



**ANNOTATED TRUST DEED  
for  
NATIONAL PROVIDENT PENSION NATIONAL SCHEME  
as at 30 January 2021**

**This is an Annotated Trust Deed for the Scheme and is not the official signed trust deed that governs the Scheme. The Scheme trust deed is subject to change. Therefore, if you wish or need to rely on the terms of the trust deed, please contact the Scheme Administrator for a copy of the signed trust deed.**

**Marginal dates indicate that text in the clause (including any subsequent clauses included under that clause) beside which they are placed was amended with effect from the dates stated. If you wish to consult the terms of the trust deed as it applied in the past, please contact the Scheme Administrator.**

## HISTORY OF THE DEED

- A The National Provident Pension National Scheme was established under the National Provident Fund Act 1950;
- B The scheme document was adopted from 1 April 1987 and amended by scheme documents dated 18 January 1988, 8 December 1988, 18 April 1989, 23 March 1990, 20 June 1990 and 27 March 1991;
- C By section 45 of the National Provident Fund Restructuring Act 1990 ("the Act") the Board is required to prepare a Trust Deed for the National Provident Pension National Scheme. The trust deed was dated 28 March 1991 ("the Deed")
- D Since 28 March 1991 the Deed has been amended as follows:
- Deed of amendment dated 22 November 1991 (corrections to Trust Deed);
  - Deed of amendment dated 20 October 1992 (earnings rate amendment);
  - Deed of amendment dated 30 March 1993 ("Past Practice" amendments);
  - Deed of amendment dated 21 July 1993 (permit transfer amendments);
  - Deed of amendment dated 21 December 1995 (Human Rights Act amendments);
  - Deed of amendment dated 28 June 1996 (mediation scheme transfer amendments);
  - Deed of amendment dated 31 March 1998 (effective 1 April 1998) (removal of 14 day waiting period for elections to transfer);
  - Deed of amendment dated 13 October 1998 (minimum pension amendments);
  - Deed of amendment dated 30 November 1998 (effective 1 December 1998) (share of reserves amendment);
  - Deed of amendment dated 16 December 1998 (transfer from Marlborough Electric Scheme amendments);
  - Deed of amendment dated 20 April 1999 (effective 1 May 1999) (pension scheme transfer amendments);

- Deed of amendment dated 1 May 2000 (effective 16 March 2000) (Tax Loss period deletion);
- Deed of amendment dated 5 April 2001 (Missing Persons amendments);
- Deed of amendment dated 23 August 2004 (amendments introducing minimum total credit requirements);
- Deed of amendment dated 16 May 2007 (amendment to introduce Locked-in Total Credits for SSCWT exemption purposes);
- Deed of amendment dated 27 February 2008 (effective 1 April 2008) (amendment to incorporate changes to complying fund rules);
- Deed of amendment dated 21 September 2016 (effective 20 October 2016) (Financial Markets Conduct Act 2013 compliance); and
- Deed of amendment dated 6 May 2021 (effective 30 January 2021) (Trusts Act 2019 compliance).

### **THIS ANNOTATED TRUST DEED**

The purpose of this annotated Trust Deed is to provide a record of all amendments that have been made to the Deed since 28 March 1991.

## **PART I**

### **GENERAL**

1	<b>TITLE</b>
30/3/93	This Deed is the Trust Deed for the National Provident Pension National Scheme (this or the "Scheme").
20/10/16	<b>1A FMC ACT</b>
1A.1	For the purposes of the FMC Act:
1A.1.1	this Scheme is treated as a trust established and governed by a trust deed interpreted and administered in accordance with New Zealand law; and

1A.1.2 for the purposes of any other enactment, this Scheme must be treated as if it were registered on the register of managed investment schemes under the FMC Act as a restricted scheme that is a superannuation scheme; and

1A.1.3 the Board is the 'manager' and the 'issuer' of the Scheme.

30/1/21

## **1B Trusts Act**

1B.1 The provisions of the Trusts Act are modified or excluded as follows:

1B.1.1 Section 33 of the Trusts Act (duty not to bind or commit trustees to future exercise of discretion) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.

1B.1.2 Section 34 of the Trusts Act (duty to avoid conflict of interest) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.

1B.1.3 Section 36 of the Trusts Act (duty not to profit) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.

1B.1.4 Any provision of the Trusts Act or rule of law restricting the remuneration of the Board including but not limited to section 37 of the Trusts Act is excluded and the provisions of this Deed are modified accordingly.

1B.2 Nothing in this Deed shall be construed as empowering the Board to act in a manner which would contravene any provision of the Trusts Act unless this Deed expressly modifies or excludes a provision in the Trusts Act as permitted by the Trusts Act.

## **2 DEFINITION AND CONSTRUCTION**

2.1 In this Deed, unless inconsistent with the context, -

30/3/93

**"Act"** means the National Provident Fund Restructuring Act 1990;

30/3/93

**"Actuary"** means a person who is a Fellow of the New Zealand Society of Actuaries, who has been appointed by the Board under **clause 40** and whose appointment has not been terminated;

- 1/4/98                    **"Administration Manager"** means a person appointed by the Board to manage the administration of the Scheme under **clause 31.1**;
- 30/3/93                   **"Applied Earnings Rate"** means the Earnings Rate plus any Reserve Account distributions (expressed as an annual rate) under **clause 17.4.4**;
- 20/10/16                **"Auditor"** means the person or firm appointed as auditor of the Scheme under **clause 52**.
- "Beneficiary"** means a natural person who is eligible to receive a Benefit from this Scheme;
- 30/3/93                   **"Benefit"** has the same meaning as in the Act;
- 1/12/98                   **"Benefit Credit"** means the amount determined under **clause 19**;
- "Board"** means the National Provident Fund Board established under section 9 of the National Provident Fund Act 1950, as continued in existence by section 12 of the Act and renamed from 1 April 1991 by that section as the Board of Trustees of the National Provident Fund;
- 16/5/07                   **"Complying Fund Rules"** means the complying fund rules as defined in section YA 1 of the Income Tax Act 2007;
- 20/10/16
- 16/5/07                   **"Complying Superannuation Fund"** has the same meaning as in the FMC Act;
- 20/10/16
- 30/3/93                   **"Contributor"** means any person who has Elected to become a contributor to this Scheme and has contributed in accordance with Part II or Part IIIA;
- 16/5/07
- 16/5/07                   **"Deed"** means this deed as amended from time to time and includes the Schedule;
- 30/3/93                   **"Earnings Rate"** means the earnings rate declared by the Board from time to time under **clause 16**;
- 30/3/93                   **"Elect"** means to elect in writing, addressed and delivered or posted to the Board or an authorised representative of the Board and **"Election"** shall have a corresponding meaning;
- 30/3/93                   **"Employee"** means any person who is engaged to work or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical or professional work, or otherwise;

