

SUPER **easy**



TRUST DEED

Local Government Superannuation Scheme

15 March 2016

Table of contents

Parties.....	1
Background.....	1
Covenants.....	2
1 Definitions and Interpretations	2
2 Constitution of the Scheme	6
3 Trustee	7
4 Appointment to Offices.....	14
5 Records, Scheme Fund Accounts, and Reports.....	14
6 Investments.....	17
7 Custody.....	19
8 Related party transactions	20
9 Accounts	21
10 Participating Employers	24
11 General membership provisions	27
12 Transfers.....	28
13 General provisions relating to contributions.....	29
14 Benefits	30
15 General provisions relating to Benefits	31
16 Appointor and succession of appointor.....	33
17 Meetings.....	34
18 Alteration of the Trust Deed	34
19 Arbitration.....	35
20 Notices	35
21 Winding up of the Scheme	35
22 Counterparts	37
Execution	37
Appendix A	38

Deed dated 15 March 2016

Parties

- BY **New Zealand Local Government Insurance Corporation Limited** a company incorporated in Wellington (**'Sponsor'**)
- AND **Local Government Superannuation Trustee Limited** a company incorporated in Wellington (**'LGST'**)
- AND **Graeme Robertson Mitchell** of Wellington (**'Retiring Trustee'**)

Background

- A The Local Government Superannuation Scheme was established by a trust deed dated 1 June 2005 (**'Establishment Trust Deed'**), which was subsequently amended on 18 May 2007 and 25 May 2009. The Scheme is currently governed by a replacement trust deed dated 29 April 2011, as amended on 5 December 2012 (**'Existing Deed'**).
- B As at the date of this Trust Deed, the Scheme is a registered superannuation scheme under the Superannuation Schemes Act 1989.
- C The Existing Deed is an umbrella trust deed which governs both the Scheme and the SuperEasy KiwiSaver Superannuation Scheme.
- D Pursuant to the Existing Deed, as at the date of this Deed, LGST and the Retiring Trustee are the trustees of the Scheme.
- E Under clause 18.1.1 of the Existing Deed, the trustees of the Scheme may amend the Existing Deed in any way, subject to the provisions of the Superannuation Schemes Act 1989 and the KiwiSaver Act 2006, providing that:
- a no member is significantly, inequitably and adversely affected by such a change; and
 - b there is no change to the provisions for the reversion of any assets of the Scheme or the SKSS to any Participating Employer to any greater extent than already provided for in the Existing Deed.
- F LGST and the Retiring Trustee wish to amend the Existing Deed with effect from 1 April 2016 by rescinding the Existing Deed and immediately replacing it with this Trust Deed (and a separate replacement trust deed governing the SKSS) in order to:
- a reflect the requirements of the Financial Markets Conduct Act 2013 in this Trust Deed; and
 - b consequently enable the Scheme to become registered as a restricted workplace savings scheme under the FMC Act.
- G The Retiring Trustee wishes to retire as a Trustee of the Scheme in his personal capacity immediately upon this Trust Deed coming into effect, subject to the contemporaneous coming into effect of his appointment as a director of LGST with his execution of this Trust Deed constituting notice to the Sponsor and LGST to that effect.

- H In its capacity as a party to the Existing Deed and promoter of the Scheme for the purposes of the Securities Act 1978, the Sponsor wishes to confirm its agreement to the amendments to the Existing Deed contemplated by this Trust Deed and to the retirement and discharge of the Retiring Trustee.
- I LGST and the Retiring Trustee are satisfied that the amendments contained in this Trust Deed do not adversely affect any member, or change the provisions for the reversion of any assets, as described in Recital E.
- J Prior to executing this Trust Deed, LGST and the Retiring Trustee obtained a certificate from their solicitors as required by section 12 of the Superannuation Schemes Act 1989.

Covenants

With effect from 1 April 2016:

- a LGST and the Retiring Trustee amend the Existing Deed by rescinding the Existing Deed and immediately replacing it, in respect of the Scheme, with this Deed so that from 1 April 2016, the Scheme will be operated, administered, and governed in accordance with the provisions of this Trust Deed, but without disrupting the continuation of the trusts of the Existing Deed; and
- b the Retiring Trustee thereupon retires as a Trustee of the Scheme, subject to his appointment as a director of LGST coming into effect, and LGST and the Sponsor accept his retirement and discharge him from his office as a Trustee of the Scheme.

1 Definitions and Interpretations

1.1 Definitions

Each of the following words and expressions shall have the meanings as indicated:

'Actuary' means a person who is a Fellow of the New Zealand Society of Actuaries.

'Administration Manager' means the person (if any) to whom the Trustee has contracted some or all of the administration of the Scheme.

'Appointor' means the appointor of the Trustee as appointed pursuant to clause 16.

'Associate' has the same meaning as 'Associated Person' in the FMC Act.

'Auditor' means the person for the time being holding the office of auditor of the Scheme from time to time in accordance with clause 4.1.

'Beneficiary' means any natural person eligible to receive a Benefit under the Scheme.

'Benefit' means any amount paid or payable (as the case may be) by the Trustee pursuant to the Trust Deed to or in respect of a Member.

'Custodian' has the meaning given to that term in clause 7.1.

'Cessation Date' has the meaning given to that term in clause 10.14.

'Deferred Benefit Amount' means the amount standing to the credit of a Member's Account pursuant to clause 11.5 on ceasing Employment, less any amounts that have been paid to or in respect of the Member from that amount so credited.

'Dependant' means in relation to a Beneficiary any person whom the Trustee is satisfied, having regard to the permanency of the relationship, is or was involved in a de facto relationship or civil union partnership or married to the Beneficiary, or any other person that the Trustee in its discretion determines to be or who in future might have become dependant either wholly or in part on the Beneficiary.

'Employee' means:

- a a natural person who is engaged to work or who works under a contract of service or apprenticeship with a Qualifying Employer; and
- b a director or officer of a Participating Employer, if that director or officer is employed or engaged in the local government industry.

'Employer's Account' means in relation to the Scheme an account in the name of a Member established pursuant to clause 9.1b.

'Employer's Account Balance' means in relation to the Scheme, on any date, the balance of the Employer's Account determined in accordance with clauses 9.4 and 9.5.

'Employment' means in respect of a Member and a Participating Employer, employment or other engagement of the Member in the service of the Participating Employer.

'FMA' means the Financial Markets Authority.

'FMC Act' means the Financial Markets Conduct Act 2013.

'Generally Accepted Accounting Practice' has the same meaning as in the FMC Act.

'Governing Legislation' means, to the extent applicable in the context, the Trustee Act 1956 and the FMC Act.

'Investments' means in relation to the Scheme, all of the investments made by or on behalf of the Scheme by the Trustee, valued in accordance with unit prices calculated daily by any Investment Manager(s), plus any interest held in bank accounts, or any other valuation determined in accordance with Generally Accepted Accounting Practice.

'Investment Income' means the net profit arising from Investments, after deduction of all expenses, any applicable Taxation and other provisions relating to the Investments including allowance for appreciation or depreciation in any Investment and for unrealised gains or losses and crediting income, determined in accordance with Generally Accepted Accounting Practice.

'Investment Loss' means the net loss arising from Investments after deduction of all expenses, any applicable Taxation and other provisions relating to the Investments including allowance for appreciation or depreciation in any Investment and for unrealised losses or gains and crediting income, determined in accordance with Generally Accepted Accounting Practice.

'Investment Manager' means the person (if any) to whom the Trustee has contracted the investment of some or all of the Scheme Fund pursuant to clause 6.11.

'Issuer Obligations' has the same meaning as in the FMC Act.

'KiwiSaver Act' means the KiwiSaver Act 2006 and includes the KiwiSaver Scheme Rules contained in Schedule 1 to this Act.

'Leave of Absence' means the temporary absence of a Member from Employment for reason of sickness, injury, leave or as a result of complete or partial but temporary closing down of the business of the Participating Employer, in each case with the approval of the Participating Employer, whether given before, during or after that absence, provided that the Member has not been made redundant, resigned or been dismissed by the Participating Employer.

'Leaving Service' means in relation to a Member, the Member's cessation of Employment, other than by reason of retirement.

'Licensed Independent Trustee' means a trustee, or director of a sole corporate trustee, whose licence covers the Scheme and who is independent in relation to the Scheme (as defined in the FMC Act).

'Member' means in respect of the Scheme any natural person who has been admitted to membership of the Scheme who has agreed to make, or in relation to whom a Participating Employer has agreed to make, contributions, and who has not ceased to be a Member.

'Member's Account' means an account in the name of a Member established pursuant to clause 9.1a.

'Member's Account Balance' means, on any date, the balance of the Member's Account determined in accordance with clauses 9.2 and 9.3.

'Nominee' has the meaning given to that term in clause 7.3.

'Participating Employer' means any Qualifying Employer, who having completed an application to the Trustee for the purpose of arranging retirement benefits for its employees, has been accepted by the Trustee into the Scheme as a Participating Employer and has not ceased to be a Participating Employer.

'PDS' has the meaning given to that term in the FMC Act.

