the Trust; and</u></p> <p>(b) <u>the Manager shall become manager of the Trust for all purposes of the Act and this deed.</u></p>
<p>Clause 8.2</p>	<p>Financial assistance: The Manager may cause the Trust to give financial assistance of the nature referred to in clause 8.1 if:</p> <p>(a) the financial assistance is not given in whole or in part to the Manager, the Trustee, or any Director of the Manager or the Trustee or any Associated Person of the Manager, the Trustee or any Director of the Manager or the Trustee, or any Employee of the Manager or of the Trustee and the amount of the financial assistance, together with the amount of all other financial assistance given by the Trust under this sub-clause (a) during the period of 12 months preceding the date of the giving of the financial assistance does not exceed <u>105%</u> of Unit Holders' Funds; or</p> <p>(b) the financial assistance is offered or given so that all holders of Equity Securities are treated, or given the opportunity to be treated, on the same basis; or</p> <p>(c) the financial assistance is given to Employees of the Manager and:</p> <p>(i) the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph (c) by the Manager during the shorter of the period of 12 months preceding the date of giving of the financial assistance, and the period from the date on which the Trust was Listed to the date of giving of the financial assistance, does not exceed <u>25%</u> of Unit Holders' Funds; and</p> <p>(ii) the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph (c) during the shorter of the period of five years preceding the date of giving of the financial assistance and the period from the date on which the Trust was Listed to the date of giving of the financial assistance, does not exceed <u>510%</u> of the Unit Holders' Funds; and</p> <p>(iii) the financial assistance is not given to any Director of the Manager or Associated Person of a Director. Financial assistance given to a Director or an Associated Person of a Director solely in that person's capacity as a trustee of a bona fide employee Security scheme, superannuation scheme, or the like, in which that Director or Associated Person has no beneficial interest, shall be deemed not to be financial assistance given to a Director or Associated Person of a Director.</p>
<p>Clause 10.5</p>	<p>Proposed investment or divestment: Where any investment, purchase, sale, transfer, exchange, lease, alteration of or other dealing with any of the assets of the Trust ("Transaction") is proposed by the Manager, the Manager shall not commit to the same (except in a form which is conditional on the matters</p>

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

referred to in this section 10) where the investment, purchase, sale, transfer, exchange, lease, alteration or other dealing:

- (a) relates to real estate or securities (as defined in the Securities Act 1978) or similar interests in any Person, the value of which exceeds, in each separate instance, an amount equivalent to 1% of the Unit Holders' Funds (or such other percentage as the Manager and Trustee may agree in writing); or
- (b) relates to a lease of real estate in respect of which either the annual rental exceeds an amount equivalent to 4% of the aggregate gross rental income of the Trust (or such other percentage as the Manager and Trustee may agree in writing) or any rent review period exceeds three years; or
- (c) relates to capital expenditure which exceeds, in each separate instance, an amount equivalent to 1% of the Unit Holders' Funds (or such other percentage as the Manager and Trustee may agree in writing); or
- (d) is otherwise of a capital nature, the value of which exceeds, in each separate instance, an amount equivalent to 1% of the Unit Holders' Funds (or such other percentage as the Manager and Trustee may agree in writing),

unless the Manager shall have first prepared and delivered a submission to the Trustee and received the Trustee's acceptance of the submission or the Transaction is approved by Unit Holders by Extraordinary Resolution. The Manager's submission shall contain a description of the proposal and the cost or estimated cost of the proposal, and where reasonably required by the Trustee (having regard to the nature of the proposed Transaction) shall include a Qualified Adviser's report on the proposed Transaction.

Clause 10.12

Registration of Investments: Any Investments shall as soon as reasonably practicable after receipt of the necessary documents by the Trustee be registered (if registrable in nature) in the name of the Trustee or any ~~company person~~ person nominated by it pursuant to clause 3.3, and be held in safe custody by the Trustee or by some person selected by the Trustee in accordance with clause ~~32.6(g)~~ 31.4(g), and shall remain so registered and held until the same shall be sold or disposed of pursuant to the provisions of this deed.

Clause 11.8

Distributions to holders of Securities outside New Zealand: Notwithstanding any other provision of this deed, the Manager may pay such supplementary distributions to holders of Securities resident outside New Zealand as may be provided for by Part ~~EE LP~~ of the Income Tax Act ~~1994~~ 2007 and as may be agreed by the Manager and the Trustee as being fair and equitable.

Clause 21.1

Remuneration of Trustee: The Trustee shall be paid out of the Trust Fund in respect of its services a fee, agreed from time to time between the Trustee and the Manager, but not exceeding 0.075% per annum of the Gross Value of the Trust Fund provided that in any Financial Year the minimum fee paid to the Trustee in respect of the Trust shall be \$20,000, unless such Financial Year consists of a period of less than twelve months, in which event the minimum fee shall be that proportion of \$20,000 which equates to the proportion which the actual number of months in that Financial Year bears to twelve. The Trustee shall be entitled to receive, in addition to such fee, any value added tax or duty or similar tax or duty payable in respect of such fee. For the purposes of this clause 21.1 ~~and clause 23.8~~, "value added tax" shall include, but not be limited to, goods and services tax as that term is defined in the Goods and Services Tax Act 1985.

Clause 23.1

Remuneration of Manager: The Manager shall not be entitled, in respect of its services, to a fee ~~comprising the aggregate of any fee in the nature of~~

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

remuneration, but shall be entitled to reimbursement and indemnification in accordance with clause 32 and the other applicable provisions of this deed.:

- (a) the Base Fee (calculated in accordance with clause 23.3); and
- (b) the Incentive Fee (calculated in accordance with clauses 23.4 to 23.6).

