



(1) BKI INVESTMENT COMPANY LIMITED (ACN 106 719 868)

- and -



(2) CONTACT ASSET MANAGEMENT PTY LIMITED (ACN 614 316 595)

# INVESTMENT MANAGEMENT AGREEMENT

September 2016

CONTENTS

1.	APPOINTMENT OF MANAGER.....	1
2.	DUTIES OF THE MANAGER.....	1
3.	POWERS OF THE MANAGER .....	4
4.	EXPENSES.....	5
5.	REMUNERATION OF MANAGER.....	6
6.	PERIOD OF AGREEMENT AND TERMINATION.....	6
7.	INDEMNITY .....	8
8.	WARRANTIES AND ACKNOWLEDGEMENT FROM COMPANY AND MANAGER.....	9
9.	CONFIDENTIALITY .....	10
10.	INSURANCE .....	10
11.	GST.....	10
12.	NOTICES.....	11
13.	DISPUTE RESOLUTION.....	12
14.	GENERAL .....	12
	DEFINITIONS AND INTERPRETATION.....	15

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BETWEEN:

- (1) BKI INVESTMENT COMPANY LIMITED (ACN 106 719 868) of Level 2, 160 Pitt Street, Sydney NSW 2000 ("Company" or "BKI")
- (2) CONTACT ASSET MANAGEMENT PTY LIMITED (ACN 614 316 595) of Level 1, 160 Pitt Street, Sydney NSW 2000 ("Manager" or "Contact")

BACKGROUND:

- A BKI is a Listed Investment Company on the Australian Securities Exchange with a diversified portfolio of Australian shares, units and interest bearing securities.
- B BKI has agreed to appoint Contact to provide the Services to the Company with effect from the Commencement Date and the Manager has agreed to accept its appointment to provide the Services to the Company on the terms and conditions contained in this Agreement.
- C Notwithstanding the appointment of the Manager to provide the Services to the Company pursuant to this Agreement, the Board and Investment Committee will continue to be responsible for reviewing Investments, setting the Investment Strategy and making Investment Decisions.

1. APPOINTMENT OF MANAGER

Appointment of Manager

- 1.1 With effect on and from the Commencement Date, the Company appoints the Manager and the Manager accepts its appointment to provide the Services to the Company for the Term with the duties and obligations and on the terms and conditions set out in this Agreement.
- 1.2 The Company shall provide or procure the provision of such information as is reasonably requested by the Manager to assist in the performance of its obligations under this Agreement.

2. DUTIES OF THE MANAGER

Duties of the Manager

- 2.1 The Manager must:
  - 2.1.1 provide the Services to the Company in accordance with this Agreement;
  - 2.1.2 act honestly and in good faith in providing the Services;
  - 2.1.3 exercise all due diligence and care in carrying out its functions, powers and duties under this Agreement;
  - 2.1.4 promptly notify the Company of any instructions given to it by the Company which have not been complied with;
  - 2.1.5 promptly notify the Company of any changes to key staff (including the termination or resignation of any Key Person);

- 2.1.6 if required by law to provide the Services, hold an AFSL or be an Authorised Representative such that it is authorised to provide the Services;
  - 2.1.7 keep the Portfolio under review and confer at regular intervals with the Company regarding the investment and management of the Portfolio;
  - 2.1.8 with the consent of the Company, or under force of law and as advised to the Company, give any information and assistance and make available any records relating to the Portfolio reasonably required by the auditors of the Company or ASIC or any other Government Authority as required by Applicable Regulation;
  - 2.1.9 exercise due care in selecting, appointing and reviewing the performance of any broker engaged by the Company;
  - 2.1.10 have in place arrangements for the management of conflicts of interest that may arise wholly or partially in relation to the provision of the Services by the Manager;
  - 2.1.11 as soon as reasonably practicable notify the Company of any breaches or likely breaches of this Agreement or any failure to observe or perform any representation, warranty or undertaking given by it under this Agreement;
  - 2.1.12 promptly notify the Company where the Manager has reason to believe that it will not be able to pay its debt as and when they fall due;
  - 2.1.13 promptly notify the Company of any litigation, investigation or insurance claim concerning the Portfolio or any part of the Portfolio of which the Manager becomes aware;
  - 2.1.14 promptly notify the Company if there has been or is reasonably likely to be a material adverse change in the financial position of the Manager that may materially adversely affect the Manager's ability to provide the Services;
  - 2.1.15 account to BKI for any soft dollar or monetary benefits or fees or commissions received by Contact or a related body corporate in relation to the management of the Portfolio except as otherwise agreed in writing;
  - 2.1.16 keep proper books of account in relation to the Portfolio recording transactions by the Manager to assist the Company in the preparation of reports required by Applicable Regulation as instructed by the Company;
  - 2.1.17 ensure that any report, advice or other document prepared at the request of the Manager by any professional or other adviser in respect of any asset or potential asset of the Portfolio is addressed to the Company and that the Company is entitled to receive the benefit of such report, advice or other document; and
  - 2.1.18 ensure that it has sufficient competent management staff experienced in funds management which have charge of the conduct of, and will retain supervision over, the investment and management of the Portfolio.
- 2.2 The Manager will provide the following services to the Company (the "Services") in accordance with the directions from time to time of the Board and Investment Committee:
- 2.2.1 make recommendations, advise on and facilitate investments and manage the Portfolio in accordance with the directions of the Board and Investment Committee;
  - 2.2.2 identify, investigate, research, analyse and evaluate investment opportunities for BKI, including any matters or investment opportunities identified or requested by the Board or the Investment Committee. Prepare proposals and advise generally in relation to such opportunities for approval by the Board or