'Qualifying Employer' means an employer who is:

- a a local authority as defined in the Local Government Act 2002;
- b a council-controlled organisation as defined in the Local Government Act 2002; or
- c listed in the Appendix to this Trust Deed, to the extent that any such successor or assign is permitted under the FMC Act without affecting the Scheme's registration as a restricted employer related workplace savings scheme.

'Register' means the register of Members maintained by the Trustee in accordance with clause 5.4.

'Register Entry' has the meaning given to that term in the FMC Act.

'Related Party Benefit' has the meaning given to that term in the FMC Act.

'Reserve Account' means in relation to the Scheme the account established pursuant to clause 9.1c.

'Retirement' means in relation to a Member, the Member's retirement from Employment, on or after the Member attaining age 65.

'Retirement Scheme' has the meaning given to that term in the FMC Act.

'Scheme' means the Local Government Superannuation Scheme.

'Scheme Fund' means all the money and Investments being held by or on behalf of the Trustee upon the trusts of the Trust Deed.

'Scheme Year' means the year ending on 31 March in each year or such other period as the Trustee determines from time to time.

'SIPO' means the statement of investment policy and objectives for the Scheme.

'SKSS' means the SuperEasy KiwiSaver Superannuation Scheme.

'Special Resolution' means a resolution approved by no less than 75% of the Members who are entitled to vote and who vote on the question.

'Sub-Custodian' has the meaning given to that term in clause 7.2.

'Taxation' includes income tax, capital gains tax, goods and services tax, land tax, withholding tax, stamp duty and any other tax or duty payable or potentially payable by the Trustee in respect of the Scheme, or a Member or Qualifying Employer in respect of a Scheme.

'Trust' means the trust established by this Trust Deed.

'Trustee' means the trustee or trustees of the Scheme appointed pursuant to clause 3 and if there is more than one trustee, means any one of the trustees if the context requires.

'Trust Deed' means this deed and any changes made to it by the Trustee and includes any schedules.

'Workplace Savings Scheme' has the meaning given to that term in the FMC Act.

1.2 Interpretation

In this Trust Deed unless content otherwise requires:

- a Words importing one gender shall include the other.
- b Plural shall include the singular and vice versa.
- c References to persons shall include body corporates.
- d Reference to any Act or Statute or legislative instrument shall be deemed to include every amendment or re-enactment of it and every Statute substituted for it and any regulations made under an Act or Statute and, in the case of the FMC Act, includes any framework or methodology issued by FMA under the FMC Act.

- e Unless stated otherwise, any amount of money referred to shall mean that amount in New Zealand currency.
- f Nothing in the Trust Deed shall affect the powers of a Participating Employer with regard to the remuneration, terms of employment or dismissal of an Employee or any other dealings between the Participating Employer and Employee.
- g Except as otherwise defined in this Trust Deed, terms used in this Trust Deed which have been defined in the FMC Act shall have the same meaning as ascribed to those terms in the FMC Act.
- h A reference to any party includes its successors and assigns.
- i If there is any inconsistency between the provisions of this Trust Deed and any Governing Legislation, the provisions of the relevant Governing Legislation shall prevail and this Trust Deed shall be construed accordingly.

1.3 **Terms implied by law**

The statutory provisions or other terms implied in this Trust Deed under the FMC Act or otherwise at law apply for so long as they are implied in this Trust Deed despite anything to the contrary in this Trust Deed. Any provision in this Trust Deed that is contrary to any such implied term is void to the extent that it is contrary.

1.4 **Frameworks or methodologies**

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

2 Constitution of the Scheme

2.1 **Commencement**

The Scheme was established with a commencement date of 1 June 2005. The continuation of the trusts relating to the Scheme established in accordance with the Establishment Deed as subsequently amended is confirmed, on the basis of the amendments contained in this Trust Deed.

2.2 **Scheme Fund held in trust**

The Scheme Fund shall continue to be held in trust for the Scheme in accordance with this Trust Deed and the FMC Act by:

- a LGST;
- b if LGST ceases to hold office as Trustee, by a body corporate that is either a corporate Trustee of the Scheme or has, as its directors, only persons who are Trustees of the Scheme; or
- c a Custodian and/or Sub-Custodian appointed in accordance with clauses 7.1 and 7.2,

and shall be managed, administered and applied by the Trustee in accordance with this Trust Deed.

2.3 Trustee's responsibility

The Trustee, for itself, its successors and assigns:

- a is and shall remain responsible for the Scheme;
- b shall not, except as provided by this Trust Deed, sell, mortgage or charge any of the Investments of the Scheme; and
- c shall comply with all relevant law, including the FMC Act.

2.4 The Scheme

The Scheme is a defined contribution scheme.

2.5 Benefits fully funded

The benefits provided by the Scheme are fully funded as they accrue.

2.6 Relationship with Governing Legislation

This Trust Deed shall be interpreted and administered in accordance with New Zealand law.

2.7 Purposes of the Scheme

The purposes of the Scheme are to provide:

- a retirement benefits directly or indirectly to individuals;
- b benefits to eligible individuals on ceasing employment or engagement with a Qualifying Employer (whether immediately or subsequently),

on the terms of this Trust Deed.

2.8 Reversion

No part of the Scheme Fund may revert to any Participating Employer without the prior written consent of the FMA (which may only be given in accordance with the FMC Act).

3 Trustee

3.1 Trustee requirements

The Scheme shall at all times have one or more Trustees. It is a requirement that:

- a where there is a sole corporate trustee, at least one of its directors is a Licensed Independent Trustee; or
- b in any other case, at least one of the Trustees is a Licensed Independent Trustee; and
- c at least one of the Trustees or one of the directors of any corporate Trustee is a New Zealand resident for tax purposes.

3.2 Licensed Independent Trustee

As at the date of this Trust Deed, for the purposes of clause 3.1, it is envisaged that from 1 April 2016 Local Government Superannuation Trustee Limited will be the sole corporate Trustee of the Scheme, with one of its directors a Licensed Independent Trustee.

3.3 Agreement to Trustee duties

Acceptance of trusteeship through signing this Trust Deed or any appointment document shall constitute agreement to undertake the duties of Trustee under this Trust Deed.

3.4 Appointment and removal of Trustee

Subject to clauses 3.8 and 3.10, and the Scheme continuing to comply with clause 3.1, the Appointor shall have the right to remove any Trustee and appoint another company or person as trustee by giving written notice to the existing Trustee.

3.5 Notice

The Appointor shall give to every Participating Employer written notice of the appointment, resignation or removal of a Trustee.

3.6 Removal of Trustee at law

A Trustee shall cease to hold office if:

- a the Trustee is substituted by the High Court under section 209 of the FMC Act;
- b in the case of a Licensed Independent Trustee:
 - i the Licensed Independent Trustee's licence expires or is cancelled under Part 6 of the FMC Act; or
 - ii the Licensed Independent Trustee is removed by the FMA if it is satisfied that the Licensed Independent Trustee no longer meets the requirements in section 131(1)(d) of the FMC Act.

3.7 Removal of Trustee under Trust Deed

In addition, subject to clause 3.8, a vacancy in the office of Trustee shall arise if:

- a a resolution is passed or an order made for the winding up of a Trustee or a Trustee is placed in receivership or statutory management;
- b a Trustee dies, remains out of New Zealand for the space of 12 months or more, becomes bankrupt, or is unfit to act as a Trustee, or is incapable of so acting;
- c a Trustee is otherwise removed by operation of law;
- d the Appointor removes a Trustee; or
- e a Trustee resigns or retires by giving written notice to the Appointor or any continuing Trustee.

3.8 Restrictions on removal and resignation

A Licensed Independent Trustee may not:

- a be removed or resign under clause 3.7 unless:
 - i all functions and duties of the position have been performed;
 - ii a new Licensed Independent Trustee has been appointed, and accepted the appointment, in the previous Licensed Independent Trustee's place;
 - iii the High Court consents; or
- b be removed under clause 3.7 without the FMA's consent.

3.9 Effect of removal

If the Trustee ceases to hold office, the Trustee and any delegate of the Trustee must immediately desist from all activities relating to the Scheme.

3.10 Appointment of new Trustee

If the office of a Trustee becomes vacant under clauses 3.4, 3.6, or 3.7, a new Trustee may be appointed by the Appointor and the Appointor and the former Trustee shall immediately ensure the transfer to the new Trustee and the continuing Trustee of any money and Investments of the Scheme held by the previous Trustee.

3.11 Temporary Licensed Independent Trustee

If the Scheme does not at any time, for any reason, have a Licensed Independent Trustee, the FMA must appoint a temporary Licensed Independent Trustee in accordance with the FMC Act.

3.12 Remuneration of Trustee

The Trustee shall be entitled to fees payable from the Scheme for its services in respect of the management and administration of the Scheme. The amount of the fees shall be determined from time to time by the Appointor after consultation with the Trustee and disclosed to Members.