Clause 23.2

Payment: The Base Fee shall be paid in Cash out of the Trust Fund monthly in arrears. The Base Fee shall be calculated by reference to the average of the Gross Value of the Trust Fund during the relevant preceding month (which average shall be determined from day to day or in such other manner as the Manager and the Trustee may agree) by the 10th day of the month following the relevant month. The Incentive Fee shall be calculated and paid in Cash out of the Trust Fund quarterly in arrears (in respect of the quarters ending March, June, September and December) by the 10th day of the month following the relevant quarter.

Clause 23.3

Calculation of Base Fee: Subject to clause 23.7, the Base Fee shall be calculated as follows:

- (a) for the period from the 30 October 2002 to 30 October 2003, 0.3% per annum of the average of the Gross Value of the Trust Fund;
- (b) for the period commencing on 31 October 2003 and ending on 30 October 2004, 0.5% per annum of the average of the Gross Value of the Trust Fund; and
- (c) from 31 October 2004, 0.6% per annum of the average of the Gross Value of the Trust Fund.

Clause 23.4

Incentive Fee: Subject to any adjustment in accordance with clauses 23.6 or 23.7, the Incentive Fee is calculated as follows:

- (a) If Unit Holders' Returns in the relevant quarter are less than or equal to the 10% Threshold, the Incentive Fee shall be \$0 and any Deficit shall be applied in the manner specified in clause 23.6.
- (b) If Unit Holders' Returns in the relevant quarter are greater than the 10% Threshold but less than or equal to the 15% Cap, the Incentive Fee is 10% of the amount by which Unit Holders' Returns are greater than the 10% Threshold multiplied by the average number of Units on issue during the relevant quarterly period.
- (c) If Unit Holders' Returns in the relevant quarter are greater than the 15% Cap, the Incentive Fee is 10% of the amount by which Unit Holders' Returns exceed the 10% Threshold, up to and including the 15% Cap, multiplied by the average number of Units on issue during the relevant quarterly period, and the Excess shall be applied in the manner specified in clause 23.6.

For the purposes of this clause 23.4 and clause 23.6:

- (d) **"10% Threshold"** means, in respect of any quarter, an amount calculated at the rate of 10% per annum on the opening Unit price for that quarter (calculated in accordance with clause 23.4(j)) and expressed as a monetary amount.
- (e) **"15% Cap"** means, in respect of any quarter, an amount calculated at the rate of 15% per annum on the opening Unit price for that quarter (calculated in accordance with clause 23.4(j)) and expressed as a monetary amount.
- (f) **"Deficit"** means, where Unit Holders' Returns for the relevant quarterly period are less than the 10% Threshold, the difference, expressed as a monetary amount, between the 10% Threshold and the actual Unit Holders' Returns for that quarterly period.

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

- (g) **“Excess”** means, where Unit Holders’ Returns for the relevant quarterly period are greater than the 15% Cap, the difference, expressed as a monetary amount, between the Unit Holders’ Returns in the relevant quarterly period and the 15% Cap.
- (h) **“Unit Holders’ Returns”** means, in the relevant quarter, the pre-tax profit per Unit (excluding unrealized revaluation movements in the Trust’s Investments) plus or minus (as the case may be) the change in Unit price of the Units of the Trust over the relevant quarter (calculated in accordance with clause 23.4(j)) and plus or minus any Deficit or Excess applied pursuant to clause 23.6.
- (i) For the purposes of the calculation of the change in the Unit price referred to in sub-clause (h), the opening Unit price for the first quarter in respect of which the Incentive Fee is to be calculated shall be \$1.00.
- (j) For the purposes of calculating the opening price of Units and any change in the price of Units in this clause 23.4:
- (i) the opening Unit price (subject to adjustment under clause 23.5 for a rights issue or a reorganisation of issued capital) for the relevant quarterly period shall, subject to sub-clause 23.4(i), be the weighted average of the prices at which Units were sold through NZX during the last seven trading days of the previous quarterly period; and
- (ii) the closing price of Units during the relevant quarterly period shall be the weighted average of the prices at which Units were sold through NZX during the last seven trading days of the relevant quarterly period in question;
- or, if no sales occurred during the relevant period, the weighted average of the prices at which Units were sold through NZX on the last trading day on which sales occurred prior to that period.

Clause 23.5

Rights Issue adjustment: Where there has been a rights issue during the relevant quarter, the opening price (for the purposes of clause 23.4(j)) shall be calculated as follows:

$$\frac{(P \times p) + (R_i \times r_i)}{p + r_i}$$

Where:

P = the opening price of Units on issue at the start of the relevant quarter (calculated in accordance with clause 23.4(j))

p = the number of Units on issue at the start of the relevant quarter

R_i = rights issue price

r_i = number of Units taken up under the rights issue

In the event of a reorganisation of the issued capital of the Trust (other than a rights issue but including, although not limited to, a subdivision, consolidation or cancellation of Units) during the relevant quarter, the opening price shall be adjusted by the Manager to fairly reflect the effect of the reorganisation on the price of the Units. The Manager shall ensure that the method of calculation is approved by a suitably qualified independent chartered accountant as being fair and reasonable in the circumstances.