Investment Committee. Detailed recommendations on Security purchases and sales are to be provided in writing.

- 2.2.3 facilitate and monitor the acquisition and disposal of investments within the Portfolio, including the investment of funds which are uninvested Securities or financial products from time to time, in accordance with the directions of the Board and Investment Committee. All transactions will be made in the name of the Company and at the risk of the Company;
  - 2.2.4 supervise the management of the Portfolio and for the day to day administration of the Portfolio;
  - 2.2.5 advise on, and assist with, the strategy, future capital raisings and financing of BKI as required by the Board or the Investment Committee;
  - 2.2.6 ongoing promotion and marketing of BKI, including but not limited to, the BKI website, financial result road shows, presentations to shareholders, quarterly reports, NTA and monthly reports;
  - 2.2.7 respond to BKI shareholder requests and queries and, at the request of the Company, use best endeavours to assist the Company to comply with its continuous disclosure obligations under section 674 of the Act and Listing Rule 3.1 by providing information in relation to the provision of the Services by the Manager under this Agreement;
  - 2.2.8 provide to the Company such details as are reasonably necessary and in timely manner to enable the Company to comply with the Company's obligations under any Applicable Regulation, including (but not limited to) the substantial holding or analogous requirements in respect of the Portfolio under the Listing Rules;
  - 2.2.9 distribute at the end of each month stock values and market data to the Company to enable it to prepare a report on the value of net assets monthly and for the purposes of making reports to the ASX;
  - 2.2.10 render investment, consultation, advisory and management services in relation to investments generally; and
  - 2.2.11 other services and upon terms as may be agreed from time to time between the Manager and the Board or Investment Committee.
- 2.3 Notwithstanding the foregoing the Board and the Investment Committee:
- 2.3.1 will continue to meet regularly to review the Investments, set the Investment Strategy and make Investment Decisions; and
  - 2.3.2 may delegate authority to the Manager to deal in securities or financial products generally or within certain parameters.
- 2.4 Nothing in this Agreement precludes BKI from obtaining investment management services from a third party other than Contact.

#### Change to Investment Strategy

- 2.5 Notwithstanding any other provision of this Agreement, the Manager may only manage the Portfolio in accordance with the Investment Strategy.
- 2.6 If a Proposed Investment is not consistent with the Investment Strategy, the Manager may seek approval from the Board or Investment Committee to:
  - 2.6.1 undertake that Proposed Investment; or
  - 2.6.2 amend the Investment Strategy.

- 2.7 In seeking approval, the Manager must provide such information to the Company regarding the Proposed Investment to enable the Company to determine how the Investment deviates from the Investment Strategy and the proposed change to the Investment Strategy (if any) as the Company may reasonably request.
- 2.8 The Company may withhold its approval of any change to Investment Strategy in its absolute discretion.

#### Delegation by the Manager

- 2.9 Subject to and in accordance with the Applicable Regulations, the Manager may, with the prior approval of the Company (such approval not to be unreasonably withheld), appoint or employ by writing or otherwise any person to be sub-contractor for the Manager to perform any or all of the duties and obligations imposed on it by this Agreement.