- 30/3/93                    **"Employer Contributions"** means the contributions made to this Scheme in respect of a Contributor by an employer;
- 21/12/95  
16/3/00                    **"Exempted Contributor"** means:
- (a)       a Contributor who first became a Contributor on or after 1 January 1996; and
  - (b)       a Contributor who rejoined this Scheme on or after 1 January 1996, not being a person who was a Member of this Scheme on 1 February 1994;
- 30/3/93                    **"Financial Year"** means the period of twelve months from 1 April to 31 March, or such other period as may be a financial year of this Scheme as determined by the Board;
- 20/10/16                   **"FMA"** means the Financial Markets Authority (or any successor organisation);
- 20/10/16                   **"FMC Act"** means the Financial Markets Conduct Act 2013;
- 30/3/93                    **"Former Rules of this Scheme"** means the rules of the Scheme (then known as the NPF National Superannuation Scheme) that were in effect in respect of Financial Years ending on or prior to 31 March 1987;
- 1/4/08                     **"KiwiSaver Act"** means the KiwiSaver Act 2006;
- 16/5/07                    **"Locked-in Benefit Credit"** means the amount determined under clause 19.1A;
- 16/5/07                    **"Locked-in Contributor Contributions"** means the contributions of a Contributor which the Contributor has Elected to have credited to the Contributor's Locked-in Total Credit under **clause 9A.1**;
- 16/5/07                    **"Locked-in Employer Contributions"** means the Employer Contributions made in respect of a Contributor which the Contributor has Elected to have credited to the Contributor's Locked-in Total Credit under **clause 9A.1**;
- 16/5/07                    **"Locked-in Total Credit"** in relation to a Contributor means the aggregate of:
- (a)       the Locked-in Contributor Contributions made in respect of that Contributor;
  - (b)       the Locked-in Employer Contributions made in respect of that

Contributor;

- (c) any amount transferred to this Scheme from another scheme in accordance with **clause 4.3** or **clause 31E** which the Board decides or is required, or the Contributor Elects, to credit to the Contributor's Locked-in Total Credit;
  - (d) any amount allocated to the Contributor on a distribution from the Reserve Account in accordance with **clause 17.4** which the Board decides or is required to credit to the Contributor's Locked-in Total Credit;
  - (e) any other amount credited to that Contributor's Locked-in Total Credit under any provision of this Deed except under **clause 19**;
  - 1/4/08  
20/10/16 (f) any tax credits paid to this Scheme in respect of the Contributor under subpart MK of the Income Tax Act 2007; and
  - (g) earnings added or allocated to that Contributor's Locked-in Total Credit or to any of the above amounts under this Deed to the extent not already included in any of the preceding paragraphs of this definition; less
  - (h) any amounts debited under **rule 11** of the Schedule;
- 16/5/07 **"Locked-in Transfer Value"** means the Locked-in Benefit Credit calculated under **clause 19.1A.2**;
- 30/3/93 **"Member"** means a natural person who has been admitted to membership of this Scheme and who is, or may become, entitled to Benefits under this Scheme;
- 13/10/98 **"Minimum Pension"** means the amount determined by the Board from time to time under **clause 24A.1**;
- 23/8/04 **"Minimum Amount"** means an amount specified by the Board from time to time;
- 30/3/93  
20/10/16 **"National Provident Scheme"** means any Superannuation Scheme of which the Board is the trustee or which is administered by the Board;
- 1/4/08 **"New Zealand Superannuation Qualification Age"** means, in relation to a Contributor, the age at which persons of the Contributor's age ordinarily qualify for New Zealand superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001;

- 21/12/95            **"Nominee"** in relation to a Contributor who is alive, means a natural person who has been nominated by a Contributor and accepted by the Board in accordance with **clause 10.1**;
- 30/3/93            **"Pension"** means a non-assignable and non-commutable annual amount calculated in accordance with **clause 20**, payable for life to a Contributor or the Spouse or Surviving Spouse of a Contributor, or, in accordance with **clause 12.2**, for the joint lives of a Contributor and the Contributor's Spouse;
- 30/3/93            **"Pension Account"** means the account established under **clause 18A**;
- 1/5/99            **"Pension Scheme"** means the National Provident Pension Scheme established by Trust Deed dated 20 April 1999;
- 30/3/93            **"Permanent Incapacity"** means permanent physical or mental incapacity suffered by any Contributor that is, in the opinion of the Board, of such extent that, having regard to the previous employment and other characteristics of that Contributor, the Contributor is unlikely to have a significant earning capacity in the future;
- 30/3/93            **"Pre-1987 Bonuses"** means the aggregate of those earnings declared and allocated by the Board as a bonus under the Former Rules of this Scheme in respect of the Financial Years to 31 March 1987, plus earnings at the Applied Earnings Rate thereon;
- "Property"** means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal, and includes, without limiting the generality of the foregoing;
- (a)        Units in the global asset trust (as defined in the Act) and any GAT subsidiary (as defined in the Act) which is a unit trust;
- (b)        Choses in action and money;
- (c)        Goodwill;
- (d)        Rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective;
- 30/3/93            **"Redundancy"** means the compulsory or voluntary termination of a Contributor's employment with an employer because of retrenchment or business closure;



20/10/16

**[RESERVED]**

**"Reserve Account"** means the account established under **clause 17**;

16/5/07

**"Schedule"** means the schedule at the end of this Deed;

1/12/98

**"Small Credit Formula"** means the formula:

$$\$5,000 \times \frac{A}{B}$$

where:

A is the all groups index number of the New Zealand Consumers Price Index for the December quarter preceding the Financial Year in respect of which the Pension is payable;

B is the all groups index number of the New Zealand Consumers Price Index for the December quarter in the year 1982 –

with the result rounded up to the nearest \$1,000;

30/3/93

21/12/95

**"Spouse"** in relation to a Contributor who is alive, means a woman or man to whom the Contributor is married, and may include, whether or not the Contributor is legally married to another person, a woman or man whom the Board in its discretion regards as being the wife or husband or partner of the Contributor, being a woman or man who although not legally married to the Contributor has lived as that Contributor's wife or husband or partner on a permanent domestic basis for such period as the Board determines;

20/10/16

**"Superannuation Scheme"** has the meaning given to it in the Act;

21/12/95

**"Surviving Nominee"** in relation to an Exempted Contributor who has died means a natural person who has been nominated by the Contributor and accepted by the Board in accordance with **clause 10.1** at the time of the Contributor's death;

30/3/93

21/12/95

**"Surviving Spouse"** in relation to a Contributor who has died, means a woman or man to whom the Contributor was married immediately before the Contributor's death, and may include, whether or not the Contributor was legally married to another person, a woman or man whom the Board in its discretion regards as having been the wife or husband or partner of the Contributor immediately before death, being a woman or man who although not legally married to the Contributor had lived as that Contributor's wife or husband or partner on a permanent domestic basis

for such period as the Board determines;

16/5/07  
20/10/16      **"Tax File Number"** means a tax file number as defined in section YA 1 of the Income Tax Act 2007;

30/3/93  
1/12/98      **"Total Credit"** in relation to a Contributor means the aggregate of:

16/5/07      (a) the Employer Contributions made in respect of that Contributor other than Locked-in Employer Contributions;

16/5/07      (b) that Contributor's contributions other than Locked-in Contributor Contributions;

16/5/07      (c) any Reserve Account distributions made under **clause 17.4.4** in respect of that Contributor which are credited to that Contributor's Total Credit;

16/5/07      (d) any other amounts credited to that Contributor's Total Credit (other than amounts credited to that Contributor's Locked-in Total Credit) under any provision of this Deed except under **clause 19**; and

(e) earnings added or allocated to that Contributor's Total Credit or to any of the above amounts under this Deed to the extent not already included in any of the preceding paragraphs of this definition; and

16/5/07      "Total Credit" shall not include a Contributor's Locked-in Total Credit;

21/7/93  
1/12/98      **"Transfer Value"** in respect of any Transferred Member and at any time, means:

(i) the dollar amount calculated under **clause 31B.2**; plus

(ii) an amount equal to the earnings that have been credited at or prior to that time under **clause 31B.3**; plus

(iii) an amount equal to the earnings that have been credited at or prior to that time under **clause 31B.4**;

- 21/7/93                    **"Transferred Member"** means a Member who has made an Election to transfer under **clause 31A** and whose Election to transfer has been accepted by the Board.
- 30/1/21                    **"Trusts Act"** means the Trusts Act 2019.
- 30/3/93                    2.2        Unless inconsistent with the context terms not defined in this Deed but defined in the Act shall have the same meaning as in the Act, whether specific reference is made to the Act or not.
- 30/3/93                    2.3        In the construction of this Deed, unless inconsistent with the context –
- 2.3.1        references to **clauses** and Parts are to clauses and parts of this Deed;
- 16/5/07                    2.3.1A     references to **rules** are to rules of the Schedule;
- 2.3.2        references to any statute are references to the statute as from time to time amended and include substituted provisions that substantially correspond to those referred to and also include any regulations, Orders in Council and other instruments from time to time issued thereunder;
- 2.3.3        the singular includes the plural and vice versa, and words importing any gender include the other genders;
- 2.3.4        the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Deed.
- 16/5/07                    2.4        Any legislation appended to this Deed is appended for ease of reference only, is not imported into this Deed, and is the form of that legislation as at the date of the signing of this Deed, or, in the case of legislation appended as the result of an amendment to this Deed, as at the date of signing of the relevant amendment.

## **PART II**

### **ELIGIBILITY AND CONTRIBUTIONS**

- 30/3/93                    3            **ELIGIBILITY**
- 30/3/93                    3.1        Subject to the terms of this Scheme, persons who satisfy the requirements of section 38 of the Act may be Contributors to this Scheme. For ease of reference, a copy of section 38 (in the form as at 8 May 1992) is annexed to this Deed.

- 30/3/93 3.2 Only Employees may become Contributors to this Scheme.
- 4 **CONTRIBUTIONS**
- 16/5/07 Subject to Part IIIA, contributions to this Scheme shall be made as follows:
- 30/3/93 4.1 A Contributor shall make contributions at any rate agreed from time to time between the Contributor and the Contributor's employer;
- PROVIDED THAT** the rate shall not be less than 1% of the Contributor's basic remuneration or \$10.00 per week, whichever is the lesser, and
- 1/4/08 **PROVIDED FURTHER THAT** in relation to contributions to a Contributor's Locked-in Total Credit, the contributions paid under this **clause 4.1** shall not be less than the minimum amount required from time to time from the Contributor pursuant to **rule 2** of the Schedule.
- 30/3/93 4.2 The Contributor's employer shall make contributions to this Scheme in respect of the Contributor in accordance with any agreement (as to rate or otherwise) made from time to time with the Contributor,
- 1/4/08 **PROVIDED THAT** in relation to contributions to a Contributor's Locked-in Total Credit, the Employer Contributions paid under this **clause 4.2** shall not be less than the minimum amount required from time to time from the Contributor's employer pursuant to **rule 2** of the Schedule.
- 30/3/93 4.3 The credits a Contributor has accrued with any other Superannuation  
20/10/16 Scheme (including an overseas superannuation scheme) may be transferred to this Scheme and shall be credited to the Contributor's Total Credit;
- 16/5/07 **PROVIDED THAT** if any such credit includes an amount that is subject to Complying Fund Rules, that amount will, to the extent required by those Complying Fund Rules, be credited to the Locked-in Total Credit of the Contributor.
- 5 **DEDUCTIONS AND PAYMENT OF CONTRIBUTIONS**
- 30/3/93 5.1 The Contributor's employer shall remit the Contributor's contributions due by:
- 5.1.1 deduction from the remuneration due to that Contributor; or
- 5.1.2 payment of other moneys of that Contributor provided by the Contributor for that purpose.

- 30/3/93 5.2 All contributions under **clause 5.1** together with the Employer Contributions shall be remitted to the Board by a date as may be specified by the Board.
- 30/3/93 5.3 Interest at such rate as may be fixed by the Board from time to time may be levied against the employer on late payments.
- 30/3/93 6 **CEASING CONTRIBUTIONS**
- 30/3/93 6.1 A Contributor may Elect to suspend or cease contributions and leave the Contributor's Total Credit in this Scheme without losing any rights (including in particular any vesting rights) in respect of such Total Credit.
- 30/3/93 6.2 The Contributor's Total Credit left in this Scheme shall continue to attract earnings at the Applied Earnings Rate.
- 30/3/93 6.3 Any Contributor who Elects to cease or suspend contributions under **clause 6.1** may recommence contributions at any time **PROVIDED THAT** a Contributor who is not an Employee shall not be entitled to contribute to this Scheme.
- 16/5/07 6.4 This **clause 6** is subject to the rules prescribed in the Schedule in relation to contributions to a Contributor's Locked-in Total Credit.

### PART III

#### WITHDRAWALS

- 7 **WITHDRAWAL RIGHTS**
- 30/3/93 7.1 **On Ceasing Employment Generally**  
 21/12/95  
 13/10/98  
 1/12/98  
 1/5/99  
 16/5/07
- 16/5/07 Subject to the rules prescribed in the Schedule in relation to withdrawals of and releases from Locked-in Total Credits, a Contributor who does not qualify for a Benefit under Part V, Part VI or Part VII, having ceased to be engaged by the Contributor's employer, may Elect to withdraw from this Scheme. Upon making an Election to withdraw, the Contributor shall be entitled to a Benefit calculated as follows (but in any event not to exceed the Contributor's Total Credit less Pre-1987 Bonuses and further the Benefit shall not include the Contributor's Locked-in Total Credit except to the extent (if any) permitted by the rules prescribed in the Schedule):
- 1/4/08 7.1.1 Contributor's own contributions; plus
- 7.1.2 20% of the Employer Contributions made in respect of that Contributor for each complete year in this Scheme; plus

- 7.1.3 earnings thereon at the Applied Earnings Rate (less Pre-1987 Bonuses) to the date of payment; plus
- 7.1.4 such additional percentage of the Employer Contributions and earnings thereon at the Applied Earnings Rate (less Pre-1987 Bonuses) as is agreed between the Contributor and the employer and approved by the Board;

**PROVIDED THAT** in the case of a Contributor (not being an Exempted Contributor) who has attained age 50 years prior to withdrawing from this Scheme, that part of the Benefit under this **clause 7.1** arising from any Employer Contributions and earnings thereon at the Applied Earnings Rate (less Pre-1987 Bonuses) shall be taken as either:

- 7.1.5 a Pension; or
- 7.1.6 a cash lump sum if -
- 7.1.6.1 the Contributor's Total Credit (excluding Pre-1987 Bonuses) does not exceed \$10,000 or such greater amount as may be determined under the Small Credit Formula; or
- 7.1.6.2 the Pension would be less than the Minimum Pension.