Clause 23.6

Unders and overs on Incentive Fee: In the event of there being any Deficit or Excess arising from any quarter it shall be subtracted from or added to (as the

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

case may be) Unit Holders' Returns for the purposes of the calculation of the Incentive Fee in respect of subsequent quarters subject to the following:

- (a) ~~the oldest Deficit and/or Excess (as the case may be) shall be applied first, but subject thereto to each Deficit and each Excess must be applied as soon as possible;~~
- (b) ~~if an Excess is to be applied, it shall be applied to determine Unit Holders' Returns in the relevant quarter only to the extent of the 15% Cap;~~
- (c) ~~a Deficit may only be applied to reduce Unit Holders' Returns in the relevant quarter to the extent that Unit Holders' Returns are greater than the 10% Threshold;~~
- (d) ~~if a Deficit or Excess has not been applied pursuant to this clause 23.6 in the calculation of the Incentive Fee in respect of any quarter falling within the period of 24 months following the end of the quarter in respect of which that Deficit or Excess arose, it shall be extinguished; and~~
- (e) ~~no Excess may be applied in any quarter unless Unit Holders' Returns for that quarter (without the application of any Excess) are equal to or greater than the 10% Threshold.~~

Clause 23.7

Apportionment: Where the Manager is entitled to part only of the remuneration set out in this section 23 in respect of any relevant period (whether by virtue of the Manager being a manager of the Trust for part only of the relevant period or otherwise), an appropriate apportionment shall be made.

Clause 23.8

Tax or duty: The Manager shall be entitled to receive, in addition to any fees payable pursuant to this section 23, any value added tax or duty or similar tax or duty payable in respect of such fee.

Clause 23.9

Increase in remuneration of Manager: The remuneration of the Manager may not be increased without the approval of the Trustee and of a meeting of Unit Holders duly convened and held.

Clause 24.2

Removal of Manager from office by Trustee: The Trustee shall be entitled to remove the Manager if:

- (a) the Manager is in breach of its obligations under this deed;
- (b) the Manager fails to carry out its duties to the satisfaction of the Trustee; or
- (c) the Manager is wound up (except for the purposes of an amalgamation or reconstruction while solvent) or a receiver is appointed in respect of the Manager; or
- ~~(e)~~(d) the Manager or the Shareholder are in breach of their obligations under the Shareholding Deed, or agree to amend the Shareholding Deed, or waive any breach of the Shareholding Deed, without the approval of the Trustee.

Clause 24.3

Effect of Manager ceasing to hold office: If the Manager ceases to hold office pursuant to clauses 24.1, 24.2 or 24.4, the Manager shall immediately desist from all activities related to the Trust. ~~The Manager shall be entitled to all fees accrued to the date upon which it ceases to hold office.~~

Clause 24.4

Fee payable to Manager removed from office: If the Manager ceases to hold office pursuant to clause 24.1(c) (other than as a result of the Manager being in

TRUST DEED CLAUSE REFERENCE	AMENDMENT
	<p>material breach of its obligations under the Trust Deed) the Manager shall be entitled to an additional fee equal to the aggregate of:</p> <p>(a) an amount equal to 1.2% of the Gross Value of the Trust Fund; and</p> <p>(b) an amount calculated as follows:</p> <p style="padding-left: 40px;">Amount = 10% x Available Excess x Number of Units on issue on the date on which the relevant resolution is passed</p> <p style="padding-left: 40px;">Where “Available Excess” means the aggregate amount of all Excesses available to be applied under clause 23.6 (after deducting all Deficits available to be applied under that clause) on the date on which the relevant resolution is passed.</p> <p style="padding-left: 40px;">This fee shall (to the extent relevant) be determined by reference to the Gross Value of the Trust Fund on the date on which the relevant resolution is passed. The fee shall be paid in Cash out of the Trust Fund in one lump sum within 14 days of that date.</p>
<p>Clause 24.4 (previously clause 24.5)</p>	<p>Retirement of Manager: The Manager may retire at any time without assigning any reason upon giving 90 days’, or such shorter period as the Trustee approves, notice in writing to the Trustee of its intention to do so. No such retirement shall take effect until a new Manager has been appointed and has executed the deed referred to in clause 24.7.</p>
<p>New numbering clause 24.5</p>	<p>Previously clause 24.6.</p>
<p>New numbering clause 24.6</p>	<p>Previously clause 24.7. Number reference in clause consequentially amended.</p>
<p>New numbering clause 24.7</p>	<p>Previously clause 24.8. Number reference in clause consequentially amended.</p>
<p>Clause 24.8</p>	<p>Incentive Fee to Previous Manager: If before 30 September 2011 Argosy Property Management Limited (“APML”) ceases to be manager of the Trust, the Trustee may pay to APML out of the Trust Fund, notwithstanding that APML has ceased to be manager, a portion of the incentive fee payable in respect of the quarter ending 30 September 2011 calculated in accordance with a Transaction Implementation Deed dated 14 July 2011 between APML, the Trustee and other parties.</p>
<p>Clause 26.8</p>	<p>Manager’s report: Within two calendar months of the end of each financial quarter of the Trust and if so required by the Trustee on or before the last day of the month following a month during which the Trustee shall request the same, the Manager shall furnish to the Trustee a certificate signed by not less than two Directors on behalf of the Manager stating to the best of their knowledge and belief after having made all due enquiry whether or not in relation to the Trust since the date of the last such certificate:</p> <p>(a) all amounts due and payable to the Unit Holders have been paid;</p> <p>(b) the Register has been duly maintained in accordance with this deed;</p> <p>(c) the Manager has duly observed and performed all covenants, conditions and agreements and provisions binding upon it under this deed and any guidelines, policy statements or other agreement between the Manager and the Trustee entered into in relation to this deed and any prospectus;</p> <p>(d) any circumstances which affect the Trust have occurred which materially and adversely affect the interests of the Unit Holders;</p>