3.13 Trustee deemed to be manager of Scheme

In accordance with the FMC Act, the Trustee (if there is more than one, acting together) is deemed to be the manager of the Scheme. The Trustee is appointed to manage the Scheme and is responsible for performing the functions and the duties of a manager of a managed investment scheme under the FMC Act. In particular, the Trustee is responsible for performing the following functions:

- a offering interests in the Scheme;
- b issuing interests in the Scheme;
- c managing the Scheme's property and investments; and
- d administering the Scheme.

3.14 **Trustee's general duties**

The Trustee must:

- a act honestly in acting as a manager;
- b in exercising any powers or performing any duties as a manager:
 - i act in the best interests of the Members; and
 - ii treat the Members equitably;
- c not make use of information acquired through being the manager in order to:
 - i gain an improper advantage for itself, himself, herself, or any other person; or
 - ii cause detriment to the Members;
- d ensure that no director or senior manager of the Trustee makes use of information acquired through being a director or senior manager of the Trustee in order to:
 - i gain an improper advantage for itself, himself, herself, or any other person; or
 - ii cause detriment to the Members;
- e ensure that no director or senior manager of the Trustee makes improper use of their position as a director or senior manager of the Trustee, to gain, directly or indirectly, an advantage for itself, himself, herself, or any other person or to cause detriment to the Members;
- f carry out its functions as manager of the Scheme in accordance with this Trust Deed, the SIPO, and all other Issuer Obligations; and
- g comply with any requirements applying to the Trustee as a result of it holding all or part of the Scheme Fund.

3.15 **Standard of care**

In exercising any powers or performing any duties:

- a the Licensed Independent Trustee of the Scheme must exercise the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances;
- b any other Trustee of the Scheme whose profession or business is or includes acting as a trustee or investing money on behalf of others must exercise the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances; and
- c any other Trustee that does not fall within paragraphs a or b must exercise the care, diligence, and skill that a prudent person of business would exercise in the same circumstances.

3.16 Powers of Trustee

In addition to the powers conferred by law and elsewhere in this Trust Deed, the Trustee shall have the power:

- a to settle, compromise or submit to arbitration any claims or matters relating to the Trust Deed, the Scheme or the rights of Members, former Members and Beneficiaries;
- b to insure against any risks or contingencies affecting or with the potential of affecting the Scheme;
- c subject to the Governing Legislation and all other applicable laws, to effect insurance for the Trustee and any director or employee of the Trustee in respect of liability for any act or omission or costs incurred;
- d to make rules or to adopt procedures consistent with the provisions of the Trust Deed in relation to the calculation and pragmatic rounding off of contributions, Benefits or interest, or to the determination of periods of time, or in respect of such other matters as shall be appropriate for the convenient administration of the Scheme;
- e to borrow money and to secure the repayment of it in any manner and upon any terms the Trustee considers advisable whether by charge over all or any portion of the Scheme Fund or any particular Investment or otherwise; and
- f generally to do all such acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Scheme and the Scheme Fund and in the performance of its obligations under the Trust Deed.

3.17 Compliance with Governing Legislation

Nothing in the Trust Deed shall be construed as requiring the Trustee to act in a manner which would contravene any of the provisions of the Governing Legislation.

3.18 Trustee's judgement

The Trustee may exercise or enforce all of the authorities, discretions and powers vested in it from time to time and at any time and may refrain from exercising all or any such powers.

3.19 Unanimous decision

Where there is more than one Trustee, any decision of the trustees shall be unanimous.

3.20 Indemnity and limitation of Trustee's liability

The Trustee has the same duties and liability in the performance of its functions as manager in terms of the FMC Act as it has in the performance of its functions as trustee of the Scheme (except to the extent that those duties are altered by or inconsistent with the FMC Act).

3.21 No liability for failure to perform/act

Subject to the provisions of this Trust Deed and the FMC Act but otherwise without limitation, the Trustee shall not incur any liability to anyone in respect of any failure to perform or do any act or thing which by reason or provision of any present or future law of New Zealand it is hindered or prevented from doing or performing.

3.22 **Trustee's liability**

Subject to the Governing Legislation, the Trustee shall not be liable to account to any Member, Participating Employer or anyone else for any payments made by the Trustee in good faith to any duly empowered fiscal authority of New Zealand for taxes or other charges upon the Scheme or with respect to any transaction under this Trust Deed, notwithstanding that any such payment need not have been made.

3.23 **Trustee's reliance on advice**

Subject to the provisions of this Trust Deed and the FMC Act but otherwise without limitation, the Trustee may rely upon the advice or opinion (whether or not obtained by the Trustee) of any professional person or upon any advice the Trustee may obtain directly or indirectly from any company, firm or person as shall, in the opinion of the Trustee, be qualified to advise it.

3.24 **Limitation on Trustee's liability**

Subject to clause 3.26, the Trustee shall not be liable for:

- a anything done or suffered by it in good faith in reliance upon any opinion, advice, statements or information referred to in clause 3.23;
- b any losses of the Scheme Fund except losses arising from its own wilful default or the wilful default of any of its directors or officers; or
- c any acts done or not done in the exercise of or pursuant to any discretion vested in it.

3.25 **Indemnity**

Subject to the provisions of this Trust Deed and the FMC Act but otherwise without limitation, the Trustee and any person acting on behalf of and with the authority of the Trustee (including any Investment Manager, Administration Manager, or Custodian appointed pursuant to the terms of the Trust Deed) shall be indemnified out of the Scheme Fund:

- a against all liabilities and expenses incurred by them in the exercise or attempted exercise of the trusts, powers, authorities and discretions vested in the Trustee pursuant to this Trust Deed; and
- b in respect of any matter or thing done or omitted to be done in any way relating to this Trust Deed or the Scheme,

other than losses or damages arising out of any wilful default or wilful breach of trust or wilful failure to comply with the FMC Act.

3.26 **Limitation on indemnity**

Where liabilities or expenses are incurred in relation to the performance of the Trustee's Issuer Obligations, the Trustee's right pursuant to this Trust Deed to be indemnified for liabilities and expenses is available only in relation to the proper performance of its duties under clauses 3.14a to 3.14c and 3.15.

3.27 Delegation

Subject to clause 8:

- a the Trustee may at any time and from time to time delegate any of its powers to any person (including an Administration Manager, Investment Manager, Custodian, or Sub-Custodian in accordance with this Trust Deed); and
- b any such person with the consent of the Trustee may at any time and from time to time sub-delegate all or any of the administrative powers delegated to that person.

3.28 Amendment or revocation of delegation

A delegation or sub-delegation pursuant to clause 3.27 may be amended or revoked at any time subject to such conditions and on such terms as the person making the delegation or sub-delegation thinks fit. In the case of a sub-delegation the Trustee shall consent to any such amendment or revocation.

3.29 Non-revocation of delegation

If the Trustee or a delegate exercises a power that is for the time being delegated or sub-delegated, that shall not revoke the delegation or sub-delegation.

3.30 Trustee's obligations in relation to delegates

Where the Trustee delegates or contracts out any of its functions as manager:

- a the Trustee must take all reasonable steps to:
 - i ensure that those functions are performed in the same manner, and are subject to the same duties and restrictions, as if the Trustee were performing them directly; and
 - ii monitor the performance of those functions; and
- b the Trustee remains liable for the performance of any functions delegated or contracted out.

3.31 Deductions for management and administration costs

The Trustee shall deduct from the Scheme Fund such amounts as are required to meet the costs, charges and expenses of management and administration of the Scheme, including Taxation and the fees and expenses of any Investment Manager, Administration Manager, or Custodian appointed pursuant to the terms of this Trust Deed.

3.32 Deductions for fees and expenses

Subject to clause 3.26, the Trustee may deduct from the Scheme Fund from time to time such amount as the Trustee determines is required to meet the cost of stamp duty, brokers fees, commissions, legal expenses, Taxation and other expenses in connection with the Investments or interest on borrowings.

3.33 Apportionment of Trustee's remuneration and Scheme's outgoings

The Trustee's remuneration and the Scheme's outgoings may be allocated against:

- a the Reserve Account;
- b the Employer Accounts on a fair and equitable basis;
- c the Member Accounts on a fair and equitable basis; or

such two or more of them as the Trustee may from time to time determine.

4 Appointment to Offices

4.1 Appointment of Auditor

- a The Trustee must appoint an Auditor of the Scheme.
- b The Auditor must be a qualified auditor in terms of the FMC Act who is not precluded by the FMC Act from acting as auditor of the Scheme.
- c The Auditor's terms of appointment will be agreed between the Trustee and the Auditor, and must:
 - i include any matters required by the FMC Act; and
 - ii require the Auditor to, in addition to its functions as set out in this Trust Deed, perform any other functions required by the FMC Act and comply with any obligations it has under the FMC Act.

4.2 Appointment of Actuary or consultant

The Trustee may appoint an Actuary and/or a consultant to the Scheme. Any such appointment shall be on the terms and for the periods as the Trustee thinks fit.

4.3 Changes of appointments

The Trustee may at any time remove any Auditor, Actuary, and/or consultant to the Scheme and appoint a replacement in accordance with clauses 4.1 or 4.2.

5 Records, Scheme Fund Accounts, and Reports

5.1 Receipt and payment of money

All money and contributions to the Scheme received by or on behalf of the Trustee shall be held in trust, until subsequently applied or repaid, in accordance with the Governing Legislation.