22/11/91  
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16/5/07

## 7.2 **On Redundancy**

- 7.2.1 Where the Board is satisfied that a Contributor is required to cease service with an employer by reason of Redundancy and prior to qualifying for a Benefit under Part V, Part VI or Part VII, the Board may, subject to **clause 7.2.2**, pay the Contributor an amount additional to the entitlement under **clause 7.1**;

**PROVIDED THAT** any Benefit payable under **clause 7.2.1** shall not exceed the Contributor's Benefit Credit and in the case of a Contributor (not being an Exempted Contributor) who has attained age 50 years and who is entitled to receive a Benefit under **clause 7.2.1**, that part of the Benefit arising from any Employer Contributions and earnings thereon at the Applied Earnings Rate shall be taken as either:

- 7.2.1.1 a Pension; or
- 7.2.1.2 a cash lump sum if -

16/5/07

7.2.1.2.1 the Contributor's Benefit Credit does not exceed \$10,000 or such greater amount as may be determined under the Small Credit Formula; or

7.2.1.2.2 the Pension would be less than the Minimum Pension.

16/5/07 **AND FURTHER PROVIDED THAT** where a Contributor is obliged to receive part of the Benefit as a Pension under **clause 7.2.1.1** the Contributor may Elect to take in addition to the required Pension all or any of the balance of the Contributor's Benefit as a Pension.

16/5/07 7.2.2 No amount shall be released from a Contributor's Locked-in Total Credit on Redundancy unless the circumstances also give rise to grounds for a release under **rule 6** of the Schedule.

22/11/91 7.3 **On Completing 10 Years as a Contributor that commenced before 30/3/93 1 February 1977**

16/5/07 7.3.1 Where a Contributor joined this Scheme before 1 February 1977, and 10 years have passed since the date of that joining, the Contributor shall be entitled, subject to the rules prescribed in the Schedule in relation to withdrawals from and releases of Locked-in Total Credits, to Elect at any time to withdraw from this Scheme.

16/5/07 7.3.2 Where a Contributor Elects under **clause 7.3.1** to withdraw from this Scheme the Benefit payable to the Contributor will be the Contributor's Total Credit less Pre-1987 Bonuses in lieu of any other Benefit the Contributor may be entitled to under this Scheme (other than a Benefit payable from the Contributor's Locked-in Total Credit).

7.3.3 The preceding provisions of this **clause 7.3** shall apply notwithstanding **clause 7.1** and **clause 7.2**.

22/11/91 7.4 **Leaving Total Credit in this Scheme**  
30/3/93

7.4.1 A Contributor who, on ceasing to be engaged by the Contributor's employer, does not make an Election under the preceding provisions of this **clause 7**, may leave that Contributor's Total Credit in this Scheme where it shall continue to attract earnings at the Applied Earnings Rate until a Benefit becomes payable under the terms of this Scheme.

16/5/07 7.4.2 Any Contributor who leaves the Contributor's Total Credit in this Scheme under **clause 7.4.1** may, on again becoming an Employee, recommence contributions to that Contributor's Total Credit and have future contributions subsidised by the Contributor's employer in accordance with **clause 4.2**;

**PROVIDED THAT** the right to withdraw under **clause 7.1** or **clause 7.2** shall cease on the Contributor recommencing contributions and, for the avoidance of doubt, that Contributor shall have no right to withdraw under **clause 7.1** or **clause 7.2** until that new employment ceases.

23/8/04 **7A TOTAL CREDIT NOT TO BE LESS THAN MINIMUM AMOUNT**

23/8/04 7A.1 Where the Total Credit of a Contributor is less than the Minimum Amount then, subject to **clause 7A.2** and **clause 7A.3**, but otherwise notwithstanding any other clause of this Deed, the Board may pay the Contributor's Benefit Credit to him or her, and the Contributor shall, on receipt of such payment, cease to be a Contributor or Member of this Scheme;

16/5/07 **PROVIDED THAT** if the Contributor has a Locked-in Total Credit which is not transferred to another scheme under **rule 9** of the Schedule, the Contributor shall continue to be a Contributor of this Scheme if and for so long as the Contributor has a Locked-in Total Credit.

23/8/04 7A.2 Before paying the Benefit Credit to the Contributor under **clause 7A.1**, the Board shall give not less than six months' notice in writing to the Contributor, of the Minimum Amount and of the Board's intention to make such payment.

23/8/04 7A.3 Where the Contributor, by further Contribution, increases his or her Total Credit to at least the Minimum Amount within the notice period referred to in **clause 7A.2**, or such longer period as the Board may determine in any one or more cases, then the Board shall not pay the Benefit Credit to the Contributor under **clause 7A.1**.

**8 COMMENCEMENT OF PERIOD AS A CONTRIBUTOR**

For the purposes of **clause 7**, the period as a Contributor in this Scheme shall be deemed to have commenced –

30/3/93 8.1 from the date on which a Contributor Elected to join this Scheme; or

30/3/93 8.2 where a Contributor transferred to this Scheme from an employer  
20/10/16 subsidised Superannuation Scheme (including an overseas scheme), from the date on which the Contributor joined that earlier scheme; or



30/3/93 8.3 where a Contributor transferred to this Scheme from another National Provident Scheme that is not employer subsidised, from such earlier date as the Board may determine, being not earlier than the date of commencement of the membership of that earlier scheme or any other National Provident Scheme where the Contributor's membership of National Provident Schemes has been continuous.

22/11/91 9 **[RESERVED]**  
30/3/93

16/5/07

### **PART IIIA**

#### **LOCKED-IN TOTAL CREDIT**

16/5/07 9A.1 A Contributor (other than a Contributor who has attained New Zealand Superannuation Qualification Age) may Elect at any time that, if (and for so long as) this Scheme is a Complying Superannuation Fund, some or all of the contributions paid to this Scheme by or in respect of that Contributor will be credited to an account in this Scheme called the Locked-in Total Credit which account is subject to the rules prescribed in the Schedule.  
1/4/08

16/5/07 9A.2 If a Contributor makes an Election under **clause 9A.1**, there shall be established and maintained in the records of this Scheme in the Contributor's name an account called the Locked-in Total Credit.