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

- (e) any material trading or capital loss has been sustained by the Trust and if so particulars thereof;
- (f) any material contingent liabilities have been incurred by the Trust and if so the amount thereof and whether or not any contingent liability has or is likely to mature within the next succeeding twelve months which will materially affect the Trust;
- (g) ~~any circumstances which affect the Trust have occurred which materially and adversely affect the interests of the Unit Holders;~~ [This clause is intentionally left blank.]
- (h) full and adequate provision for taxation liabilities to be paid or reclaimed (including deferred taxation) has been made;

Clause 26.11

Payments to Shareholder: The Manager shall keep or cause to be kept records of all sums of money paid in accordance with clause 32.4 of this deed. The records kept by the Manager pursuant to this clause shall contain such details as the Manager considers appropriate, having regard to its obligations under this deed. The Trustee may require the records to be audited by the Auditor and reported on to the Trustee on such terms as the Trustee reasonably requests.

Clause 28.4

Notice of and attendance at meetings: Holders of Equity Securities of all Classes are entitled to attend meetings of Unit Holders and to receive copies of all notices, reports and financial statements issued generally to holders of Securities carrying Votes but are not entitled to vote at any such meeting unless the terms of the relevant Equity Securities so provide. The Shareholder is entitled to attend meetings of Unit Holders and to receive copies of all notices, reports and financial statements issued to Unit Holders. For the avoidance of doubt, the Shareholder may not vote at a meeting of Unit Holders except as proxy for a Unit Holder or Unit Holders or when acting in a capacity other than as the Shareholder.

Clause 29
29. DIRECTORS OF THE MANAGER

29.1 Appointment and Removal: Unit Holders shall be entitled to control the appointment and removal of Directors in accordance with the provisions of this clause 29 and paragraph 11.5 of the Schedule.

29.2 Provisions of Constitution: The parties record that the constitution of the Manager requires that:

- (a) at the time of each Annual Meeting certain of the Directors are required to retire from office, but are eligible to be reappointed as Directors in accordance with directions given at that Annual Meeting;
- (b) any person who is appointed as a Director by the Directors is required to retire from office at the time of the next Annual Meeting, but is eligible to be reappointed in accordance with directions given at that Annual Meeting.

29.3 Shareholding Deed: The parties record that the Shareholding Deed provides that the Shareholder shall exercise its rights to appoint and remove Directors in accordance with the directions of Unit Holders by Ordinary Resolution.

29.4 Resolutions: The Manager shall cause resolutions to be put to Unit Holders, to be considered as Ordinary Resolutions, at each Annual Meeting:

- (a) to direct the Shareholder to reappoint as a Director any person who is required to retire at the time of that Annual Meeting in accordance with the provisions referred to in clause 29.2; and

TRUST DEED CLAUSE REFERENCE	AMENDMENT
	<p>(b) to direct the Shareholder to appoint as a Director any person who is nominated as a Director in accordance with clause 29.5.</p> <p>29.5 Nominations: No person (other than the person retiring as a Director at the time of the Annual Meeting in accordance with the provisions referred to in clause 29.2) may be considered for election as a Director at an Annual Meeting unless that person has been nominated by a Unit Holder entitled to attend and vote at that Annual Meeting. The Manager shall make an announcement to NZX, in respect of each Annual Meeting, of the closing date for Director nominations and contact details for making nominations, not less than 10 Business Days before the closing date for nominations. The closing date for nominations shall be fixed by the Manager, but shall be not more than two months before the date of the Annual Meeting. If the aggregate of the number of nominations received, and the number of Directors retiring in accordance with the provisions referred to in clause 29.2 and seeking reappointment, exceeds the number of Director vacancies available, the persons to be appointed as Directors in accordance with clause 29.4(b) shall be those persons approved by Unit Holders at the relevant Annual Meeting corresponding to the number of vacancies available, and who receive the greatest number of votes of Unit Holders at the relevant Annual Meeting, as determined by the chairman of the Annual Meeting.</p> <p>29.6 Director's Remuneration: The Manager may propose to any meeting of Unit Holders an Ordinary Resolution to approve an increase in remuneration payable to the directors of the Manager. That resolution shall specify the amount of the proposed increase.</p>
New numbering clause 30	Previously clause 29
New numbering clause 30.1	Previously clause 29.1
New numbering clause 30.2	Previously clause 29.2
New numbering clause 30.3	Previously clause 29.3
New numbering clause 30.4	Previously clause 29.4
New numbering clause 30.5	Previously clause 29.5
New numbering clause 30.6	Previously clause 29.6
New numbering clause 31 (previously clause 30)	AMENDMENTS TO DEED
New numbering clause 31.1	Previously clause 30.1
New numbering clause 31.2	Previously clause 30.2
New numbering clause 32	Previously clause 31
New numbering clause 32.1	Previously clause 31.1
New numbering clause 32.2	Previously clause 31.2

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

New numbering clause 32.3
(previously clause 31.3)

Reimbursement and indemnification of Trustee and Manager: The Trustee and the Manager shall each be entitled to be reimbursed out of the Trust Fund for all expenses, costs or liabilities incurred by them respectively in or about acting as Trustee or Manager (as the case may be) under this deed ~~and, in the case of the Manager, for procuring the provision of property management services to the Trust under the Management Agreement.~~ Without prejudice to the generality of the foregoing, the Trustee and the Manager shall be entitled to be indemnified against:

- (a) all costs, charges, disbursements and expenses incurred in connection with the investigation, negotiation, acquisition, registration, custody, disposal of or other dealing with an Authorised Investment, including, without limitation, commission, bank charges and stamp duty;
- (b) all income tax, capital gains tax, stamp duties, and all other duty, tax or impost properly charged to or payable by the Trustee or Manager (whether by any taxing authority or any other person) in connection with and for the account of the Trust;
- (c) interest on borrowings, discounts, acceptance underwriting and commitment fees in respect of finance and underwriting facilities;
- (d) costs of postage in respect of all cheques, accounts, certificates, distribution statements, notices, reports and other documents sent to all or any Unit Holders;
- (e) costs of convening and holding any meeting of Unit Holders;
- (f) costs of preparing and printing cheques, accounts, certificates, distribution statements, notices, reports and other documents required to be prepared in connection with the Trust, pursuant to this deed, the rules or requirements of any stock exchange on which the Units are listed or any relevant law;
- (g) all costs, charges and expenses of and incidental to the preparation, execution and stamping of this deed and any supplemental deeds;
- (h) fees and expenses of any valuer, auditor, solicitor, barrister, property manager, agent or consultant, computer expert or other expert from time to time engaged by the Manager or by the Trustee in the discharge of their respective duties and exercise of powers under this deed;
- (i) expenses in connection with the establishment and maintenance of accounting systems and the keeping of accounting records and the Register;
- (j) all costs, charges and expenses incurred in the advertising and promotion of the Trust;
- (k) all costs, charges and expenses incurred in connection with or which are incidental to the application for the listing of any Units on any stock exchange and the costs of the maintenance of such listing;
- (l) any expense or liability which may be incurred by the Trustee or the Manager (as the case may be) in bringing or defending any action or suit in respect of the Trust or the provisions of this deed;
- (m) in the case of the Manager, the fees payable to Directors of the Manager in their capacities as such, up to a maximum aggregate of \$100,000 per Financial Year (or such higher amount as may be approved by a meeting of Unit Holders duly convened and held); and
- (n) all costs, charges, disbursements and expenses incurred by the Manager in performing its functions of and incidental to the management of the Trust, including (without limitation) in relation to the employment and remuneration of any employee (including without limitation any amounts relating to redundancy), travel and transport, communications and administration.

TRUST DEED CLAUSE REFERENCE	AMENDMENT
<p>New clause 32.4 (final two paragraphs previously part of clause 31.3)</p>	<p>Further right to reimbursement: In addition to the entitlements to reimbursement and indemnity under clause 32.3, the Manager is entitled to:</p> <p>(a) <u>seek and obtain, in accordance with a process from time to time agreed with the Trustee, including (without limitation), as to accounting, verification, receipting and invoicing and in lieu of reimbursement from the Trustee, funds from the Trust Fund to enable the Manager to meet its costs, charges, disbursements, expenses and liabilities as they fall due and to ensure the Manager is able to carry on business in a solvent manner; and</u></p> <p>(b) <u>pay and obtain reimbursement of, and shall take all responsibility for approving, such amounts (whether in the nature of remuneration, reimbursement of expenses, payments due on any indemnification or otherwise) as are from time to time payable by the Manager to the Shareholder under the Shareholding Deed</u></p> <p><u>and the Trustee shall not be required to enquire as to or verify or approve, the payment of any such amounts.</u></p> <p>All such items shall, unless the Manager in consultation with the Auditor determines otherwise, be chargeable against the gross income of the Trust.</p> <p>The Trustee or the Manager may at any time elect not to seek reimbursement from the Trust Fund for any expense, cost or liability without prejudicing the right of the Trustee or the Manager to be reimbursed for any other expense, cost or liability (whether or not of a similar nature).</p>
<p>Clause 32.5</p>	<p>Non Payment by Manager: <u>If the Manager does not pay to the Shareholder any amount (whether in the nature of remuneration, reimbursement of expenses, payments due on any indemnification or otherwise) payable by the Manager to the Shareholder under the Shareholding Deed (whether by reason of the Manager having ceased to hold office as manager of the Trust or otherwise) the Trustee shall, on being satisfied that any such amount is properly payable to the Shareholder under the Shareholding Deed, pay that amount to the Shareholder from the Trust Fund.</u></p>
<p>New numbering clause 32.6</p>	<p>Previously clause 31.4</p>
<p>New clause 32.7 (previously clause 31.5)</p>	<p>Operation of Trust: The Manager shall use its best endeavours to ensure that the Trust is carried on in a proper and efficient manner.</p>
<p>Clause 32.8</p>	<p>Business of Manager: <u>The Manager shall operate its own business efficiently, with a view to maintaining its costs at a minimum level consistent with the effective conduct of its business, with no intention for the Manager to operate at a profit over the course of any Financial Year. If the Manager at any time holds money surplus to its requirements to operate its business (including its estimated future requirements over the next six months) the Manager shall pay that money to the Trustee on account of the Trust Fund, by way of refund of amounts received by the Manager under clause 32.4.</u></p>
<p>New numbering clause 32.9</p>	<p>Previously clause 31.6</p>
<p>New numbering clause 32.10</p>	<p>Previously clause 31.7</p>
<p>New numbering clause 32.11</p>	<p>Previously clause 31.8</p>
<p>New numbering clause 33</p>	<p>Previously clause 32</p>