#### Compliance with Applicable Regulations

- 2.10 The Manager must comply with any Applicable Regulations to the extent it concerns the functions, powers and duties of the Manager under this Agreement. However, the Company acknowledges that the Manager may act on specific instructions given by the Company without investigating whether the act will comply with Applicable Regulations, but it is not obliged to comply with any direction which it reasonably believes may cause a breach of an Applicable Regulation.

### 3. POWERS OF THE MANAGER

#### Powers and limitations

- 3.1 For the purpose of carrying out its functions and duties under this Agreement, the Manager has the powers of a natural person to deal with the Portfolio in accordance with the terms of this Agreement and to do all things and execute all documents necessary for the purpose of managing the Portfolio in accordance with this Agreement, but the Manager must not knowingly do anything the Manager is prohibited from doing by an Applicable Regulation and must not without the prior written consent of the Company (which may be expressed in this Agreement):
- 3.1.1 hold Derivative Contracts;
  - 3.1.2 charge or encumber in any way (other than as arises by lien in the ordinary course of business or by statutory charge) any asset in the Portfolio, including granting any party pre-emptive rights; or
  - 3.1.3 engage in securities lending in relation to the Portfolio.

#### Voting recommendations

- 3.2 The Manager will make recommendations to the Investment Committee in respect of whether to exercise (or refrain from exercising) the powers referred to in sections 608(1)(b) and (c) of the Act in relation to any securities in the Portfolio. The Manager is authorised to exercise (or refrain from exercising) those powers strictly in accordance with the directions of the Board and the Investment Committee.

#### Common investment of funds

- 3.3 Subject to clause 3.4, the Portfolio may be invested with funds managed by the Manager on behalf of other persons. The Company consents to the Manager acting in the acquisition and disposal of assets on behalf of other persons and authorises the Manager to deal with the Portfolio and any other funds as an undivided whole, to the extent necessary for the efficient management or administration of the Portfolio, subject to the Manager maintaining systems and records that distinguish the Portfolio from the property of any other person.

#### No transactions between funds

- 3.4 The Manager may not:

3.4.1 sell, transfer or otherwise dispose of, or agree to do the same, in respect of any asset or any right to any asset of the Portfolio to another fund or portfolio of assets managed by the Manager; or

3.4.2 buy, acquire or otherwise receive, or agree to do the same on behalf of the Company, in respect of any asset or any right to any asset of another fund or portfolio of assets managed by the Manager,

without the prior written consent of the Company, which may be withheld unless the Company is reasonably satisfied that the transaction is being undertaken on arm's length terms and for a proper purpose and is within the Investment Strategy. This clause does not apply to transactions which take place on ASX or similar securities exchanges, or pursuant to public auction.

#### Non-exclusivity

3.5 The Manager may from time to time perform similar investment and management services for other persons. The Company acknowledges that the Manager:

3.5.1 has no obligation to purchase or sell, or recommend for purchase or sale, for the account of the Company, any investment which the Manager purchases or sells for its own account or for the account of any other client of the Manager; and

3.5.2 may give advice and take action in the performance of its duties for other clients which differ from advice given and action taken in relation to the Portfolio.

#### 4. EXPENSES

##### Expenses

4.1 Subject to clause 4.2 and the provision by the Manager of appropriate substantiation as requested by the Company, the Company is liable for and must pay out of the Company's assets (or if paid by the Manager, reimburse the Manager out of the Company's assets) fees, costs and expenses when properly incurred in connection with the provision of the Services under this Agreement, including:

4.1.1 all stamp duties, account debits, taxes, legal fees, disbursements and expenses, commissions and brokerage incurred by the Company in connection with:

4.1.1.1 the acquisition of any Investment;

4.1.1.2 any sale, transfer, exchange, replacement or other dealing with or disposal of any Investment;

4.1.1.3 the receipt of income or other entitlements from the Investments, and;

4.1.2 fees payable to ASIC or any other Government Agency in connection with the Portfolio;

4.1.3 outgoings in relation to the Portfolio such as insurance premiums, rates, levies, duties and taxes;

4.1.4 the costs associated with undertaking distributions, returns of capital, share buy-backs or other reductions of capital of the Company;

4.1.5 the costs associated with raising additional capital for the Company;

4.1.6 all external accounting services, taxation advice, audit or other advisory costs of the Company whether or not in relation to the Portfolio; and

4.1.7 costs associated with the provision of information and other assistance to a regulatory authority if that regulatory authority requires the information or other assistance under the Applicable Regulations.

