

DATED 28<sup>TH</sup> SEPTEMBER 2022

JAMES ASSET (PTC) LIMITED

## DECLARATION OF TRUST

EXECUTION VERSION

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THIS DEED POLL is made on 28<sup>th</sup> September 2022

BY:

**JAMES ASSET (PTC) LIMITED**, a private trust company incorporated under the laws of the British Virgin Islands (Company Number: 2103767) whose registered office is situated at Trinity Chambers, PO Box 4301, Road Town, Tortola, British Virgin Islands (the "**Trustee**") as trustee for the Beneficiaries (as defined below).

**IN FAVOUR OF:**

The **BENEFICIARIES** from time to time.

**WHEREAS**

(A) The Trustee shall acquire and hold Assets for the benefit of the Beneficiaries using DAI generated by a vault (the "**James Asset Vault**") and converted to the applicable fiat currency on the instructions of the Deciding Beneficiaries.

(B) The name of the Trust is "**James Asset Trust**".

(C) The Trustee shall have no discretion, right or power to deal with the Trust Assets other than as set out herein.

(D) The Trustee wishes to constitute the Trust for the benefit of each Beneficiary under the terms set out in this Deed Poll.

(E) It is intended that the Trust established by this Deed poll shall be irrevocable.

**THIS DEED WITNESSES** as follows:

1 **DEFINITIONS**

1.1 In this Deed Poll, words and expressions shall have the meanings given to them below:

"**Administrator**" means Fiduciary Group Limited, a company incorporated under the laws of the British Virgin Islands whose registered office is at Folio Chambers, PO Box 800, Road Town, Tortola, British Virgin Islands or such other entity as may be agreed from time to time between the Deciding Beneficiaries and the Trustee;

"**Asset**" means any exchange traded product, bond, note or loan note including any Related Security;

"**Beneficiary**" means each holder of DAI and each holder of MKR;

"**Business Day**" means any day other than a Saturday or Sunday and on which commercial banks are open for general business in London;

"**Charity**" means any trust, foundation, institution or other organisation whatsoever established only for the purposes regarded as charitable under the laws of England and Wales;

"**DAI**" means the stablecoin maintained and regulated by the Maker Protocol and any other crypto-asset resulting from a fork of DAI;

"**Deciding Beneficiaries**" means the holders from time to time of MKR;

"**James Asset Vault**" shall have the meaning given to in recital (A) above;

"**MakerDAO**" means the set of smart contracts which facilitate the generation of DAI and which is governed by the holders of MKR;

"**MakerDAO Notification**" means a notice given to the MakerDAO on behalf of the Trustee;

"**MakerDAO Resolution**" means a proposal clearly marked as concerning James Asset Trust and validly passed as an executed executive vote on the "Maker Governance Voting Portal" in

accordance with the governance protocols of the MakerDAO. For these purposes, "executed" means an executive vote that has become active following the "GSM Pause Delay";

"**MKR**" means the ERC-20 token that is native to the MakerDAO;

"**Permitted Expenses**" means fees and expenses charged by the Trustee in accordance with Clause 10 (*Income, Fees and Expenses*) and transaction fees of third party banks and other service providers duly incurred by the Trustee in relation to the transfer of funds (including cryptocurrencies) for or on behalf of the Trust;

"**Related Security**" means the security for an Asset including any Security Interest, any guarantee and any other surety applicable to the Asset;

"**Reporting Agent**" means Monetalis Services Limited (a company incorporated in the British Virgin Islands with registered number 2103556 and its registered office at Trinity Chambers, PO Box 4301, Road Town, Tortola, British Virgin Islands) or such other entity as may be appointed from time to time by the Trustee acting on the instructions of a MakerDAO Resolution to provide reporting services;

"**Security Interest**" means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect;

"**Surplus Buffer**" means the wallet of MakerDAO, the ETH address of which will be set in a MakerDAO Resolution;

"**Trust**" means the trust constituted over the Trust Assets pursuant to this Deed Poll;

"**the Trustee**" means the Trustee or the trustee of the Trust for the time being;

"**Trust Account**" means the custody and cash accounts held in the name of the Trustee with account number, as such account may be renumbered, re-designated or replaced or such other account or accounts as may be designated by the Trustee (acting pursuant to a MakerDAO Resolution) as a "**Trust Account**" from time to time, and includes any sub-account of each such account;