TRUST DEED CLAUSE REFERENCE	AMENDMENT
New numbering clause 33.1	Previously clause 32.1
New numbering clause 33.2	Previously clause 32.2
New numbering clause 33.3	Previously clause 32.3
New numbering clause 33.4	Previously clause 32.4
New numbering clause 33.5	Previously clause 32.5
New numbering clause 34	Previously clause 33
New numbering clause 34.1 (previously clause 33.1)	<p>Manager to manage Trust: The Trust shall be managed by the Manager (with full power to delegate to its officers and employees all acts, matters and things whether or not requiring or involving the Manager’s judgment or discretion) which hereby agrees to carry out and perform the duties and obligations on its part contained in this deed during the period of the Trust. <u>Without limiting the generality of the foregoing, the Manager shall have the power to:</u></p> <ul style="list-style-type: none"> (a) <u>appoint a replacement shareholder of the Manager (who must be the holder of a licence under the Securities Trustees and Statutory Supervisors Act 2011);</u> (b) <u>direct the transfer of the shares in the Manager to that party on the retirement of the Shareholder, subject to confirmation of that appointment and transfer at the next following meeting of Unit Holders; and</u> (c) <u>execute, on behalf of the retiring Shareholder, a share transfer form transferring the shares in the Manager from the retiring Shareholder to the replacement shareholder of the Manager.</u>
Clause 34.2	<p>Sole function: <u>The Manager’s sole function shall be the management of the Trust, its assets and the Trust Fund in accordance with the provisions of this deed and all activities incidental thereto (which, for the avoidance of doubt, may include owning shares in any subsidiary or other entity which performs management or trustee services necessary or desirable in connection with the management of the Trust).</u></p>
New clause 34.3 (previously part of clause 33.1)	<p>Trustee’s right: Nothing contained in this deed shall be construed to prevent the Manager and the Trustee in conjunction or the Manager or the Trustee separately from establishing or acting as manager or trustee for trusts whether of a nature similar to or different from the trusts of this deed.</p>
New numbering clause 34.4	Previously clause 33.2
New numbering clause 34.5	Previously clause 33.3
New numbering clause 35	Previously clause 34
New numbering clause 35.1	Previously clause 34.1
New numbering clause 36	Previously clause 35

TRUST DEED CLAUSE REFERENCE	AMENDMENT
New numbering clause 36.1	Previously clause 35.1
New numbering clause 37	Previously clause 36
New numbering clause 37.1	Previously clause 36.1
New numbering clause 37.2	Previously clause 36.2
New numbering clause 37.3	Previously clause 36.3
New numbering clause 37.4	Previously clause 36.4
New numbering clause 37.5	Previously clause 36.5
Schedule – clause 2.3	Shareholder may attend: <u>The Shareholder may attend any meeting of Unit Holders. For the avoidance of doubt, the Shareholder may not vote at a meeting of Unit Holders except as proxy for a Unit Holder or Unit Holders, or when acting in a capacity other than as the Shareholder.</u>
Schedule – clause 3.1	Written notice: Written notice of the time and place of a meeting of Unit Holders shall be sent to every Unit Holder entitled to receive notice of the meeting, to the Trustee, the Manager, the Shareholder and the Auditor, not less than 10 Business Days before the meeting, but with the consent of all Unit Holders entitled to attend and vote at a meeting, it may be convened by such shorter notice, and in such manner, as those Unit Holders agree.
Schedule – clause 11.4	Powers exercisable by Extraordinary Resolution: Subject to section 9 of this deed, a meeting of Unit Holders shall have the following powers exercisable by Extraordinary Resolution: <ul style="list-style-type: none"> (a) power to sanction the exchange of Units for, or the conversion of Units into shares, stock, debentures, debenture stock, units or other obligations or securities of any company, trust, or other entity formed or to be formed; (b) power to sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Unit Holders howsoever such rights arise; (c) subject to paragraph 11.6 of the Schedule, power to assent to any alteration, modification of, variation of, or addition to the provisions contained in this deed, or the conditions attaching to the Units and to authorise the Manager and Trustee to concur in and execute any supplemental trust deed or other document embodying any such alteration or addition; (d) power to give any sanction, assent, release or waiver of any breach or default by the Manager or the Trustee under any of the provisions of this deed; (e) subject to the Act, power to discharge, release or exonerate the Manager or the Trustee from all liability in respect of any act of commission or omission for which the Manager or the Trustee has or may become responsible under this deed; (f) power to give directions to the Trustee as to the appointment of a new Manager in accordance with clause 24.6 24.7;

**TRUST DEED
CLAUSE REFERENCE**
AMENDMENT

- (g) power to approve the making of any payment, or the entering into any transaction, by the Trustee on behalf of the Trust; and
- (h) power to confirm any replacement Shareholder appointed by the Manager under clause 34.1 of this deed, or to appoint another party as Shareholder (who must be the holder of a licence under the Securities Trustees and Statutory Supervisors Act 2011), on the voluntary retirement of the Shareholder.