- 4.2 Unless otherwise expressly agreed in writing by the Company, the Manager is liable for and must pay the following:
- 4.2.1 its own in-house costs for providing the Services, including (but not limited to) its research costs such as the cost of use by the Manager of Bloomberg or IRESS;
  - 4.2.2 any fee or remuneration payable to any holder of an AFSL;
  - 4.2.3 all office expenses including rent, salaries, telephone, office supplies, property plant and equipment.
  - 4.2.4 the costs associated with marketing BKI; and
  - 4.2.5 all travel associated with researching and analysis of investment ideas.

#### Allocation

- 4.3 The Manager may allocate expenses incurred in connection with an asset acquired or to be acquired on behalf of several clients between those clients proportionately to their interest in the asset.
- 4.4 The Company may, from time to time, request that the Manager disclose details of any allocation of expenses between several clients. The Manager is not bound to disclose to the Company details of such allocation of expenses to the extent that such disclosure would cause it to breach its duty of confidence to other clients.

#### 5. REMUNERATION OF MANAGER

##### Fees

- 5.1 In consideration for providing the Services to the Company, the Manager is entitled to be paid, and the Company must pay to the Manager on the twenty-first day of each month, a fee equal to one-twelfth of 0.10% of the Total Assets of BKI at the end of the preceding month ("Management Fee").
- 5.2 The Management Fee is payable in cash and will be grossed up to include the amount of any GST applicable to the Management Fee, subject to receipt of a valid tax invoice.
- 5.3 If this Agreement expires on or is terminated other than on the last day of a month, the Management Fee shall be payable pro-rata from the end of the preceding month to the date of expiration or termination of this Agreement (as applicable).
- 5.4 No other fee (such as a performance fee) is payable by the Company to the Manager in connection with the provision of the Services.

##### Use of and fees to related bodies corporate

- 5.5 The Company acknowledges that the Manager may invest with or engage the services of the Manager's related bodies corporate which are entitled to charge fees, brokerage and commissions provided that they are in the ordinary course of business and on arm's length terms. No adjustment to the fees paid under this Agreement is to be made for any fee, brokerage or commission paid to a related body corporate of the Manager in compliance with this clause.

#### 6. PERIOD OF AGREEMENT AND TERMINATION

##### Term

- 6.1 This Agreement:



6.1.1 commences on the Commencement Date and continues in force for five (5) years from the Commencement Date ("Initial Term"); and

6.1.2 will be automatically extended upon the expiry of the Initial Term for a further period of five (5) years from the expiration of the Initial Term ("Extended Term"),

unless terminated earlier by either Party as outlined in accordance with this clause 6.

#### Termination by Company

6.2 The Company may remove Contact as manager and terminate this Agreement:

6.2.1 after the expiration of the Initial Term, on delivery of 3 months' prior written notice after an ordinary resolution is passed at a general meeting of the Company to terminate this Agreement;

6.2.2 after the expiration of the Initial Term, on delivery of not less than 12 months' prior written notice;

6.2.3 with immediate effect by written notice if:

6.2.3.1 an Insolvency Event occurs with respect to the Manager;

6.2.3.2 the Manager is in default or breach of its obligations under this Agreement in a material respect and fails to remedy, rectify or reasonably compensate for that default or breach within 30 days after receiving notice of that default or breach;

6.2.3.3 the Manager ceases to carry on business in relation to its activities as an investment manager;

6.2.3.4 one or more Key Persons cease to be engaged as an officer, consultant or employee of the Manager and is not replaced with an adequate replacement that has relevant experience and is acceptable to the Company (acting reasonably):

(a) where the Key Person has died or become medically unable to perform his duties, within 90 days after the Key Persons ceases to be engaged; or

(b) otherwise, within 30 days after the Key Person ceases to be engaged;

6.2.3.5 the Manager sells or transfers or makes any agreement for the sale or transfer of the main business or undertaking of the Manager or of a beneficial interest in that main business or undertaking, other than on terms previously approved in writing by the Company (acting reasonably); and

6.2.3.6 a person (other than an existing holder of shares in the Manager as at the date of this Agreement or other than a person (or persons) acceptable to the Company (acting reasonably)) acquires a relevant interest in voting shares in the Manager where because of the acquisition that person's voting power (as defined in the Act) in the Manager exceeds 50%; or

6.2.4 with immediate effect by written notice if the Manager is unable to perform its obligations under this Agreement because it has ceased to hold the necessary legal authorisations, including, if relevant, it ceases to be holder of (or ceases to act as an Authorised Representative under) an AFSL containing all relevant authorisations to provide the Services.