16/5/07 9A.3 A Contributor's Locked-in Total Credit must be credited with all contributions to which **clause 9A.1** applies.

16/5/07 9A.4 Any Election under **clause 9A.1** must include the Contributor's Tax File Number.

21/12/95

### **PART IV**

#### **NOMINEES**

21/12/95 10 **NOMINEES FOR RETIREMENT OR DEATH BENEFITS**

30/3/93 10.1 Subject to **clause 12** and **clause 13**, a Contributor may nominate any  
21/12/95 person as a Nominee for the purposes of **clause 12** and **clause 13**;  
20/10/16

#### **PROVIDED THAT**

10.1.1 the Contributor must make the nomination in writing, addressed and delivered or posted to the Board or an authorised

representative of the Board;

- 10.1.2 the nomination shall not have effect for the purposes of **clause 12** or **clause 13** until the Board has accepted the nomination and advised the Contributor in writing of that acceptance;
- 10.1.3 the Board may decline to accept a nomination under this **clause 10.1** if, in the opinion of the Board, acceptance of the nomination would or may jeopardise the Scheme's status under any relevant legislation or for any other regulatory purpose;
- 10.1.4 the Board shall not accept more than one Nominee in respect of any Contributor at any one time;
- 10.1.5 the Board may, at any time after a nomination under this **clause 10.1** has been accepted, cancel the nomination by notifying the Contributor in writing where the Board becomes aware of circumstances that would indicate, in the opinion of the Board, that the nomination would or may jeopardise the Scheme's status under any relevant legislation or for any other regulatory purpose;

22/11/91 10.2 A Contributor may cancel a nomination under **clause 10.1** by notifying  
30/3/93 the Board in writing, addressed and delivered or posted to the Board or  
21/12/95 an authorised representative of the Board;

**PROVIDED THAT** a Contributor may not cancel a nomination after the commencement of a Benefit under **clause 12** or **clause 13**.

30/3/93 10.3 Once a nomination under **clause 10.1** has been cancelled by a  
21/12/95 Contributor in accordance with **clause 10.2**, any Benefit payable under **clause 12** or **clause 13** shall be paid as if the nomination had never been made.

**PART V****RETIREMENT BENEFITS****11 RETIREMENT**

30/3/93  
1/12/98  
1/5/99

11.1 A Contributor, having ceased to be engaged by the Contributor's employer, and by giving notice in writing at any time after attaining age 60 or with the consent of the Contributor's employer on or after attaining age 50, may Elect one of the following options:

11.1.1 to receive a Pension of such amount as may be provided by the application of the Contributor's Benefit Credit to that purpose; or

11.1.2 to receive a lump sum of up to one quarter of the Contributor's Benefit Credit and the balance as a Pension,

**PROVIDED THAT** where any Pension payable under **clause 11.1.1 or 11.1.2** would be less than the Minimum Pension, the Benefit Credit will be paid as a lump sum.

1/12/98

11.2 Where the Contributor's Benefit Credit does not exceed \$10,000, or such greater amount as may be determined under the Small Credit Formula, the Benefit Credit may be taken as a lump sum.

30/3/93  
13/10/98  
1/12/98  
1/5/99

11.3 **[RESERVED]**.

16/5/07

11.4 No amount shall be withdrawn or released from a Contributor's Locked-in Total Credit on the Contributor ceasing to be engaged by the Contributor's employer unless the circumstances also give rise to grounds for a withdrawal or release under the rules prescribed in the Schedule.

**21/12/95 12 ALLOWANCES FOR SPOUSES OR NOMINEES**

30/3/93  
21/12/95

In lieu of a Pension payable solely to the Contributor under **clause 11**, the Contributor may further Elect:

30/3/93  
21/12/95  
1/12/98

12.1 to allocate up to half of the Contributor's Benefit Credit, after deduction of any lump sum taken under **clause 11.1.2**, for the provision of a Pension for the Contributor's Spouse or, in the case of a Contributor who joined the Scheme on or after 1 April 1980, the Contributor's Nominee; or

- 30/3/93  
21/12/95
- 12.2 except in the case of a Contributor who joined this Scheme on or after 1 April 1980, to accept a Pension payable to the Contributor (on behalf of the Contributor and the Contributor's Spouse jointly) and upon the death of either the Contributor or the Contributor's Spouse payable to the survivor of them until that survivor's death;
- 21/12/95
- 12.3 in the case of a Contributor who joined this Scheme on or after 1 April 1980, to accept a Pension payable to the Contributor (on behalf of the Contributor and the Contributor's Nominee jointly) and upon the death of either the Contributor or the Contributor's Nominee payable to the survivor of them until that survivor's death;
- 13/10/98  
1/5/99
- 12.4 no Election shall be made under this **clause 12** if, as a result of that Election, the Pension payable to either the Contributor or the Contributor's Spouse or Nominee would be less than the Minimum Pension.

**PART VI**

**DEATH BENEFITS**

**13 BENEFITS PAYABLE**

- 30/3/93  
21/12/95  
13/10/98  
1/12/98  
1/5/99
- 13.1 In the event of a Contributor's death before the Contributor has commenced to receive a Benefit under any other part of this Scheme, there shall be payable out of this Scheme:
- 13.1.1 to the Contributor's Surviving Spouse, as the Surviving Spouse may Elect,
- 13.1.1.1 a cash lump sum of all or part of the Contributor's Benefit Credit;
- 13.1.1.2 where the Pension would be equal to or more than the Minimum Pension, a Pension of such amount as may be provided by the balance (after any Election made under **clause 13.1.1.1**) of the Contributor's Benefit Credit; or
- 13.1.2 if there is no Surviving Spouse, to the Contributor's legal representative or the administrator of the Contributor's estate, a cash lump sum of the Contributor's Benefit Credit;

**PROVIDED THAT** where more persons than one have claims as Surviving Spouses of any Contributor the total amount payable to them in

respect of any Benefit to which one Surviving Spouse would be entitled may be divided between them in such shares and proportions (including a nil proportion) as the Board thinks fit. No person shall be entitled to receive a Pension under this proviso if it would be less than the Minimum Pension, and the relevant Benefit will instead be paid as a lump sum.

**PROVIDED FURTHER THAT** this **clause 13.1** shall not apply in respect of any Exempted Contributor.

30/3/93  
1/12/98

13.2 Any person or persons entitled to a Benefit under this Part VI may defer making an Election until a later date. The Contributor's Total Credit shall continue to attract earnings at the Applied Earnings Rate until an Election is made;

**PROVIDED THAT** in the event of the person or persons entitled to the Benefit dying before making an Election, the Benefit Credit shall be paid to the estate of the person or persons entitled to it.