Schedule – clause 11.5

Powers exercisable at meeting of Unit Holders: Without limiting any other provision of this deed, a meeting of Unit Holders shall have the following powers:

- (a) the Unit Holders shall, by means of an Ordinary Resolution passed at a meeting of Unit Holders, have the power:
 - (i) to direct the Shareholder as to the individuals in respect of whom the Shareholder shall exercise its rights to appoint and remove as directors of the Manager under the constitution of the Manager; and/or
 - (ii) to approve an increase in the remuneration payable to the directors of the Manager; and
- (b) subject to sub-paragraph (a) above, the Unit Holders shall, by means of an Extraordinary Resolution passed at a meeting of Unit Holders, have the power to direct the Shareholder:
 - (i) to dispose of all or any of the shares in the Manager (whether by sale, transfer or otherwise), and effect the appointment of a replacement shareholder of the Manager (who must be the holder of a licence under the Securities Trustees and Statutory Supervisors Act 2011);
 - (ii) to enter into any reconstruction, reorganisation, amalgamation or liquidation of the Manager;
 - (iii) to authorise any amendment to, direct the termination of, and/or the entry into by the Manager of a replacement or supplemental Shareholding Deed;
 - (iv) to vote its shares in the Manager; and/or
 - (v) to give effect to any other matter on which direction from Unit Holders is sought by the Shareholder or directors of the Manager,

in each case, on such terms as are stated in the direction, provided that Unit Holders shall not give any direction, and no direction shall be effective, which purports to transfer the shares in the Manager to or for the benefit of Unit Holders in their capacity as such. For the avoidance of doubt, nothing in this paragraph 11.5(b) shall prevent the Shareholder voting its rights in respect of the shares in the Manager on procedural or administrative matters other than at a meeting of Unit Holders.

**Schedule
– new numbering clause 11.6**

Previously clause 11.5

**Schedule
– new numbering clause 11.7
(previously clause 11.6)**

Unless the Manager is in material breach of its obligations under the Trust Deed, or has failed to carry out its duties to the satisfaction of the Trustee, the provisions of section 23, clauses 24.3 and 24.4 and sections 32 and 34 of this deed and this paragraph 11.7~~6~~ may not be altered without the prior written consent of the Manager and the Trustee.

SCHEDULE 2

GLOSSARY

“**Act**” means the Unit Trusts Act 1960.

“**ANZ**” means ANZ National Bank Limited.

“**Associated Persons**” has the meaning given to that term in rule 1.8 of the NZSX Listing Rules.

“**Base Fee**” has the meaning given to that term in the Trust Deed.

“**DNZ**” means DNZ Property Fund Limited.

“**Extraordinary Resolution**” means a resolution passed at a meeting duly convened and held in accordance with the provisions of the Schedule to the Trust Deed and carried by a majority of not less than 75% of the persons entitled to vote and voting thereat (either personally or by representative) on a show of hands, or if a poll is duly demanded, by a majority consisting of not less than 75% of the votes given on such poll.

“**Grant Samuel Report**” means the independent appraisal report from Grant Samuel and Associates Limited enclosed with this notice of meeting.

“**Incentive Fee**” has the meaning given to that term in the Trust Deed.

“**Independent Directors**” means Peter Brook and Trevor Scott.

“**Manager**” means Argosy Property Management Limited.

“**NZX**” means NZX Limited.

“**OnePath**” means OnePath (NZ) Limited.

“**Ordinary Resolution**” means a resolution that is approved by a simple majority of the votes of those holders of securities of the Trust which carry votes, are entitled to vote and do vote on the question.

“**Property Management Agreement**” means the property management agreement dated 9 December 2003 between the Manager and OnePath.

“**Shareholding Trustee**” means the party which holds the shares in the new manager.

“**Trust**” means the Argosy Property Trust.

“**Trust Deed**” means the Trust Deed, under which the Trust is established, dated 30 October 2002 (as amended by deeds dated 30 September 2004, 17 October 2006, 17 December 2008, 27 May 2009 and 27 September 2010).

“**Trust Fund**” has the meaning given to that term in the Trust Deed.

“**Trustee**” means The New Zealand Guardian Trust Company Limited.

“**Trustee’s Letter**” means the letter from the Trustee enclosed with this notice of meeting.

SCHEDULE 3

INFORMATION REQUIRED BY CLAUSES 2 AND 13 OF SCHEDULE 4 OF THE SECURITIES REGULATIONS 2009 IN RESPECT OF THE NEW MANAGER IF RESOLUTIONS 1 TO 3 ARE PASSED

1. CLAUSE 2 – MANAGERS, PROMOTERS, AUDITORS AND ADVISERS

- 1.1 The manager of the Trust will be Argosy Property No. 5 Limited (the “**New Manager**”), which has its registered office at the address set out in the directory section of this notice of meeting. The names and addresses of the directors of the Manager and of the current directors of the New Manager are also set out in the directory section of this notice of meeting. It is intended that, on implementation of the internalisation proposal, the existing directors of the Manager who are not already directors of the New Manager will be appointed as directors of the New Manager. Directors whose full addresses are not set out in the directory section may be contacted at the address of the Manager set out in the directory section.
- 1.2 The share in the New Manager is owned by Public Trust, on the trust described in paragraph 1.34 of Part 1 of this explanatory memorandum.
- 1.3 There are no other unit trusts managed by the New Manager.
- 1.4 None of the New Manager or any of its directors have been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation or receivership.

2. CLAUSE 13 – INTERESTED PERSONS

- 2.1 Each of the Trustee, the New Manager, its directors and Public Trust are entitled to remuneration for services, and/or to recover expenses, in respect of the Trust out of the Trust Fund. The nature of the services or expenses and whether or not the amount of remuneration or expenses is limited and, if so, the limits are set out below in respect of each of the Trustee, the New Manager, its directors and Public Trust:
 - a) The Trustee’s role is to supervise the administration and management of the Trust in accordance with the Trust Deed,

and to ensure that the New Manager complies with its duties and responsibilities under the Trust Deed. For undertaking its duties, the Trustee is entitled to be paid fees for its services not exceeding 0.075% per annum of the average of the gross value of the Trust Fund, provided that in any financial year the minimum fee paid to the Trustee in respect of the Trust shall be \$20,000, plus GST. In addition, the Trustee is entitled to reasonable reimbursement for special attendances and to be reimbursed and indemnified in accordance with the Trust Deed in respect of its expenses, costs and liabilities incurred in acting as Trustee of the Trust. There is no limit on the amount of reimbursement of costs which may be provided to the Trustee.