#### Termination by Manager

6.3 Contact may terminate its appointment as manager and terminate this Agreement at any time by giving not less than 12 months' written notice to BKI.

- 6.4 On the date of termination, BKL must pay the Manager any Management Fee that is outstanding, together with any sum that is outstanding for reimbursement of expenses in accordance with clause 4.1.

#### Termination on Winding Up of Company

- 6.5 Without limiting any other circumstances in which the winding up of the Company effects a termination of this Agreement, this Agreement terminates immediately upon the passing of a resolution by members to voluntarily wind-up the Company.

#### Claims and transactions

- 6.6 The termination of this Agreement does not affect any:

- 6.6.1 transaction properly entered into prior to the effective date of termination;
- 6.6.2 claim by the Manager in respect of accrued Management Fees, and/or expenses relating to or in respect of any period prior to the effective date of termination; or
- 6.6.3 accrued rights and remedies of the parties,

but releases the parties from any further obligation to each other under this Agreement except those set out in clauses 7.1, 7.2 and 7.3 and any obligations which are expressed to survive termination of this Agreement.

#### Discharge of obligations

- 6.7 The Manager may, with the Company's prior written approval (which must not be unreasonably withheld), deal with the Portfolio for up to thirty (30) Business Days from the effective date of termination of this Agreement in order to vest control of it in the Company or (as the Company may otherwise direct in writing) and during that time the Manager:

- 6.7.1 may enter into transactions to settle or otherwise extinguish or offset obligations incurred by the Manager in relation to the Portfolio before that date;
- 6.7.2 must, with respect to obligations not capable of settlement before transfer of the Portfolio, make provision for such contingent liability as will arise by notifying the Company of that provision, and directing the Company to hold sufficient assets of the Portfolio to satisfy that liability;
- 6.7.3 must as soon as practicable (and no later than 30 Business Days from termination of this Agreement) deliver to the Company (or as the Company reasonably directs) copies of all records relating to the investment and management of the Portfolio which may reasonably be required by the Company in respect of the Portfolio;
- 6.7.4 may, after consultation with the Company, pay or cause to be paid to the Company (or as the Company otherwise directs) the net realisable value of any shares listed on a foreign exchange or any prescribed interest in a scheme promoted by the Manager or the proportion of any asset which is held jointly and is indivisible; and
- 6.7.5 may deal with the Portfolio in accordance with instructions in writing from a new manager appointed by the Company.

## 7. INDEMNITY

- 7.1 The Company will indemnify and keep indemnified Contact against all actions, proceedings, claims, costs, demands, losses and expenses suffered or incurred by Contact (or its officers, employees, consultants, advisers, servants and agents) in connection with providing the Services and its obligations under this Agreement, save for any action, proceeding, claim, cost, demand, liabilities or expense arising from a grossly

negligent or wilfully deceitful act or omission by Contact or its officers, employees, consultants, advisers, servants or agents.

- 7.2 Contact will indemnify and keep indemnified BKI against all actions, proceedings, claims, costs, demands, losses and expenses suffered or incurred by BKI (or its officers, employees, consultants, advisers, servants and agents) in connection with any action, proceeding, claim, cost, demand, liabilities or expense arising from a grossly negligent or wilfully deceitful act or omission by Contact or its officers, employees, consultants, advisers, servants or agents.
- 7.3 The Manager must provide reasonable assistance to the Company in any action of the Company against any third party (including in respect of any claim against an agent of the Manager) arising out of or in relation to the provision of Services or this Agreement.
- 7.4 Clauses 7.1, 7.2 and 7.3 continue after termination of this Agreement.

## 8. WARRANTIES AND ACKNOWLEDGEMENT FROM COMPANY AND MANAGER

### Warranties of Company

- 8.1 The Company warrants and represents to the Manager that at all times during the term of this Agreement:
  - 8.1.1 the Company has the power to enter into and perform this Agreement;
  - 8.1.2 this Agreement constitutes binding obligations of the Company in accordance with its terms;
  - 8.1.3 the execution, delivery and performance by the Company of this Agreement will not result in a breach of:
    - 8.1.3.1 any provision of the constitution of the Company;
    - 8.1.3.2 constitute a default under, any instrument to which the Company is a party or by which the Company is bound and which is material in the context of the transactions contemplated by this Agreement; or
    - 8.1.3.3 any order, judgment or decree of any court or governmental agency to which the Company is a party or by which the Company is bound and which is material in the context of the transactions contemplated by this Agreement;

### **Acknowledgement**

- 8.2 The Company acknowledges that neither the Manager nor any related body corporate of the Manager guarantees the repayment of capital or the performance of the Portfolio or makes any representation concerning any of these matters.