30/3/93  
21/12/95

13.3 Where either a Contributor or a Spouse or a Surviving Spouse or a Nominee of a Contributor who has commenced to receive a Pension under this Scheme other than in terms of **clause 12.2** or **clause 12.3** dies prior to having received the minimum guaranteed payment as advised to the Contributor or Contributor's Spouse or Contributor's Surviving Spouse or Contributor's Nominee by the Board, there shall be payable to the deceased's estate the then present value of the balance of the minimum guaranteed payment, as determined by the Board;

**PROVIDED THAT** this **clause 13.3** shall not apply in respect of any Exempted Contributor.

30/3/93  
21/12/95

13.4 Where an Election has been made under either **clause 12.2** or **clause 12.3** the minimum amount of Pension payable to the Contributor (on behalf of the Contributor and the Contributor's Spouse or the Contributor's Nominee (as appropriate) jointly) shall be not less than the minimum amount guaranteed as advised to the Contributor and the Contributor's Spouse or the Contributor's Nominee (as appropriate) by the Board. Where the Contributor and the Contributor's Spouse (or the Contributor and the Contributor's Nominee) both die before having received an aggregate Benefit equivalent to that minimum amount guaranteed, the then present value, as determined by the Board, of the difference between the amount guaranteed and the aggregate Benefit paid, will be paid to the estate of the last survivor;

**PROVIDED THAT** this **clause 13.4** shall not apply in respect of any Exempted Contributor.

- 30/3/93 13.5 **Clause 13.3** and **clause 13.4** are subject to **clause 45**.
- 21/12/95 13.6 In the event of an Exempted Contributor's death before the Exempted  
13/10/98 Contributor has commenced to receive a Benefit under any other part of  
1/12/98 this Scheme, there shall be payable out of this Scheme:
- 13.6.1 to the Contributor's Surviving Nominee, as the Surviving  
Nominee may Elect;
- 13.6.1.1 a cash lump sum of all or part of the Exempted  
Contributor's Benefit Credit;
- 13.6.1.2 where the Pension would be equal to or more than  
the Minimum Pension, a Pension of such amount as  
may be provided by the balance (after any Election  
made under **clause 13.6.1.1**) of the Exempted  
Contributor's Benefit Credit; or
- 13.6.2 if there is no Surviving Nominee, to the Exempted Contributor's  
legal representative or the administrator of the Exempted  
Contributor's estate, a cash lump sum of the Exempted  
Contributor's Benefit Credit;
- 21/12/95 13.7 Where either an Exempted Contributor or a Nominee or a Surviving  
Nominee of an Exempted Contributor who has commenced to receive a  
Pension under this Scheme other than in terms of **clause 12.3** dies prior  
to having received the minimum guaranteed payment as advised to the  
Exempted Contributor or Exempted Contributor's Nominee or Exempted  
Contributor's Surviving Nominee by the Board, there shall be payable to  
the deceased's estate the then present value of the balance of the  
minimum guaranteed payment, as determined by the Board;
- 21/12/95 13.8 Where an Election has been made under **clause 12.3** the minimum  
amount of Pension payable to the Exempted Contributor (on behalf of the  
Exempted Contributor and the Exempted Contributor's Nominee jointly)  
shall be not less than the minimum amount guaranteed as advised to the  
Exempted Contributor and the Exempted Contributor's Nominee by the  
Board. Where the Exempted Contributor and the Exempted Contributor's  
Nominee both die before having received an aggregate Benefit equivalent  
to that minimum amount guaranteed, the then present value, as  
determined by the Board, of the difference between the amount  
guaranteed and the aggregate Benefit paid, will be paid to the estate of  
the last survivor.
- 21/12/95 13.9 **Clause 13.7** and **clause 13.8** are subject to **clause 45**.

- 16/5/07 13.10 Any amount released from the Contributor's Locked-in Total Credit on death shall be payable in accordance with the rules prescribed in the Schedule.

## PART VII

### PERMANENT INCAPACITY BENEFITS

#### 14 PERMANENT INCAPACITY

- 30/3/93 14.1 In the event of the Permanent Incapacity of a Contributor before that  
1/12/98 Contributor has made an Election under Part III, Part IV, or Part V, and upon producing such medical evidence as the Board may require, the Contributor may be permitted to make an Election in accordance with Part V;

**PROVIDED THAT** the Board may in its discretion pay the Contributor's Benefit Credit to the Contributor as a lump sum where the Board is satisfied that such payment would be in the best interests of the Contributor.

- 16/5/07 14.2 No amount shall be released from a Contributor's Locked-in Total Credit in the event of Permanent Incapacity unless the circumstances also give rise to grounds for a release under the rules prescribed in the Schedule.

#### 30/3/93 15 DEATH AND DISABILITY INSURANCE

- 30/3/93 15.1 Any Contributor may Elect to participate in any arrangement for the provision of death or disability benefits in respect of the Contributor or any dependant that is made available to the Contributor by the Board.

- 30/3/93 15.2 The participation in any arrangement under **clause 15.1** shall be on such terms and conditions as are determined by the Board.

- 30/3/93 15.3 The costs of participation in any arrangement under **clause 15.1** shall be met from the Contributor's contributions or, with the consent of the Contributor's employer, from the Contributor's employer's contributions, or any combination of such contributions agreed to by the Contributor's employer but may not be met from any contributions to the Contributor's  
16/5/07 Locked-in Total Credit to the extent that payment of those costs would reduce the contribution below the minimum required by **rule 2** of the Schedule.

- 30/3/93 15.4 Where the Contributor's contributions or the Contributor's employer's contributions are applied towards the costs of participation in any arrangement under **clause 15.1** the obligations of the Contributor or the Contributor's employer to make contributions to this Scheme shall be

deemed to that extent to be satisfied;

**PROVIDED THAT:**

- 16/5/07 15.4.1 the portion of the contributions so applied shall not form part of the Contributor's Total Credit or Locked-in Total Credit and shall not be payable to the Contributor under this Scheme; and
- 15.4.2 where that portion is paid out of the Contributor's contributions it shall for all purposes cease to be part of the Contributor's contributions.

**PART VIII**

**FINANCIAL**

30/3/93 16 **EARNINGS RATES AND ALLOCATION**

- 30/3/93 16.1 As soon as practicable after the end of each Financial Year the Board shall declare an Earnings Rate at which rate earnings shall be added to each Contributor's Total Credit and each Contributor's Locked-in Total Credit (if any) as at the beginning of that Financial Year;
- 16/5/07

**PROVIDED THAT** the Earnings Rate shall not be less than 4% per annum.

- 30/3/93 16.2 As soon as practicable after the end of each Financial Year the Board shall determine the basis of allocating earnings to contributions paid into this Scheme during that Financial Year.