"**Trust Assets**" means:

- (a) any cryptocurrency held from time to time by the Trustee with respect to the Trust;
- (b) in relation to any Asset in respect to which the Trustee is the legal or beneficial title holder:
  - (i) all right, title, interest and benefit of the Trustee (both present and future) in, to and under such Asset and its Related Security (if any);
  - (ii) all sums of principal, interest, distributions, income and any other sum payable under or in relation to such Asset and the right to demand, sue for, recover, receive and give receipts for all such sums;
  - (iii) all proceeds from the enforcement of such Asset and its Related Security or the sale of such Asset;
  - (iv) all contractual rights; and
  - (v) all causes and rights of action in favour of the Trustee against any person in connection with any report, valuation, opinion, certificate, consent or other statement of fact or opinion given in connection with such Asset or received by the Trustee in connection with such Asset; and
- (c) any fiat currency held by the Trustee in relation to the Trust, including any fiat currency in the Trust Account.

## 2 INTERPRETATION

2.1 In this Deed Poll, unless a contrary intention appears, a reference to:

- (a) a clause or schedule is a reference to a clause of, or schedule to, this Deed Poll;
- (b) a time of day is a reference to British Virgin Islands time;
- (c) any reference in this Deed Poll to any legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted;
- (d) the words "include", "includes" and "including" means "including without limitation"; and
- (e) words importing the singular number include the plural and vice versa.

2.2 The headings in this Deed Poll do not affect its interpretation.

### 3 **BENEFIT OF THE DEED POLL**

3.1 This Deed Poll shall take effect as a deed poll for the benefit of the Beneficiaries from time to time.

3.2 This Deed Poll shall enure to the benefit of the Beneficiaries, and the Beneficiaries which hold MKR shall be entitled to enforce this Deed Poll against the Trustee subject to the non-exclusive jurisdiction of the courts of the British Virgin Islands (but not, for the avoidance of doubt, the directors of the Trustee) and provided that a MakerDAO Resolution is first passed in favour of such enforcement appointing and instructing a Deciding Beneficiary which is a holder of MKR to take such enforcement steps.

3.3 Subject to the Beneficiaries being able to enjoy the benefit of this Deed Poll, a person who is not a party to this Deed Poll shall have no rights to enforce or enjoy the benefit of any of its terms.

### 4 **CREATION OF TRUST**

The Trustee declares that it shall hold the Trust Assets on trust absolutely for the Beneficiaries upon, with and subject to the Trust, powers and provisions of this Deed Poll.

### 5 **PURPOSE**

5.1 The sole purpose of the Trust shall be to:

- (a) Acquire, hold and dispose of Assets; and/or
- (b) to appoint one or more regulated investment managers to acquire, hold and dispose of Assets on behalf of the Trustee; and
- (c) pay the proceeds of such Assets to the James Asset Vault and/or Surplus Buffer,

in each case in accordance with an applicable MakerDAO Resolution.

5.2 In performing the purpose of the Trust, the Trustee shall:

- (a) acquire Assets when instructed to do so pursuant to a MakerDAO Resolution and then only to the extent that the Trustee receives cryptocurrency or fiat currency for such purpose from the James Asset Vault;
- (b) convert cryptocurrency generated by the James Asset Vault accessed via the MakerDAO protocol to the relevant fiat currency for the purposes of paying the purchase price of Assets;
- (c) convert fiat currency to cryptocurrency in order to make payments to the James Asset Vault or Surplus Buffer in accordance with Clause 6 (*Entitlements and Distributions*);
- (d) appoint one or more regulated investment managers to manage some or all of the Trust Assets in accordance with an applicable MakerDAO Resolution and pursuant to an investment mandate or investment management agreement approved by such MakerDAO Resolution; and

(e) undertake such other matters ancillary to such purpose as the Trustee may consider necessary and/or expedient.

5.3 The Trustee shall be entitled to rely on any MakerDAO Resolution from the Deciding Beneficiaries.

5.4 The Trustee will only undertake transactions with respect to Trust Assets which are approved by the Administrator as being in accordance with the relevant MakerDAO Resolution. This approval must be explicitly documented and provided to the Reporting Agent in copy.