### Warranties of the Manager

- 8.3 The Manager warrants and represents to the Company that, at all times during the term of this Agreement:
  - 8.3.1 it has the power to enter into and perform this Agreement;
  - 8.3.2 this Agreement constitutes a binding obligation of the Manager in accordance with its terms;
  - 8.3.3 the execution, delivery and performance by the Manager of this Agreement will not result in a breach of:
    - 8.3.3.1 any provision of the constitution of the Manager;

- 8.3.3.2 constitute a default under, any instrument to which the Manager is a party or by which the Manager is bound and which is material in the context of the transactions contemplated by this Agreement; or
- 8.3.3.3 any order, judgment or decree of any court or governmental agency to which the Manager is a party or by which the Manager is bound and which is material in the context of the transactions contemplated by this Agreement;
- 8.3.4 it has the skill, facilities, capacity and staff necessary to perform the duties and obligations under this Agreement, including managing the Portfolio;
- 8.3.5 sufficient competent investment management staff experienced in funds management will have charge at all times of the conduct of, and will maintain close supervision of, the investment and management of the Portfolio;
- 8.3.6 if required by law to provide the Services, it holds an AFSL or is an Authorised Representative such that it is authorised to provide the Services; and
- 8.3.7 it will make recommendations, advise on and facilitate investments and manage the Portfolio at all times in accordance with its obligations under this Agreement and in accordance with the directions of the Board and Investment Committee.

## 9. CONFIDENTIALITY AND DISCLOSURES

### Confidentiality

- 9.1 Each Party undertakes to the other that it and any of its attorneys, agents, employees and contractors will, during the continuance of this Agreement and also after its termination faithfully and honestly keep and cause to be kept confidential and not reveal or make known any of the matters, affairs and concerns of the other Party and will not reveal or make known any of the matters, affairs or concerns of the other Party which may come to its knowledge or its attorneys, agents, employees and contractors as contemplated by this Agreement unless required by law or when authorised to do so by the other Party.

### Disclosure Documents

- 9.2 The Company agrees to only use the Manager's name, trademarks or information about performance history, asset allocation and investment strategy, material events and other information reasonably required in any publication, with the Manager's prior consent (which must not be unreasonably withheld or delayed).

## 10. INSURANCE

### Insurance

- 10.1 The Manager must maintain at its own expense, appropriate insurance of which the Manager advises the Company in relation to its investment management business. The Manager must, upon written request from the Company, give the Company any information it may reasonably require providing evidence of such insurances but is not required to provide a copy of any policy of insurance to the Company.

## 11. GST

- 11.1 Terms defined in the GST Law have the same meaning in clauses concerning GST unless the context requires otherwise.

- 11.2 Unless expressly stated to be GST inclusive, the amounts payable for any supply made under or in connection with this Agreement does not include GST.
- 11.3 To the extent that any supply made under or in connection with this Agreement is a taxable supply, the supplier may increase the amounts payable for that supply by an amount not exceeding the amount payable multiplied by the prevailing GST rate.
- 11.4 If either Party is entitled under this Agreement to be reimbursed or indemnified by the other Party for a cost or expense incurred in connection with this Agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the Party is entitled to an input tax credit.
- 11.5 If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier:
- 11.5.1 may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving 7 days written notice; and
- 11.5.2 must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply.
- 11.6 A Party need not make a payment for a taxable supply made under or in connection with this Agreement in respect of a taxable supply until the supplier has given the recipient a tax invoice for the supply to which the payment relates.