5.2 Payment of money by direct credit

All payments made out of the Scheme Fund shall be made by direct credit to a bank account in accordance with the Beneficiary's instructions or other method approved by the Trustee from time to time.

5.3 **Records to be kept**

The Trustee shall keep or cause to be kept a complete record of:

- a Members (including the Register);
- b Participating Employers;
- c unclaimed Benefits for the last ten years; and
- d all other matters, information and data necessary or expedient for the proper and efficient working of the Scheme.

5.4 **Maintenance of Register**

The Trustee must ensure that there is kept and maintained a Register, which:

- a must be kept in New Zealand;
- b may be an electronic register or kept in any other reasonable manner that the Trustee thinks fit;
- c must contain the information required by the FMC Act; and
- d must otherwise meet the requirements of the FMC Act.

The Register is prima facie evidence of the matters required by the FMC Act to be entered in it.

5.5 **Audit of Register**

The Trustee must ensure that the Register is audited in accordance with the FMC Act. The Auditor, in completing its audit of the Register, shall perform any other functions required by the FMC Act, and comply with any obligations it has under the FMC Act.

5.6 **Inspection of Register**

Any Member is entitled to inspect the part of the Register that concerns that Member (as applicable) free of charge during normal working hours or as otherwise required by the FMC Act.

5.7 **Record-keeping requirements**

The Trustee must keep copies of documents and information as required by the FMC Act and otherwise maintain proper records in accordance with the FMC Act.

5.8 **Trustee's responsibility for records**

The Trustee shall keep or cause to be kept:

- a proper records of all resolutions and the decision of its directors and officers relating to the Scheme; and
- b a full, true and complete record of the affairs, matters and transactions of the Scheme.

5.9 **Record keeping for taxation**

The Trustee shall keep such records as it considers necessary or appropriate in order to account for any liability of the Scheme for Taxation and to provide for such Taxation.

5.10 **Scheme Fund accounts to be kept**

The Trustee shall ensure that:

- a proper books of account are kept in respect of the Scheme Fund; and
- b within any period prescribed by law, being within four months of the end of each Scheme Year as at the date of this Trust Deed, financial statements in respect of the Scheme are, in accordance with the FMC Act:
 - i prepared, dated, and signed;
 - ii audited; and
 - iii lodged with the Registrar of Financial Service Providers.

5.11 **Annual reports**

The Trustee shall:

- a within any period prescribed by law, being within four months of the end of each Scheme Year as at the date of this Trust Deed, prepare an annual report on the Scheme for that Scheme Year in accordance with the FMC Act (including Part 5 of Schedule 4 of the Financial Markets Conduct Regulations 2014); and
- b within 28 days after the annual report is prepared under paragraph a:
 - i send to every Member entitled to such information a copy of the annual report or a notice outlining how that person may obtain a copy of the report in accordance with regulation 62 of the Financial Markets Conduct Regulations 2014; and
 - ii lodge a copy of the annual report with the Registrar of Financial Service Providers in accordance with the FMC Act.

5.12 **Information and reports**

The Trustee will, by the date specified in the relevant requirement:

- a file, lodge, or report or cause to be filed, lodged, or reported with or to the relevant authority; and
- b send or otherwise make available to every relevant Member;

any information required by the FMC Act or any other law to be filed, lodged, reported, sent, or made available (including, if required, confirmation information and fund updates (within the meaning of the FMC Act)).

5.13 **No actions against Licensed Independent Trustee**

No Trustee nor any other party to this Trust Deed may take any action against a Licensed Independent Trustee by reason of the Licensed Independent Trustee having made a report or disclosure to the FMA under the conditions of the Licensed Independent Trustee's licence.

6 Investments

6.1 **Investments authorised**

The Trustee must ensure there is a SIPO for the Scheme which complies with the FMC Act.

6.2 **Compliance**

All money belonging to the Scheme and available for investment shall be invested by the Trustee and any Investment Manager in accordance with the SIPO and the provisions of the FMC Act and the Trustee Act 1956 as to the investment of trust funds.

6.3 **Trustee's power and discretion**

Subject to the provisions of this Trust Deed the Trustee shall have absolute power and discretion:

- a to invest any sum of money forming part of the Scheme Fund;
- b to enter the Scheme as a member of, and to invest any money of the Scheme in, any scheme established for the management and investment of money;
- c to surrender, realise, transfer, exchange or alter any of the Investments and to vary or transpose any Investment into other Investments;
- d to pay any sum of money to one or more Investment Managers pending the investment of such sum or its application for the purpose of the Trust Deed;
- e to establish, alter and close (either partly or fully), pursuant to clauses 6.5 – 6.10, investment funds with different objectives or purposes; and
- f to appoint and replace one or more Investment Managers for any investment fund.

6.4 **Amendment to SIPO**

Subject to the requirements of the FMC Act, the Trustee may amend the SIPO from time to time by resolution.

6.5 **Investment funds**

The Trustee may prescribe from time to time such terms and conditions regarding the establishment, alteration, suspension and closure of investment funds within the Scheme as it sees fit. Where applicable, those terms and conditions shall be set out in the PDS, Register Entry, or SIPO in such manner (if any) as the FMC Act requires.

6.6 **Notice of new investment funds**

The Trustee shall, within 30 days of establishment, notify all Members in writing of any new investment fund established for the purposes of Members' investment choice.

6.7 Ability to nominate investment funds

Where the Trustee has agreed that Members shall be entitled to nominate one or more investment funds, a percentage proportion in respect of the relevant investment funds may be selected by the Member providing that the total of the percentage proportions across all pools chosen by the Member is 100%.

6.8 Default fund

Any amounts held in the Scheme and not subject to an investment choice election, or in respect of which an investment choice election is ineffective or not fully effective, shall be held in the default fund as determined by the Trustee from time to time.

6.9 Cessation or disestablishment

If at any time an investment fund ceases to be available or the Trustee desires to disestablish an investment fund, any funds held in that fund shall be transferred to the default fund pending the Trustee seeking and receiving a revised investment choice from the Member.

6.10 Payment upon suspension or closure

If an investment fund is suspended or closed for ongoing contributions any new contributions which would otherwise have been paid into the relevant investment fund shall be paid into the default fund for the period of closure or suspension unless a further election is given in respect of the same.

6.11 Appointment of Investment Manager

Without prejudice to the powers conferred upon it at law or by clauses 3.27 – 3.30, but subject to clause 8, the Trustee may from time to time appoint or remove one or more Investment Managers (whether a company or a natural person) to the Scheme on terms to be agreed between the Trustee and the Investment Manager.

6.12 Where the Trustee appoints an Investment Manager:

- a the Investment Manager must comply with any obligations it has under the FMC Act;
- b the Investment Manager must, in exercising any powers or performing any duties, exercise the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances; and
- c if the Trustee agrees in the contract between the Trustee and Investment Manager, the Investment Manager may be indemnified for liabilities or expenses incurred in relation to the performance of the Investment Manager's contracted functions provided that such indemnity is available only in relation to the proper performance of the duty in paragraph b.

6.13 Member to nominate required type of investment for Member's Account and Employer's Account

The Trustee shall ensure that before any person becomes a Member of the Scheme the person is notified of the types of investment fund available under the Scheme for the Member's Account and the Employer's Account (if applicable). Each such Member shall

direct the type of investment he or she requires by notifying such direction to the Trustee in a form satisfactory to the Trustee.

6.14 **Trustee to nominate required type of investment for reserve account**

The Trustee if required to do so shall determine the type of investment that it requires for the Reserve Account.

6.15 **Action on limit breaks**

The Trustee must take any action required by the FMC Act if a limit break (within the meaning of section 167 of the FMC Act) or material pricing error or non-compliance (in terms of section 168 of the FMC Act) occurs. For the purposes of section 168 of the FMC Act and regulation 99 of the Financial Markets Conduct Regulations 2014, the minimum reimbursement or compensation level for pricing errors or non-compliance is an amount determined by the Trustee on a case-by-case basis based on relevant industry guidelines which take into account the size, type, and/or frequency of the issue and the costs of reimbursement or compensation.

7 Custody

7.1 **Trustee may appoint Custodian**

The Trustee is entitled to from time to time appoint and remove a person ('**Custodian**') to hold all or part of the Scheme Fund on such terms as the Trustee may determine where the Custodian:

- a is a body corporate that the Trustee believes, on reasonable grounds, to be appropriate to hold, and safeguard, the Scheme Fund; and
- b is not the Trustee or an Associate of the Trustee (other than by virtue of the custodianship).

7.2 **Custodian may appoint Sub-Custodian**

If authorised in writing by the Trustee, a Custodian can appoint another person ('**Sub-Custodian**') to hold all or part of the Scheme Fund that would otherwise be held by the Custodian where the Sub-Custodian:

- a is a body corporate that the Custodian believes, on reasonable grounds, to be appropriate to hold, and safeguard, the Scheme Fund; and
- b is not the Trustee or an Associate of any of the Trustees (other than by virtue of the custodianship).