5.5 The Trustee shall monitor the Maker Governance Voting Portal at [vote.makerdao.com](http://vote.makerdao.com) on a monthly basis, or as requested by the Reporting Agent, identify Maker Resolutions under the tab "Executive" and execute the instructions in such Maker Resolution in a timely manner or as provided therein.

## 6 ENTITLEMENTS AND DISTRIBUTIONS

6.1 It is declared that:

(a) all amounts with respect to the Trust Assets received in cash by the Trustee less the Permitted Expenses shall be converted as soon as reasonably practicable following receipt to DAI and transferred to the James Asset Vault (unless otherwise instructed by a MakerDAO Resolution); and

(b) the Trustee shall have no power, discretion or duty to accumulate amounts representing income of the Trust or otherwise to treat such income as an accretion to capital, but shall distribute such amounts in accordance with this Clause 6 pending such distribution, such amounts shall be held on trust for the benefit of the Beneficiaries absolutely.

## 7 EXERCISE OF RIGHTS

7.1 To the extent that the Trustee is entitled to exercise any rights in relation to the Assets, it shall do so only in accordance with an applicable MakerDAO Resolution.

7.2 The Trustee shall not be required to exercise any rights in relation to the Trust Assets where it has not been expressly and unambiguously instructed to do so pursuant to a MakerDAO Resolution.

## 8 PROVISIONS CONCERNING THE TRUSTEE

### 8.1 No discretion

The Trust Assets are not selected by the Trustee. The Trustee shall subscribe for Assets only in accordance with Clause 5.2. The Trustee, in its capacity as trustee, shall have no right or power to deal with the Trust Assets in any manner whatsoever other than as instructed by the Deciding Beneficiaries.

### 8.2 No power of investment

Save as expressly provided for in this Deed Poll, the Trustee shall not have any further or other powers of investment with respect to the Trust Assets and no provision relating to trustee powers of investment implied by statute or general law shall apply to the Trust.

### 8.3 Insurance and Due Diligence

The Trustee shall not be under any obligation to insure any of the Trust Assets. The Trustee shall not carry out any due diligence or monitoring of the Trust Assets.

### 8.4 Approval of appointment and removal of Trustee

The power to appoint, removal and/or approve the appointment of a new trustee or new trustees under this Deed Poll shall be vested in the Deciding Beneficiaries which shall exercise such power pursuant to a MakerDAO Resolution.

**8.5 Removal**

Any trustee appointed under this Deed Poll may be removed by the Deciding Beneficiaries pursuant to a MakerDAO Resolution giving not less than seven (7) Business Day's prior written notice to the relevant Trustee, in each case without giving any reason and without being responsible for any costs incurred as a result. To the extent that the relevant Trustee holds Trust Assets it shall use reasonable endeavours to transfer such Trust Assets to a new Trustee in accordance with an applicable MakerDAO Resolution, provided that it is fully indemnified in advance for any costs incurred in relation to such transfer and that it is not required to carry out any act which is illegal or unlawful in any jurisdiction.

**8.6 Appointment and removal to be evidenced in writing**

Any appointment of a new trustee or new trustees and any removal of an existing trustee under this Deed Poll shall be evidenced in writing by an instrument in the form of a deed.

**8.7 Delegation**

The Trustee may, for the purpose of exercising or performing each of its trusts, powers, authorities, duties, discretions or obligations under this Deed Poll, instead of acting personally, appoint and pay an agent, delegate, nominee or custodian, to do so on its behalf on any terms and subject to any conditions (including the power to sub delegate) which the Trustee considers appropriate.

**8.8 Own Funds**

No provision of this Deed Poll shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability if, in its reasonable opinion, adequate arrangements do not exist for the reimbursement of such funds or indemnity or security or prefunding against such risk or liability and the Trustee may demand prior to taking any such action, that it be paid in advance (without prejudice to any future demand) such sufficient amounts so to indemnify or secure or prefund it.

**8.9 Liability**

8.10 In the absence of wilful default, negligence or fraud, the Trustee shall not be liable or responsible to the Beneficiaries or any other person for any loss as a result of or otherwise in connection with:

- (a) any Asset;
- (b) whether and how it performs each of its trusts, powers, authorities, duties, discretions and obligations under or in connection with this Deed Poll or conferred upon it by operation of law;
- (c) the determination by it of any question arising in relation to any of the provisions of this Deed Poll; or
- (d) anything done or omitted to be done by it or its directors, officers or employees under this Deed Poll.