## 12. NOTICES

### Notices

- 12.1 Any notice under this Agreement:
- 12.1.1 must be sent to the address or facsimile number or email address set out below or to any other address or facsimile number or email address that either party may specify in writing to the other:
- Company
- Address: Level 2, 160 Pitt Street, Sydney NSW 2000  
Facsimile: (02) 9210-7099  
Email address: [info@bkilimited.com.au](mailto:info@bkilimited.com.au); [jpinto@pcap.com.au](mailto:jpinto@pcap.com.au)
- Manager
- Address: Level 1, 160 Pitt Street, Sydney NSW 2000  
Facsimile: (02) 9233 1025  
Email address: [tmillner@whsp.com.au](mailto:tmillner@whsp.com.au); [wculbert@whsp.com.au](mailto:wculbert@whsp.com.au)
- 12.1.2 will be taken to have been given:
- 12.1.2.1 (in the case of delivery in person or by post) when delivered, received or left at the party's address;
- 12.1.2.2 (in the case of delivery by facsimile) on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the number of the recipient; and

12.1.2.3 (in the case of delivery by email) at the local time (in the place of receipt of that email) which then equates to the time at which that email is sent as shown on the electronic device from which that email is sent (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee),

but if delivery or receipt occurs on a day which is not a Business Day or is later than 5pm (local time) it will be taken to have been duly given at the commencement of the next Business Day.

## 13. DISPUTE RESOLUTION

### Compliance

13.1 A party must comply with this clause 13 in respect of a dispute arising out of this Agreement ("Dispute") and each party agrees not to commence court proceedings (except proceedings seeking interlocutory relief) or arbitration in relation to any Dispute unless it has first attempted to resolve the Dispute as set out in this clause 13.

### Notification of Dispute

13.2 A party claiming that a Dispute has arisen must notify the other party to the Dispute giving details of the Dispute.

### Best endeavours to resolve Dispute

13.3 During the 10 Business Day period after a notice is given under clause 13.2 (or longer period agreed in writing by the parties to the Dispute) ("Initial Period") each party to the Dispute ("Disputant") must use its best endeavours to resolve the Dispute.

### Referral to Chairmen

13.4 If the Disputants are unable to resolve the Dispute within the Initial Period, the Dispute must be referred to the Chairman (or, in the absence of a Chairman, the most senior officer) of each Disputant who must use their best endeavours to resolve the Dispute within 10 Business Days after the Dispute is referred to them ("Second Period").

### Referral to other resolution procedure

13.5 If the Disputants are unable to resolve the Dispute within the Second Period, the parties shall refer the Dispute to an independent mediator as agreed or, failing agreement, as appointed by the Chief Executive Officer of the Resolution Institute and will use their best endeavours to resolve the Dispute in mediation.

## 14. GENERAL

### Governing Law and Jurisdiction

14.1 This Agreement is governed by and is to be construed in accordance with the laws of the State of New South Wales.

14.2 Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of the State of New South Wales.

### Entire Agreement

14.3 This Agreement contains the entire understanding of the Parties as to its subject matter and there is no other understanding, agreement, warranty or representation whether expressed or implied in any way extending, defining or otherwise relating to these provisions or binding on the Parties with respect to any of the matters to which this Agreement relates.

#### Counterparts

14.4 This Agreement may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute one document.

#### Amendment

14.5 This Agreement may only be altered in writing executed by all Parties.

EXECUTED AS AN AGREEMENT

DATED:

Executed by BKI Investment Company Limited ACN 106 719 868 acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:

.....  
Signature of director

.....  
Signature of director/company secretary

.....  
Name of director (print)

.....  
Name of director/company secretary (print)

Executed by Contact Asset Management Pty Ltd ACN 614 316 595 acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:

.....  
Signature of director

.....  
Signature of director/company secretary

.....  
Name of director (print)

.....  
Name of director/company secretary (print)



## DEFINITIONS AND INTERPRETATION

### Definitions

In this Agreement, unless a contrary intention appears:

"Act" means the *Corporations Act 2001* (Cth);

"AFSL" means a licence under section 913B of the Act that authorises a person who carries on a financial services business to provide financial services;

"Applicable Regulations" means any statute, regulation, by-law, ordinance or other determination of any Government Agency with the force of law in any jurisdiction in which:

- (a) the Company holds any Investments;
- (b) the Manager acquires Investments on behalf of the Company; or
- (c) the Manager provides services for the benefit of the Company under this Agreement,

including the Act and Listing Rules as they apply to the Company for the purposes of this Agreement;

"ASIC" means the Australian Securities and Investments Commission;

"ASX" means ASX Limited;

"Authorised Representative" means a person who is authorised under section 916A of the Act by a holder of an AFSL (the "AFSL Licensee") to provide financial services on behalf of the AFSL Licensee.