7.3 **Duties of appointing entity**

If a person contracts the holding of all or part of the Scheme Fund to another person (in this clause, '**Nominee**'), the person contracting out that function:

- a must take all reasonable steps to:

- i ensure that the function is performed by the Nominee in the same manner and subject to the same duties and restrictions as if that person were performing it directly;
 - ii monitor the performance of that function;
 - iii ensure that the Nominee complies with sections 157 to 159 of the FMC Act; and
- b is jointly and severally liable with the Nominee (and any other person who has contracted out the function) for the performance of that function in accordance with paragraph a.

7.4 Compliance

The Trustee, Custodian, and/or Sub-Custodian (as the case may be), must comply with sections 157 to 159 of the FMC Act.

7.5 Fees and expenses of Custodian

If the Trustee agrees, the fees and expenses of a Custodian or Sub-Custodian may be paid out of the Scheme Fund and shall be as agreed between the Trustee and the Custodian or the Sub-Custodian from time to time.

7.6 Indemnification of Custodian

The terms of appointment of a Custodian or (if expressly permitted by the Trustee) Sub-Custodian may indemnify the Custodian or Sub-Custodian out of the Scheme Fund for liabilities or expenses incurred in relation to the performance of its contracted functions.

7.7 Corporate Trustee

Nothing in clause 7 prevents a corporate trustee of the Scheme holding any part of the Scheme Fund in its name, subject to the Governing Legislation.

8 Related party transactions

8.1 General prohibitions on Related Party Benefits

The Trustee (and any Investment Manager, Administration Manager, or other person to whom the Trustee has contracted out some or all of its management functions) must not enter into a transaction that provides for a Related Party Benefit to be given.

8.2 Certain benefits permitted

Clause 8.1 does not apply to a transaction or a series of transactions if:

- a the transaction is or transactions are in the best interests of Members and Beneficiaries;
- b the transaction or transactions or all Related Party Benefits to be given are permitted under the FMC Act; or
- c the transaction or transactions are approved by, or contingent on approval by, a Special Resolution of the class of Members affected, or potentially affected, by the transaction or transactions,

and the Trustee certifies to that effect in accordance with section 175 of the FMC Act.

8.3 Restriction on Trustee certification

The Trustee may not certify under clause 8.2 unless the Licensed Independent Trustee has consented to the certification.

8.4 Additional restrictions on acquisitions of in-house assets

The Trustee (and any other person to whom the Trustee has contracted out some or all of its management functions) must comply with the additional restrictions on acquisitions by restricted schemes of in-house assets (as defined in the FMC Act) applying to the Scheme in accordance with the FMC Act.

9 Accounts

9.1 Accounts to be kept

The Trustee shall ensure that there are established and maintained within the Scheme:

- a a Member's Account in respect of each Member;
- b an Employer's Account in respect of each Member; and
- c a Reserve Account.

9.2 Credits to Member's Account

A Member's Account shall be credited with:

- a the Member's own contributions to the Scheme;
- b any amount transferred from any other Retirement Scheme or other superannuation scheme in respect of the Member in accordance with this Trust Deed and determined to be credited to this Account;
- c any transfers from the Reserve Account pursuant to clause 9.8;
- d the amount of any Investment Income credited in accordance with clause 9.11;
- e any transfers from the Employer's Account pursuant to clauses 10.17 and 11.5; and
- f any credits in respect of Taxation as the Trustee considers appropriate and equitable.

9.3 Debits to Member's Account

A Member's Account shall be debited with:

- a amounts of Trustee's remuneration and Scheme outgoings debited in accordance with clause 3.33;
- b the amount of any Investment Loss debited in accordance with clause 9.11;
- c at the Trustee's discretion, the cost of providing any Benefit from the Member's Account;
- d the amount of any Benefit paid from the Member's Account;
- e any amounts in the Member's Account forfeited or paid to the Reserve Account pursuant to the provisions of this Trust Deed; and

f any applicable Taxation as the Trustee considers appropriate and equitable.

9.4 Credits to Employer's Account

An Employer's Account shall be credited with:

- a contributions by the Participating Employer in respect of the Member;
- b any amount transferred from any other Retirement Scheme or other superannuation scheme in respect of the Member in accordance with this Trust Deed and determined to be credited to this Account;
- c any transfers from the Reserve Account pursuant to clause 9.8;
- d the amount of any Investment Income credited in accordance with clause 9.11; and
- e any credits in respect of Taxation as the Trustee considers appropriate and equitable.

9.5 Debits to Employer's Account

An Employer's Account shall be debited with:

- a amounts of Trustee's remuneration and Scheme outgoings debited in accordance with clause 3.33;
- b the amount of any Investment Loss debited in accordance with clause 9.11;
- c at the Trustee's discretion, the cost of providing any Benefit from the Employer's Account;
- d the amount of any Benefit paid from the Employer's Account;
- e a transfer to the Member's Account pursuant to clauses 10.17 and 11.5;
- f at the Trustee's discretion, costs pursuant to clause 10.17;
- g any amounts in the Employer's Account forfeited or paid to the Reserve Account pursuant to the provisions of this Trust Deed; and
- h any applicable Taxation as the Trustee considers appropriate and equitable.

9.6 Credits to Reserve Account

The Reserve Account shall be credited with:

- a any contributions by a Participating Employer not allocated for payment of the Employer's contributions pursuant to the provisions of this Trust Deed;
- b any part of an Employer's Account Balance remaining after the Benefit has been paid in respect of a Member who has ceased to be a Member;
- c any unclaimed Benefits transferred to the Reserve Account pursuant to clause 15.7;
- d the amount of any Investment Income credited to the Reserve Account in accordance with clause 9.11; and
- e any credits in respect of Taxation as the Trustee considers appropriate and equitable.

9.7 **Debits to Reserve Account**

The Reserve Account shall be debited with:

- a amounts of Trustee's remuneration and Scheme outgoings debited in accordance with clause 3.33;
- b any amount appropriated pursuant to clause 9.8;
- c any Investment Loss debited in accordance with clause 9.11;
- d costs pursuant to clause 10.16; and
- e any applicable Taxation as the Trustee considers appropriate and equitable.

9.8 **Appropriation**

Subject to the Governing Legislation, the Trustee may from time to time and always acting upon the written instructions of the relevant Participating Employer appropriate an amount from the part of the Reserve Account attributable by the Trustee to the Participating Employer, as determined by the Trustee in its sole discretion and apply that amount to all or any of:

- a meeting all or part of the contributions of all Members associated with the Participating Employer on an equitable basis determined by the Trustee;
- b meeting all or part of the Participating Employer's contributions to the Scheme;
- c increasing the Employer's Account in respect of all Members associated with the Participating Employer on an equitable basis determined by the Trustee;
- d providing personal Benefits for Members associated with the Participating Employer or their Dependants in cases of hardship;
- e the paying of Trustee's remuneration and Scheme outgoings pursuant to clause 3.33; and
- f such other purpose as the Participating Employer and Trustee consider appropriate, including treatment of the amount as an unclaimed benefit.

9.9 **Errors**

The Trustee may from time to time at its sole discretion deduct such sums from the Employer's Reserve Account which in the Trustee's opinion is required to remedy any error.

9.10 **Other accounts**

The Trustee may open such other special purpose accounts as it considers necessary for the management or administration of the Scheme including:

- a expense accounts; and
- b Investment Manager's accounts.

9.11 **Allocation of Investment Income or Investment Loss**

The Trustee shall, at such times as the Trustee determines, credit or debit to each Member's Account, Employer's Account, and the Reserve Account, any Investment Income or

Investment Loss from the Investments of the Scheme as the Trustee considers appropriate and equitable, subject to compliance with Generally Accepted Accounting Practice, having regard to the:

- a performance of the Investment nominated pursuant to clause 6;
- b the duration of the Investment;
- c the duration of the Account's interest in the Investment; and
- d the respective interests in the Scheme of the various Accounts.

10 Participating Employers

10.1 Admission as a Participating Employer

Subject to the Governing Legislation, Qualifying Employers only shall be eligible for admission to the Scheme as Participating Employers.

10.2 Application

A Qualifying Employer shall be admitted as a Participating Employer having signed an application in the form specified by the Trustee from time to time, which is accepted by the Trustee. By signing an Application Form the Qualifying Employer agrees to be bound by the Trust Deed.

10.3 Power of Trustee

In accordance with the Governing Legislation, the Trustee, by agreement with a Participating Employer, may take the assets of any existing Retirement Scheme or other superannuation scheme conducted by the Participating Employer for the benefit of its Employees and their Dependants with the intent of preserving their existing rights and interests.

10.4 Voluntary termination of a Participating Employer's contributions

A Participating Employer may, by notice in writing to its Members or to those Members to whom the notice applies and the Trustee, terminate its contributions to the Scheme from a date specified in the notice being not more than one year and not less than three months from the date of the notice or such lesser period as the Trustee may in its discretion allow.

10.5 Expiry of notice

Upon expiry of the notice period the provisions of clauses 10.14 – 10.18 shall apply.