8.11 In no circumstances shall the Trustee be liable for any special damages, indirect or consequential damages, loss of profits, loss or goodwill or reputation or loss of opportunity, regardless of whether or not foreseeable, even if the Trustee has been advised of the possibility of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, breach of contract or otherwise.

8.12 The Trustee is entitled to be indemnified from the Trust Assets for any liabilities incurred in his, her or its capacity as such, unless they were caused by his, her or its own wilful default, negligence or fraud.

**8.13 Applicable Law**

Notwithstanding any other provision hereof, nothing in these presents shall require the Trustee to breach applicable law or otherwise carry out any illegal or unlawful action in any jurisdiction.

**9 TERMINATION OF TRUST**

9.1 This Deed Poll terminates on the earlier of:

- (a) if no Trust Assets are held by the Trustee and subject to Clause 8.5 (*Removal*), any date specified by the Trustee;
- (b) the date on which the Deciding Beneficiaries unanimously determine the Trust be wound up pursuant to a MakerDAO Resolution; or
- (c) the date required by law.

9.2 On termination of the Trust, the Trustee will use its reasonable endeavours to distribute all of the Trust Assets in accordance with an applicable MakerDAO Resolution. If any Trust Assets remain in the possession of the Trustee for a period of ten (10) years following termination, the Trustee may in its absolute discretion distribute the whole or any part of such unclaimed Trust Assets to or for the benefit of such Charity or Charities in such amounts or proportions as they may from time to time decide unless instructed otherwise by the Deciding Beneficiaries.

**10 INCOME, EXPENSES AND FEES**

10.1 Permitted Expenses may be deducted from Trust Assets.

10.2 Negative interest applied to Trust Assets by an account bank will reduce the relevant Trust Assets.

10.3 The Trustee shall be entitled to be reimbursed and recover its out of pocket and other reasonably incurred expenses in relation to the James Asset Trust in each case by deducting them from the Trust Assets.

**11 ADMINISTRATION**

11.1 The Trustee shall appoint the Administrator to review all transactions of the Trust and approve that each such transaction as being in accordance with a valid MakerDAO resolution. The Administrator shall document the approvals and the Trustee shall not undertake any transaction without such approval.

**12 REPORTING**

The Trustee shall appoint the Reporting Agent to procure that information relating to the Trust Assets is transmitted to the Deciding Beneficiaries pursuant to a reporting agency agreement. All transactions, agreements, documentation involving the Trust shall be made available to the Reporting Agent.

**13 AMENDMENTS AND WAIVERS**

13.1 This Deed Poll may be amended or provisions hereof waived only with the approval of a MakerDAO Resolution and the Trustee.

**14 GOVERNING LAW AND JURISDICTION**

14.1 This Deed Poll and any non-contractual obligations arising out of or in relation to this Deed Poll shall be governed by and interpreted in accordance with British Virgin Islands law.

14.2 The British Virgin Islands courts shall have non-exclusive jurisdiction in relation to all disputes (including claims for set-off and counterclaims) arising out of or in connection with (i) the creation, validity, effect, interpretation, performance or non-performance of, or the legal relationships established by this Deed Poll; and (ii) any non-contractual obligations arising out of or in connection with this Deed Poll.

**15 REVOCATION**

15.1 This Trust shall be irrevocable.

**IN WITNESS** whereof this Deed Poll has been executed by the Trustee and is intended to be and is hereby delivered on the date first before written.

**EXECUTED AS A DEED** for and on behalf of **JAMES ASSET (PTC) LIMITED** by:



RiverFront Capital Ltd. – Sole Director  
Duly Authorised Signatory

Name: Reid Thurlow

Title: Director

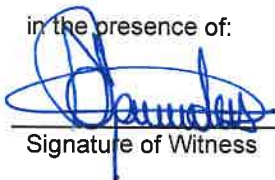


Duly Authorised Signatory

Name: Aliza Tyson

Title: Director

in the presence of:

  
Signature of Witness

Name: Andrew Saunders

Address: Road Town, Tortola, B.V.I.