"Board" means the board of directors of the Company;

"Business Day" means a day other than a Saturday or Sunday on which banks located in the Sydney metropolitan area are open for general banking business;

"Cash" includes cheques, bank deposits, bank cheques, bank transfers, interests in cash management trusts, bank drafts and bills of exchange in each case that is the lawful currency of the Commonwealth of Australia and other foreign nations;

"Commencement Date" means 1 November 2016.

"Derivative Contracts" has its ordinary meaning from time to time and includes, swaps, futures, forward rate agreements and options.

"Directors" means the directors of the Company;

"Disputant" has the meaning given in clause 13.3;

"Dispute" has the meaning given in clause 13.1;

"Extended Term" has the meaning given in clause 6.1.2;

"Government Agency" means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world;

"GST" means the same as "GST" means in the GST Law;

"GST Law" means the same as "GST law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended);

"Initial Period" has the meaning given in clause 13.3;

"Initial Term" has the meaning given in clause 6.1.1.

"Insolvency Event" means in relation to a Party:

- (a) an order is made or an application is made for the winding up of that Party and that order or application is not withdrawn or set aside within 15 Business Days;
- (b) a liquidator or provisional liquidator of that Party is made or appointed or an application is made for the appointment of a liquidator or provisional liquidator and that application is not withdrawn or set aside within 15 Business Days;
- (c) an effective resolution is passed for the winding up of that Party or a meeting is convened for the purpose of considering any such resolution;
- (d) that Party is placed under any formal or informal kind of insolvency administration or a meeting is convened for the purpose of considering the appointment of an insolvency administrator;
- (e) a receiver, manager, receiver and manager or controller of the main undertaking, property or material assets of that Party is appointed or any step is taken for the appointment of such a receiver, manager, receiver and manager or controller or execution or distress or any other process is levied or attempted or imposed against any of the main undertaking, property or material assets of that Party;
- (f) that Party stops payment or ceases to carry on the whole or any material part of its business or threatens to do so;
- (g) an order for payment is made or judgment is entered or signed against that Party in an amount of not less than \$100,000 and is not satisfied, stayed or set aside within 5 Business Days;
- (h) that Party becomes insolvent or unable to pay its debts; or
- (i) a compromise, composition or arrangement is proposed with or becomes effective in relation to the creditors or any class of creditors of that Party or that Party proposes a reorganisation, moratorium or other administration involving its creditors or any class of its creditors; or
- (j) any action is commenced to strike that Party's name off any register of companies;

"Investment" means an investment forming part of or comprised in the Portfolio permitted by this Agreement;

"Investment Committee" means the investment committee of the Company which meets regularly to:

- (a) review Investments;
- (b) set the Investment Strategy; and
- (c) make Investment Decisions.

"Investment Decision(s)" means a decision to buy, sell, realise or deal with any Investment or to vary, convert, exchange or add another Investment in lieu of that Investment;

"Investment Strategy" means the investment objectives, strategy, guidelines, permitted investments and elements of investment set by the Investment Committee as varied from time to time;

"Key Person" means Thomas Millner and Will Culbert.

"Listing Rules" means the listing rules of the ASX;

"Management Fee" has the meaning given in clause 5.1;

"Portfolio" means all monies, investments, additions or borrowings which may from time to time be paid to or received or held by the Company or the Manager on behalf of the Company (whether or not pending investment) and any investments for the time being representing them, any income derived from them and any capital accretions to them regardless of how they arise;

"Proposed Investment" means an Investment proposed by the Manager to be made on behalf of the Company;

"related body corporate" has the meaning given in the Act;

"Second Period" has the meaning given in clause 13.4;

"Security" has the meaning given in section 92(2) of the Act including a security that would fall within such a definition if issued within Australia;

"Services" means the services to be provided by the Manager to the Company pursuant to this Agreement, being those services described in clause 2.2;

"Term" means the Initial Term and the Extended Term unless terminated earlier by either Party as outlined in accordance with this clause 6;

"Total Assets" refers to the total amount of assets owned by the Company as it appears in the Consolidated Balance Sheet of monthly accounts, half year accounts and full year accounts and includes the sum of the values of each of the following:

- (a) Cash (including income) – the amount of such Cash,
- (b) Trade and other receivables - Dividends receivable, and
- (c) Trading Portfolio – the market value as determined by the Company and the Manager in accordance with Australian accounting standards.