- b) The New Manager, as manager of the Trust, has responsibility for management of the Trust in accordance with the Trust Deed. The New Manager provides management expertise in selecting assets and managing them on behalf of unitholders. The New Manager is not entitled to any fee in the nature of remuneration for its services, but is entitled to be reimbursed and indemnified in accordance with the Trust Deed in respect of its expenses, costs and liabilities incurred in acting as manager of the Trust, including to enable the New Manager to carry on business in a solvent manner and to pay any amounts payable to Public Trust for its services as shareholder of the New Manager. There is no limit on the amount of reimbursement of costs which may be provided to the New Manager in accordance with the Trust Deed. However, under the Trust Deed the New Manager is obliged to use its best endeavours to ensure that its business is operated efficiently, with a view to maintaining costs at a minimum level with no intention of operating at a profit.
- c) The directors of the New Manager will be entitled to directors fees in respect of their acting as directors of the New Manager, and are entitled to reimbursement of expenses incurred in connection with their performance of that role. These fees are required to be approved by unitholders and are the subject of Resolution 11 to be proposed at the annual meeting. If Resolution 11 is not passed, the directors’ fees will remain at current levels. If internalisation is approved and proceeds, but Resolution 11 is not passed, directors’ fees will remain at

current levels, less the amount of directors' fees subsidy currently provided by OnePath. Full particulars of the relevant amounts are set out in paragraph 1 of Part 4 of the explanatory memorandum.

- d) Public Trust holds the shares in the New Manager on trust with the beneficiary of that Trust being a charity selected by the board of the New Manager. Public Trust is to act on the direction of unitholders with regard to the appointment and removal of the directors of the New Manager and on any voting or dealing in shares in the New Manager. Public Trust is paid a fee of \$15,000 per annum, plus GST, for performing its services, in addition to an hourly charge based on hours spent in fulfilling its obligations. Public Trust is entitled to be reimbursed and indemnified in respect of its expenses, costs and liabilities incurred in acting as shareholder of the New Manager. There is no limit on the amount of reimbursement of costs which may be provided to Public Trust.
- 2.2 The Trustee and the New Manager each have a material interest in the Trust Deed, being a contract entered into in respect of the Trust that is material to both the Trustee and the New Manager. The Trustee and the New Manager are parties to the Trust Deed which governs the operation and management of the Trust.
- 2.3 The New Manager and Public Trust each have a material interest in a shareholding deed, recording the arrangements described in paragraph 1.34 of Part 1 of the explanatory memorandum, being a contract entered into in respect of the Trust that is material to both the New Manager and Public Trust.

SCHEDULE 4

NZX WAIVERS

1. MFL WAIVER

The waiver in respect of MFL is granted on the conditions that:

- a) Mr. Robert Narev certifies, in a form acceptable to NZXMS, that:
 - i) MFL has made its decision with respect to the internalisation proposal and will make its decision relating to any other resolution to be proposed with respect to the management of the Trust without the input or influence of either OnePath or Philip Burdon;
 - ii) OnePath has not made any recommendation to the board of directors of MFL on the exercise of voting rights on issues which may affect the management of the Trust;
 - iii) in respect of exercising its right to vote on the internalisation proposal, MFL will not breach any of its contractual or statutory duties to MFL Mutual Fund; and
 - iv) other than the agreement under which OnePath provides management services to MFL and the common director (Philip Burdon), he is not aware of any other relationship between MFL and OnePath;
- b) MFL exercises the voting rights of MFL Mutual Fund in the Trust and those rights are not exercised by the OnePath; and
- c) MFL will not vote the units held by MFL Mutual Fund in the Trust in favour of any resolution on which MFL would be prohibited from voting otherwise than because of its relationship with OnePath and its subsidiaries.

2. INDEPENDENT DIRECTORS WAIVER

The waiver in respect of the Independent Directors is granted on the conditions that:

- a) each of the Independent Directors has certified, in a form acceptable to NZXMS, that:
 - i) he has made his decision with respect to the internalisation proposal and the resolutions requisitioned by unitholders without the undue influence of OnePath or Associated Persons of OnePath;
 - ii) other than holding the office of director of the Manager, he has no relationship

with OnePath or the Manager which would make him an Associated Person of either party;

- iii) other than the directors' fees which have been approved by unitholders of the Trust, and reimbursement of expenses as a director, he will not receive any remuneration or payment from either OnePath or the Manager; and
- iv) none of the associated entities of the Independent Director listed in the waiver decision have any relationship with OnePath or the Manager other than by reason of the interest of the Independent Director;
- b) the waiver shall not apply if the Independent Director or any of the associated parties set out in the waiver decision is a party to or beneficiary of a transaction otherwise than as a result of the fact that the Independent Directors are directors of the Manager, except for:
 - i) the Independent Directors, in their capacity as directors of the Manager, being party to an agreement to effect the internalisation proposal; and
 - ii) being party to or beneficiary of a transaction solely in its capacity as a unitholder; and
- c) the terms of the waiver and the fact that it has been granted are disclosed in the notice of meeting provided to unitholders regarding the internalisation proposal and the resolutions requisitioned by unitholders.