10.6 Suspension of Participating Employer's contributions

A Participating Employer may, by notice in writing to its Members or to those Members to whom the notice applies, and with the agreement of the Trustee, suspend its contributions to the Scheme in respect of all or any of its Members for a period of not less than three months nor more than twelve months from a date specified in the notice. The Participating Employer may, by further notice in writing to its Members and the Trustee, resume the suspended contributions from a date specified in that notice.

10.7 Suspension of Member's contributions

The contributions of each Member in respect of whom the Employer's contributions have been suspended shall be similarly suspended unless the Member otherwise elects.

10.8 Notice of termination

If a Participating Employer fails to reinstate suspended contributions by the due date, then the Participating Employer shall be deemed to have given notice of termination of its contributions and the provisions of clauses 10.14 – 10.18 shall apply.

10.9 Failure to give notice of termination or suspension of contributions

If the Trustee does not receive notice in writing in accordance with clause 10.4 – 10.8 and the Participating Employer has in the opinion of the Trustee failed to pay its contributions to the Scheme within two months of the due date thereof or such longer period as the Trustee may allow, the Trustee shall give notice thereof to the relevant Members. If on expiry of a further period of two months all arrears of contributions have not been paid the Participating Employer shall be deemed from the date contributions were otherwise due to have given notice of termination of its contributions and the provisions of clauses 10.14 - 10.18 shall apply.

10.10 Reconstruction, amalgamation or liquidation of a Participating Employer

If a Participating Employer goes into liquidation (other than for the purpose of amalgamation or reconstruction), its contributions shall be deemed to have terminated as from the date upon which it goes into liquidation.

10.11 Ensuring obligations

If a Participating Employer goes into liquidation for the purpose of reconstruction or is about to be amalgamated or reconstructed, then the Participating Employer and the Trustee shall use their best endeavours to ensure that the new entity continues to meet the Participating Employer's obligations under the Trust Deed.

10.12 Failure of obligations

If a Participating Employer that is in liquidation or any employer into which it is reconstructed or amalgamated fails to maintain the obligations of the Participating Employer, then clauses 10.14 – 10.18 shall apply.

10.13 Employees not to be admitted in certain circumstances

At the Trustee's discretion, no employee of a Participating Employer shall be admitted as a Member:

- a after the Participating Employer has given notice pursuant to clause 10.4;
- b during any period in which the Participating Employer's contributions are suspended pursuant to clauses 10.6 – 10.8;
- c after the Participating Employer's contributions have been determined to have terminated pursuant to clause 10.9;

- d if the Participating Employer is in the opinion of the Trustee in material breach of the provisions of the Trust Deed.

10.14 **Partial closure of the Scheme**

Where:

- a a Participating Employer has terminated its contributions in accordance with clause 10.4 and the notice period has expired;
- b a Participating Employer is deemed to have terminated its contributions in accordance with clauses 10.8 or 10.9;
- c the Participating Employer is in liquidation (other than for the purpose of amalgamation or reconstruction); or
- d the Trustee is of the opinion that a particular Participating Employer being otherwise in material breach of the Trust Deed is unable or is unlikely to remedy such breach and the Trustee has resolved accordingly,

that Participating Employer shall cease to be a Participating Employer in respect of the affected Members from a date specified by the Trustee (the '**Cessation Date**') and no further contributions shall be payable by the Participating Employer in respect of the affected Members.

10.15 **Effect from Cessation Date**

On and after the Cessation Date:

- a the Member shall not be required to make any further contributions;
- b contributions received from a Member employed by the Participating Employer shall be paid to the Member's Account;
- c the Trustee shall cause the Investments representing in its reasonable opinion the relevant Employer's Accounts of the affected Members to be realised or valued as seems appropriate; and
- d the Trustee shall determine the costs associated with the Participating Employer ceasing to be, in whole or in part, a Participating Employer.

10.16 **Remaining balance**

After any such costs have been deducted from that part of the Reserve Account attributable to the Participating Employer (as determined by the Trustee in its absolute discretion), the balance (if any) therein shall be credited in accordance with clause 9.8 except that the consent of the Participating Employer shall not be required.

10.17 **Credit to Member's Account**

After any such costs still outstanding have been deducted as the Trustee sees fit from each relevant Employer's Account Balance the balance of each relevant Employer's Account shall be credited to the relevant Member's Account provided however if the Participating Employer has established or is participating in another Retirement Scheme or other superannuation scheme then with the Member's consent and if the Participating Employer so directs the

Trustee shall pay the balance of the Employer's Account to any employer's account for the Member with that other scheme.

10.18 Deferring payment

Payment out of the Scheme under clause 10.17 may be deferred where the Investments allocated to the Participating Employer's part of the Scheme are not in the opinion of the Trustee immediately realisable for fair value.

11 General membership provisions

11.1 Eligibility for membership

Any Employee may apply to become a Member of the Scheme by completing and delivering to the Trustee an application to join the Scheme in the form specified by the Trustee from time to time.

11.2 Information

Proposed new Members shall furnish to the Trustee all information reasonably required by the Trustee or by relevant law to be provided.

11.3 Bound by deed

A Member shall, by virtue of becoming a Member, be bound by the Trust Deed.

11.4 Advice of admission

Where an Employee has joined the Scheme the Trustee shall notify the applicant in writing that they have become a Member.

11.5 Member ceasing Employment

A Member who ceases Employment (either upon Leaving Service or Retirement) does not cease to be a Member of the Scheme. On ceasing Employment, the Employer's Account for that Member (if any) is divided between the Member's Account and the Reserve Account in accordance with the vesting scale previously selected by the Participating Employer on the Member's application to join the Scheme. However, the Trustee may if it sees fit, with the consent of the Participating Employer, credit more of the Employer's Account to the Member's Account than permitted by the vesting scale.

11.6 Cessation of membership

If following payment of a Benefit the Member's Account Balance and the Member's Employer's Account Balance (if any) is less than \$50 or such nominal amount as the Trustee shall from time to time determine, then the Member will be deemed to have ceased membership and the residual balances (if any) shall be transferred to the Reserve Account.

11.7 Changes to eligibility for membership

The conditions required to become a Member must not be changed in a way that expands, or is likely to expand, the classes of people who may become Members without the FMA's consent.

12 Transfers

12.1 Transfer to the Scheme

Subject to the FMC Act, the Trustee may, upon such terms and conditions as the Trustee in its absolute discretion prescribes, accept from any Retirement Scheme or other superannuation scheme money in respect of a Member's former interest in that scheme.

12.2 Credit to accounts upon agreement

The Trustee shall credit some or all of the value of the payment or transfer made pursuant to clause 12.1 to the Member's Account as contributions by the Member and the residual to the Employer's Account as contributions by the Member's employer, as agreed by the Member and the Trustee.

12.3 Default credit to Member's Account

In the absence of agreement between the Member and the Trustee for the purpose of clause 12.2 the value of the payment or transfer made pursuant to clause 12.1 shall be credited to the Member's Account.

12.4 Transfer of Member to another superannuation scheme

If a Member is a member of another Retirement Scheme then the Member may, with the written consent of the Participating Employer (if any), transfer his or her "Benefit entitlement" as determined under this Trust Deed to the other scheme. For the purposes of this clause "Benefit entitlement" means the amount the Member would have received if they had Left Service at the date of transfer.

12.5 Effect of transfer

When a transfer is made pursuant to clause 12.1, the Member shall cease to be a Member and the Trustee shall be released and discharged from any claim by that Member in respect of the amount so transferred. The Trustee shall be under no obligation to see to the application of the amount transferred.

12.6 Other methods of transfer

A Member may also transfer or be transferred to a Retirement Scheme or equivalent overseas retirement scheme (as that term is defined in the FMC Act) in accordance with the Governing Legislation.

12.7 Transfer between parts of the Scheme

If a Participating Employer gives to the Trustee notice in writing that a Member is eligible or will become entitled to become a Member of another part of the Scheme, the Trustee shall as directed in writing by the Participating Employer and with the written consent of the Member transfer such proportions of the Member's Account Balance and the Employer's Account Balance to the part of the Scheme as the Member shall direct.

13 General provisions relating to contributions

13.1 Contributions payable

Participating Employers and Members shall pay regular and/or lump sum contributions as advised from time to time to the Trustee in writing and as agreed between the Member and the Participating Employer (if applicable). If no amount is advised in respect of a Member, the aggregate contribution of the Member and the Member's Participating Employer shall be at least \$520 per annum or a Member shall make an initial lump sum contribution of at least \$2,000 if becoming a new Member.

13.2 Collection and remittance of contributions

Each Participating Employer shall be responsible for collecting the contributions payable by the Members employed by it. The Participating Employer shall remit to the Trustee the contributions payable by it and from all its Members of the Scheme as soon as practicable. In the case of the Participating Employer's contributions, this shall be not later than by the 20th day of the month following the month to which the contributions relate. In the case of Member's contributions, this shall not be more than seven days after the Member's contributions are collected.

13.3 Non-employees

The contributions of each Member who is not employed by a Participating Employer shall be payable by the Member and as agreed from time to time by the Member and the Trustee and shall be payable in a form and by a method which is acceptable to the Trustee. This includes a minimum level of \$520.00 per annum or such other amount as set by the Trustee from time to time and disclosed to Members.