- 20/10/92 16.2A For the purposes of **clause 16.3.1**, the Board may at any time and from time to time during any Financial Year commencing on or after 1 April 1993 declare an Earnings Rate for the period from the commencement of that Financial Year to a date that is earlier than the date of the declaration but later than the last day of any period in respect of which a declaration under this **clause 16.2A** has previously been made.
- 30/3/93

- 20/10/92 16.3 Where, during a Financial Year, a Benefit is payable in respect of a Contributor under Part III, Part IV, Part V, Part VI or Part VII, or an Election to transfer under Part XA is accepted by the Board or a Contributor makes a withdrawal or funds are released from the Contributor's Locked-in Total Credit, in accordance with the rules prescribed in the Schedule:
- 30/3/93
- 21/7/93
- 16/5/07

- 16/5/07 16.3.1 earnings will be allocated to the Total Credit and Locked-in Total Credit (or relevant proportion thereof) (as appropriate) as at the beginning of that Financial Year for each complete calendar



month from the commencement of that Financial Year to the date of payment (or Transfer Date (as defined in Part XA) in the case of the acceptance of an Election to transfer) at the rate that is the greater of 4% per annum and

16.3.1.1 where the Financial Year commenced before 1 April 1993, the latest rate declared pursuant to **clause 16.1**; or

16.3.1.2 where the Financial Year commenced on or after 1 April 1993, the latest rate declared in respect of that Financial Year pursuant to **clause 16.2A**, or, where no such rate has been declared in respect of that Financial Year, the latest rate declared pursuant to **clause 16.1**;

16.3.2 earnings will be allocated to contributions paid into this Scheme during that Financial Year on a basis determined by the Board from time to time;

16/5/07 16.3.3 in the event that no Earnings Rate has been declared under **clause 16.1** in respect of the previous Financial Year, earnings will be added to the Contributor's Total Credit and Locked-in Total Credit (if any) as at the beginning of that previous Financial Year at the latest rate declared pursuant to **clause 16.1** and earnings will be allocated to contributions paid into this Scheme during that previous Financial Year on a basis determined by the Board.

30/3/93 16.4 Where a Contributor's credit from another scheme is transferred to this Scheme, the amount transferred will attract earnings at the latest rate declared under **clause 16.1** applied pro rata for the number of complete calendar months from the date of transfer to the end of the Financial Year in which the transfer was effected or such earlier date on which a Benefit becomes payable under Part III, Part IV, Part V, Part VI or Part VII of this Scheme (or, where an Election to transfer is accepted under Part XA, the Transfer Date or where a withdrawal is made or funds are released from a Locked-in Total Credit, the date of the withdrawal or release).

21/7/93

16/5/07

30/3/93 17 **RESERVE ACCOUNT**

30/3/93 17.1 A Reserve Account shall be established for this Scheme.

30/3/93 17.2 The Reserve Account shall be credited with:

21/7/93

17.2.1 the investment earnings of this Scheme (net of tax and expenses except to the extent that such tax or expenses are paid out of

- the Reserve Account) or debited, in the case of negative earnings;
- 16/5/07 17.2.2 the balance of any Contributor's Total Credit or Locked-in Total Credit not transferred or otherwise disbursed in accordance with the provisions of this Scheme;
- 17.2.2A the balance of any Transfer Value not transferred or otherwise disbursed in accordance with the provisions of this Scheme;
- 16/5/07 17.2.3 all other credits to this Scheme other than amounts referred to in **clause 4** or **clause 9A.1**; and
- 17.2.4 any debits to the Pension Account made under **clause 18A.6**, and all other moneys of this Scheme other than moneys held in the Pension Account or forming part of Contributors' Total Credits or Locked-in Total Credits shall be held in the Reserve Account.
- 16/5/07 17.3 The Reserve Account shall be debited with:
- 22/11/91 17.3.1 earnings applied or allocated under **clause 16**;
- 30/3/93 17.3.1A earnings credited to Transfer Values under **clause 31B.3** and **clause 31B.4**;
- 21/7/93 17.3.1B amounts included in Transfer Values under **clause 19.1.2**;
- 1/12/98 17.3.1C amounts added to Contributors' Total Credits under **clause 19.1.1**;
- 16/5/07 17.3.1D amounts added to Contributors' Locked-in Total Credits under **clause 19.1A.1**;
- 16/5/07 17.3.1E amounts included in Locked-in Transfer Values under **clause 19.1A.2**;
- 17.3.2 earnings credited to the Pension Account under **clause 18A.4.1** (or, in the case of a negative earnings rate, the Reserve Account shall be credited with earnings debited under that clause);
- 17.3.3 tax and management (as defined in the Act) expenses not already deducted from investment earnings; and
- 17.3.4 such amounts as the Board from time to time determines, after receiving advice from the Actuary, shall be paid into the Pension Account (which amounts shall be credited to the Pension Account

under **clause 18A.4.2**).

- 30/3/93 17.4 The Board in its discretion after receiving advice from the Actuary may use the balance of the Reserve Account from time to time to do any or all of the following:
- 17.4.1 meet all or part of the contributions of all Contributors to this Scheme on an equitable basis;
- 17.4.2 meet all or part of the employers' contributions to this Scheme;
- 17.4.3 increase the Pensions of all pensioners on an equitable basis;
- 16/5/07 17.4.4 increase all Contributors' Total Credits and Locked-in Total Credits on an equitable basis;
- 17.4.5 provide Benefits other than retirement Benefits for all Contributors on an equitable basis.
- 30/3/93 17.5 The Board in its discretion may use the balance of the Reserve Account from time to time to do either or both of the following:
- 17.5.1 make hardship payments to Contributors or their dependants;
- 17.5.2 pay any expenses of this Scheme.
- 18 **ELECTION NOT TO PARTICIPATE IN RESERVE ACCOUNT**
- 30/3/93 18.1 Any Contributor may by notice in writing to the Board, Elect that on and from a date specified by the Contributor the Contributor shall not be entitled to participate in any distribution from the Reserve Account in respect of the membership of that Contributor in this Scheme (including any distribution of that Account on winding up of this Scheme) on or after the date specified by the Contributor; **PROVIDED THAT** any Election under this **clause 18.1** shall not apply to any distribution under **clause 17.3**.
- 30/3/93 18.2 Where any Election is made under **clause 18.1** the Contributor shall be deemed for the purposes of **clause 17.4** and **clause 17.5** not to be a Contributor of this Scheme in respect of the period to which the Election relates.
- 30/3/93 **18A PENSION ACCOUNT**
- 30/3/93 18A.1 At any time any Pension is payable from this Scheme, an account to be known as the Pension Account shall be maintained within this Scheme.
- 1/5/99