13.4 Members' additional contributions

A Member may elect to pay additional contributions as lump sums or in regular instalments by giving written notice to the Trustee and the Participating Employer (if any).

13.5 Process for additional contributions

Additional contributions shall be collected from the Member and remitted to the Trustee in the same manner as normal contributions in accordance with clauses 13.2 and 13.3, and in particular are required to be in a form and by a method which is acceptable to the Trustee. This includes a minimum level of \$500.00 for lump sum contributions and \$260.00 per annum for increases to regular instalments or such other amounts as set by the Trustee from time to time and disclosed to Members.

13.6 Same type of investment

Members' additional contributions shall be applied to the same type of investment as normal contributions.

13.7 Contributions during Leave of Absence

If a Member is granted a period of Leave of Absence, the Member's contributions and the Participating Employer's contributions in respect of that Member shall cease for that period or be as agreed between the Participating Employer and that Member. If there is no agreement then no contributions are payable for that period.

14 Benefits

14.1 Benefits Provided

Subject to any terms or conditions on withdrawals in accordance with clause 12.1, the Trustee shall or may pay a Benefit upon:

- a a Member's Retirement (clause 14.2);
- b a Member Leaving Service (clause 14.3)
- c a Member's death (clause 14.4);
- d a Member suffering hardship (clause 14.8).

14.2 Benefit upon Retirement

Upon Retirement, subject to any terms or conditions on withdrawals in accordance with clause 12.1, a Member may make a request in writing to the Trustee for the payment of a Benefit. When the Trustee receives such notice, the Trustee shall, following application of clause 11.5, pay to that person a Benefit equal to the Member's Account Balance in accordance with clause 15.1.

14.3 Benefit upon Member Leaving Service

Upon Leaving Service, subject to any terms or conditions on withdrawals in accordance with clause 12.1, a Member may make a request in writing to the Trustee for the payment of a Benefit. When the Trustee receives such notice, the Trustee shall, following application of clause 11.5, pay to that person a Benefit equal to the Member's Account Balance in accordance with clause 15.1.

14.4 Benefit upon death

Subject to any terms or conditions on withdrawals in accordance with clause 12.1, on the death of a Member the Trustee shall pay a Benefit of an amount equal to the sum of the Member's Account Balance and the Employer's Account Balance (if any).

14.5 Trustee's discretion

When a Benefit has become payable under clause 14.4, the Trustee shall pay or apply the Benefit in such proportions and at such time as is determined by and in the absolute discretion of the Trustee, to or for the Benefit of such one or more of:

- a the legal personal representatives of the Member, upon production of Probate or Letters of Administration, to be held by them upon the trusts which affect the Member's residuary estate;
- b the Dependants of the Member or such one or more of them to the exclusion of the other or others in such manner and proportions as the Trustee determines.

14.6 Nomination in writing

The Trustee shall for the purpose of determining payment of Benefits and the proportions thereof pursuant to clause 14.5 have regard to any nomination made to the Trustee in writing by the Member.

14.7 No Dependants or personal representatives

If no Dependants or personal representatives of a deceased Member are known, the Trustee shall hold the Benefit otherwise payable in respect of such deceased Member in the same manner and for the same period as an unclaimed Benefit in accordance with clause 15.7.

14.8 Hardship Benefit

Subject to any terms or conditions on withdrawals in accordance with clause 12.1, and any conditions imposed by the Trustee a Member may elect in writing to withdraw all or part of the Member's and/or the Employer's Account Balance, as a lump sum, if:

- a the Member suffers financial hardship which in the Trustee's absolute discretion justifies the withdrawal; and
- b the current Participating Employer (if any), in its absolute discretion consents.

14.9 Payment of deferred Benefit

Upon ceasing Employment (either upon Leaving Service or Retirement), subject to any terms or conditions on withdrawals in accordance with clause 12.1 and following application of clause 11.5, a Member who does not request payment of a Benefit under clauses 14.2 or 14.3 (as applicable) shall become entitled to a deferred Benefit. Any such Member who is:

- a an Employee at the relevant time shall be entitled to request payment not exceeding the value of the Deferred Benefit Amount; or
- b not an Employee at the relevant time shall be entitled to request payment of a Benefit not exceeding the Member's Account Balance,

in accordance with clause 15.1.

15 General provisions relating to Benefits

15.1 Payment of Benefits

When the Trustee is satisfied that a Benefit has become payable the Benefit will normally be processed between 1 – 4 weeks and may:

- a be paid to the recipient as a lump sum; or
- b be paid to the recipient in such instalments and at such intervals determined by the Trustee,

as the Trustee sees fit, having taken into account any written request from the proposed recipient.

15.2 **Place of payment of Benefits**

Benefits are payable at the registered office for the time being of the Trustee in New Zealand or otherwise as may be determined by the Trustee. The Trustee may forward the Benefits to the postal address or bank account last notified pursuant to clauses 15.5 - 15.6 or to such other places as the Trustee, at the written request of the Beneficiary, considers appropriate.

15.3 **Payment of Benefits to Dependants**

Where the Trust Deed provides for payment of Benefits to Dependants, the Trustee shall pay or apply those Benefits as the Trustee shall in its discretion think fit.

15.4 **Payment to others on behalf of Beneficiaries**

When in the opinion of the Trustee it would be in the interest of the Beneficiary, the Trustee may pay all or part of the Benefit to any other person for application on behalf of the Beneficiary and/or the Beneficiary's Dependants. The receipt of the person to whom the Benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the Beneficiary, and the Trustee shall not be bound or concerned to see to the application of the Benefit so paid.

15.5 **Address for payment of Benefits**

Every Beneficiary or person to whom a Benefit is payable on behalf of a Beneficiary shall notify the Trustee in writing at the time when the Benefit become payable of:

- a their place of residence and full postal address;
- b unless the Trustee otherwise determines, the bank account to which they request that the Benefit be paid; and
- c any other information required by law.

15.6 **Notice**

If required by the Trustee, any Member or Beneficiary or person to whom a Benefit is payable shall, during each Scheme Year, confirm or give written notice of his or her place of residence, their full postal and email or other electronic address, and a bank account to which a Benefit could be paid.

15.7 **Unclaimed Benefits**

If a Beneficiary cannot be located (after all reasonable enquiries have been made by the Trustee) within ten years from the date on which a Benefit became payable to or in respect of the Beneficiary or such other date as is determined by the Trustee acting in good faith, the Trustee shall transfer the Benefit to the Reserve Account.

15.8 **Forfeiture of Benefits**

Any Member who becomes bankrupt shall cease to be a Member and shall to the maximum extent permitted by law thereupon forfeit entitlement to all Benefits. The Trustee shall hold upon trust the Benefits which would have been payable had they not been so forfeited, and shall pay or apply those Benefits for the support of the Member, former Member and any Dependants or any one or more of them in such proportions between them and on such terms as the Trustee shall in its discretion think fit.

15.9 Deduction of Taxation from Benefits

The Trustee may deduct from any Benefit or payment payable under the Trust Deed any Taxation the Trustee considers presently payable or which may become payable in respect of the Benefit, the Member, or the Beneficiary.

15.10 Receipt for Benefits

Any person to whom a Benefit is payable shall, if requested, furnish the Trustee with a receipt and release in a form as required by the Trustee.

15.11 Benefits not to be assigned

Benefits and rights of Members and Beneficiaries under the Scheme and this Trust Deed are personal. No Member or Beneficiary may assign, charge, alienate or borrow against the security of Benefits under this Trust Deed except to the extent specifically permitted by the Trustee in accordance with the Governing Legislation.

15.12 Infirmary of body or mind

If a Member or Beneficiary to whom the Trustee is paying any Benefit or to whom any Benefit has become payable is suffering from any infirmity of body or mind the Trustee may, in its discretion it thinks it is in that person's interest, pay or apply all or any part of the Benefit to any person or persons, association or corporate body duly appointed to manage the affairs of that Member or Beneficiary without being bound to see to its application. The receipt of the payment by such person, association or corporate body shall be a complete discharge by the Trustee of its obligation in respect of that Member or Beneficiary.

15.13 Deferral of Benefits

Notwithstanding any other provision of this Trust Deed but subject to all relevant law, the Trustee may defer payment of any Benefit for such period as it sees fit where it is satisfied the effect of such payment may be to affect the registration status of the Scheme under the FMC Act.

15.14 Trustee's discretion

Subject to this Trust Deed and the Governing Legislation, the Trustee has full discretion as to the manner of payment of Benefits.

16 Appointor and succession of appointor

16.1 First Appointor

The first Appointor is the New Zealand Local Government Insurance Corporation Limited at Wellington.

16.2 Acceptance by deed

Acceptance of appointment through signing this Trust Deed or any appointment document shall constitute agreement to undertake the duties of the Appointor under this Trust Deed.

16.3 Changing Appointor

If the activities of the Appointor are assigned to or succeeded by any other undertaking (whether a corporation, association, partnership or natural person) then that other undertaking may, with the written approval of the Trustee, as from the date of the assignment or succession, take the place of the Appointor for the purposes of the Scheme and assume all the rights and obligations of the Appointor under the Trust Deed.

16.4 No written approval

If the Trustee does not give its written approval of that other undertaking taking the place of the Appointor, then the Scheme shall either be wound up in accordance with the provisions of clause 21 or the Trustee may appoint another body to take over the role of Appointor of the Scheme.

17 Meetings

17.1 Called by Trustee

Meetings of the Members shall be called by the Trustee as prescribed by law and conducted in accordance with the meeting procedures set by Schedule 11 of the Financial Markets Conduct Regulations 2014 (as amended from time to time).

17.2 Restrictions on voting

Except where permitted by the FMC Act and the Financial Markets Conduct Regulations 2014, the Trustee and its Associates are not entitled to, and must not, vote on a resolution of Members if they have any interest in the resolution or matter other than as a Member.

17.3 Resolution in lieu of Members' meeting

A written resolution is as valid as if it has been passed at a meeting if it is signed in accordance with the FMC Act by no less than 75% of the number of Members who are entitled to vote on the resolution at a meeting of the class of Members.

18 Alteration of the Trust Deed

18.1 Amendments with FMA consent

The Trustee may by deed amend or replace all or any part of the provisions of this Trust Deed with the FMA's consent, provided that the FMA may only give its consent if:

- a the FMA is satisfied that the amendment or replacement does not have a material adverse effect on Members; or
- b the amendment or replacement has been approved by (or is contingent on approval by):
 - i in the case of an amendment or a replacement that reduces, postpones, or otherwise adversely affects the benefits, whether vested, contingent, or discretionary, that may in due course flow from, or are attributable to, membership of the Scheme up to the date the amendment or replacement is made, the written consent of all Members who would be adversely affected by the amendment or replacement; or

- ii in any other case, a Special Resolution of Members or of each class of Members that is or may be adversely affected by the amendment or replacement (as applicable).

18.2 Amendments generally

This Trust Deed may also be amended or replaced in any other manner permitted by the FMC Act or any other enactment.

19 Arbitration

19.1 Arbitration

If any dispute, difference or question arises between the Trustee, a Participating Employer, a Member or Beneficiary or the Dependants or personal representatives of a Member or a Beneficiary in relation to the Scheme or any part of the Scheme and it cannot be mutually resolved, the dispute shall be referred to arbitration and the final decision of a sole arbitrator. The arbitrator shall be appointed by agreement between the parties and failing agreement the Trustee shall appoint a sole arbitrator whose decision shall be binding on the parties including the allocation of costs.

20 Notices

20.1 Notices duly given

Subject to the FMC Act, any notice or document shall be deemed to have been duly given to a person if given personally or sent to the person by prepaid post at the last known address of the person, or by sending it by fax or email to the person's fax number or email address provided by the person for the purpose. A statement signed by a Participating Employer or the Trustee that a notice or document was properly addressed and posted, or sent, (as the case may be) shall be conclusive of those facts.

20.2 Notice duly served even upon death

Subject to the FMC Act, any notice or document sent or left in accordance with this clause 20 shall be deemed to have been duly served even if the person is dead. Such service shall be deemed a sufficient service for any person claiming to be interested.

21 Winding up of the Scheme

21.1 Winding up

The Trustee (or its liquidator if applicable) shall wind up the Scheme and shall apply the provisions of this clause 21 in relation to every Participating Employer and Member in respect of which this clause has not previously been applied:

- a if the Trustee resolves that the Scheme shall be wound up and advises the Appointor accordingly;
- b upon the determination of the trusts hereof; or
- c if the High Court makes an order that the Scheme is wound up.

21.2 **Resolution to FMA**

The Trustee shall, within 10 working days after it has resolved to wind up the Scheme, or an order by the High Court that the Scheme be wound up is made, give a copy of that resolution to the FMA.

21.3 **Trustee's obligations on winding up**

The Trustee shall ensure that the winding up is conducted in accordance with the provisions in the FMC Act and the Trustee will comply with its obligations as set out in the FMC Act in respect of the winding up of the Scheme.

21.4 **Priorities**

The Trustee shall apply the assets of the Scheme on a winding up in accordance with the following order of priority:

- a in providing for the payment of the costs of the winding up and any applicable Taxation;
- b in providing for Benefits payable in terms of the Trust Deed which have become payable immediately prior to the commencement of the winding up and remain unpaid at that date;
- c in providing for payment of any Benefit in respect of a Member or Beneficiary who has immediately prior to the commencement of the winding up had a Leaving Service or Retirement Benefit retained in the Scheme;
- d in providing for the Members' Accounts and the Employers' Accounts to be applied in paying or providing for the Benefits in respect of all remaining Members in such manner as the Trustee considers equitable; and
- e finally, any balance shall, with the prior consent of the FMA, be refunded to the Participating Employers on an equitable basis determined by the Trustee. If the FMA refuses consent to the proposed payments then the Trustee shall apply the unexpended balance in augmenting the benefits payable under (b) (c) and (d) above without the need to obtain the consent of the Participating Employers.

21.5 **Proportionate reduction**

If in following the priorities of payment there is insufficient money to satisfy all the obligations above, the amount of each benefit shall be reduced equitably and proportionately among all Members and Beneficiaries entitled to the benefits.

21.6 **Shall not revert to non-Member**

The Trustee shall not permit any part of the Scheme Fund to revert to a contributor to the Scheme who is not a Member unless in accordance with the Governing Legislation.

22 Counterparts

22.1 Counterpart execution

This Trust Deed may be signed in any number of counterparts (which may be assembled by way of facsimile or other means of communication) all of which, when taken together, constitute one and the same instrument. A party may enter into this Trust Deed by signing a counterpart copy and sending it to the other parties.

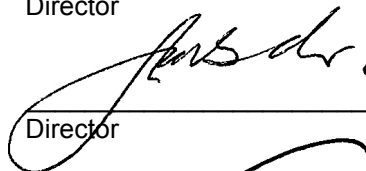
Execution

Signed by New Zealand Local Government Insurance Corporation Limited

by two directors:



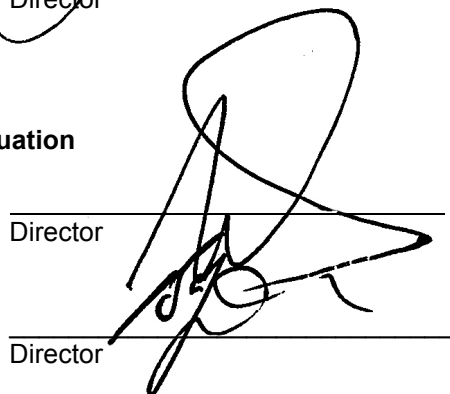
Director



Director

Signed by Local Government Superannuation Trustee Limited

by two directors:



Director

Director

Signed by Graeme Robertson Mitchell
as Trustee:



Appendix A

Listed Qualifying Employers as at 1 April 2016

Ashburton District Council
Auckland Council
Buller District Council
Carterton District Council
Central Hawke's Bay District Council
Central Otago District Council
Chatham Islands Council
Christchurch City Council
Clutha District Council
Dunedin City Council
Environment. Bay of Plenty
Environment. Canterbury
Environment. Southland
Far North District Council
Franklin District Council
Gisborne District Council
Greater Wellington Regional Council
Grey District Council
Gore District Council
Hamilton City Council
Hastings District Council
Hauraki District Council
Hawkes Bay Regional Council
Horizons Regional Council
Horowhenua District Council
Hurunui District Council
Hutt City Council
Invercargill City Council
Kaikoura District Council
Kaipara District Council
Kapiti Coast District Council
Kawerau District Council
Mackenzie District Council
Manawatu District Council
Marlborough District Council
Masterton District Council
Matamata District Council
Napier City Council
Nelson City Council
New Plymouth District Council
Northland Regional Council
Opotiki District Council
Otago Regional Council
Otorohanga District Council
Palmerston North City Council
Porirua City Council
Queenstown Lakes District Council
Rangitikei District Council
Rotorua District Council
Ruapehu District Council
Selwyn District Council
South Taranaki District Council
South Waikato District Council
South Wairarapa District Council
Southland District Council
Stratford District Council
Taranaki Regional Council
Tararua District Council
Tasman District Council
Taupo District Council
Tauranga City Council
Thames/Coromandel District Council
Timaru District Council
Upper Hutt City Council
Waikato District Council
Waimakariri District Council
Waimate District Council
Waipa District Council
Wairoa District Council
Waitaki District Council
Waikato Regional Council
Waitomo District Council
Wanganui District Council
Wellington City Council
Wellington Water Management
West Coast Regional Council
Western Bay of Plenty District Council
Westland District Council
Whakatane District Council
Whangarei District Council
Excell Corporation Ltd
Jardine Lloyd Thompson Limited
MWH New Zealand Limited
New Zealand Local Government Association
Incorporated
New Zealand Local Government Insurance
Corporation Limited
New Zealand Society of Local Government
Managers Incorporated
Prime Building Compliance Limited
Sicon Corporation Ltd