- 30/3/93  
1/12/98  
1/5/99
- 18A.2 Subject to **clause 23A**, whenever an Election is made under this Scheme to receive a Pension or any person is required to take a Benefit under this Scheme as a Pension, the Total Credit or Benefit Credit (as the case may require) (less any part taken as a lump sum) of the relevant Contributor (or the relevant proportion of that Total Credit or Benefit Credit) to be applied to provide for that Pension shall be credited to the Pension Account.
- 30/3/93
- 18A.3 Any Reserve Account distributions made under **clause 17.4.3** and any other Reserve Account distributions to be paid in the form of a Pension shall be credited to the Pension Account.
- 30/3/93
- 18A.4 The Pension Account shall also be credited with:
- 18A.4.1 earnings as soon as practicable after the end of each Financial Year, at such rate as the Board considers appropriate, having regard to the net investment earnings rate of this Scheme and to the advice of the Actuary (or, in the event that the rate considered by the Board to be appropriate is negative, the Pension Account shall be debited with earnings at that rate); and
- 18A.4.2 all amounts debited to the Reserve Account under **clause 17.3.4**.
- 30/3/93  
1/5/99
- 18A.5 All Pensions payable from this Scheme shall be paid out of the Pension Account.
- 30/3/93
- 18A.6 The Board in its discretion and after receiving the advice of the Actuary may from time to time debit amounts to the Pension Account and credit such amounts to the Reserve Account.
- 30/3/93  
1/12/98  
1/12/98
- 19 **SHARE OF RESERVES**
- 19.1 A Contributor's "Benefit Credit" shall be:
- 19.1.1 for the purposes of the determination of a Benefit payable under any of **clauses 7.2, 11, 12, 13, and 14** the Contributor's Total Credit plus a share (as determined under clause 19.2.1) of any positive reserves of the Scheme; or
- 19.1.2 for the purposes of the calculation of a Transfer Value under **clause 31B.2**, the Contributor's Total Credit as at the Transfer Date (which Total Credit, for the purposes of Part XA, represents the share of the Property of this Scheme (including, for the avoidance of doubt, that representing contributions received or due from corporate contributors (as defined in the Act)) that is attributable to the Transferred Member as at that date) plus or

minus (as the case may be) a share (as determined under **clause 19.2.2**) of any positive or negative reserves of the Scheme.

- 16/5/07 19.1A A Contributor's "Locked-in Benefit Credit" shall be:
- 16/5/07 19.1A.1 for the purposes of determination of a Benefit payable under any of **rules 6, 7** and **9** of the Schedule, the Contributor's Locked-in Total Credit plus a share (as determined under **clause 19.2.1**) of any positive reserves of the Scheme; or
- 16/5/07 19.1A.2 for the purposes of calculation of a Locked-in Transfer Value under **rule 8** of the Schedule, the Contributor's Locked-in Total Credit as at the date of the Board is satisfied that all the requirements of **rule 8.1** of the Schedule for a transfer have been met, plus or minus (as the case may be) a share (as determined under **clause 19.2.2**) of any positive or negative reserves of the Scheme.
- 1/12/98 19.2 The share of any:
- 16/5/07 19.2.1 reserves to be added to a Contributor's Total Credit under **clause 19.1.1**, or to a Contributor's Locked-in Total Credit under **clause 19.1A.1**, shall be an equitable share (as determined by the Board) of any positive reserves (as defined in **clause 19.3.1**) of this Scheme as at the date of determination of that Total Credit or Locked-in Total Credit; or
- 16/5/07 19.2.2 reserves to be added to or deducted from a Contributor's Total Credit under **clause 19.1.2** or added to or deducted from a Contributor's Locked-in Total Credit under **clause 19.1A.2** shall be an equitable share (as determined by the Board) of any reserves (as defined in **clause 19.3.2**) of this Scheme as at the Transfer Date (or in the case of an addition to or deduction from the Contributor's Locked-in Total Credit, as at the date the Board is satisfied the requirements of **rule 8.1** of the Schedule for a transfer have been met), and in the event that this Scheme has negative reserves as at that date, the Contributor's Total Credit or Locked-in Total Credit shall be reduced by an equitable share of those negative reserves.
- 16/5/07
- 1/12/98 19.3 The term "reserves" means:
- 16/5/07 19.3.1 for the purposes of **clauses 19.1.1, 19.1A.1 and 19.2.1**, amounts that are shown in the accounts of the Scheme as being reserves attributable to this Scheme whether or not forming part of the Reserve Account, but does not include negative reserves;

or

16/5/07 19.3.2 for the purposes of **clauses 19.1.2, 19.1A.2 and 19.2.2**, amounts that are shown in the accounts of the Scheme as being reserves attributable to this Scheme whether or not forming part of the Reserve Account, and includes negative reserves.

1/12/98 19.4 Notwithstanding **clause 19.2**, the amount to be added to the Contributors' Total Credit under **clause 19.1**, or to a Contributor's Locked-in Total Credit under **clause 19.1A**, for a Contributor who became a Member of this Scheme on or after 1 April 1993 (including persons who rejoined the Scheme on or after that date) shall not include any amount credited to the Reserve Account before 1 April 1993 unless the Board determines otherwise.

16/5/07

1/12/98 19.5 In determining (under **clause 19.2**) the equitable share of reserves to be added to the Contributor's Total Credit under **clause 19.1**, or to a Contributor's Locked-in Total Credit under **clause 19.1A**, the Board shall have regard to the level of reserves required for the prudent management of the Scheme, having regard to the Board's obligation to declare an Earnings Rate of not less than 4% per annum under **clause 16.1**. In the event that the level of reserves is lower than such level, the share of reserves which would otherwise be added to the Total Credit of a Contributor under **clause 19.1** or to a Contributor's Locked-in Total Credit under **clause 19.1A** may be reduced to reflect that fact.

16/5/07

## 20 ASSESSMENT OF PENSIONS

30/3/93 20.1 Whenever an Election is made under this Scheme to receive a Pension or any person is required to take a Benefit under this Scheme as a Pension, the Total Credit or Benefit Credit (as the case may require) (less any part taken as a lump sum) of the relevant Contributor (or the relevant proportion of the Total Credit, as the case may require) will be converted to a Pension on the basis of pension tables supplied by the Actuary from time to time and taking into account, where appropriate, the provisions of **clause 23A**.

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30/3/93 20.2 The pension tables may be varied by the Board on the recommendation of the Actuary.

30/3/93 20.3 Any changes to the pension tables will not affect the Pension entitlement of any existing pensioner.

## 21 PAYMENT OF PENSION

1/5/99 21.1 Any Pension payable from this Scheme will be paid by instalments in

advance at intervals of 4 weeks or as the Board may direct.

22/11/91 21.2 Every such instalment shall be payable to the person entitled thereto  
30/3/93 personally or to that person's bank account unless that person is, by reason of age, infirmity, or because of inconvenience, unable to accept it, or the Board for any other reason, and subject to the provisions of **clause 34**, consents to it being paid to any person or agent duly authorised by the person entitled thereto to receive the payment on that person's behalf.

30/3/93 22 **INCREASES IN PENSIONS**

22/11/91 The Board may from time to time, and having regard to the earnings credited to  
30/3/93 the Pension Account and to the advice of the Actuary, resolve to increase Pensions being paid from this Scheme. Pensions shall be increased in accordance with any such resolution.

23 **PAYMENT OF BENEFITS OUT OF ANOTHER SCHEME**

30/3/93 Subject to section 38 of the Act, if applicable, the relevant Contributor's Total  
1/12/98 Credit or Benefit Credit (as the case may require), or that Total Credit or Benefit  
20/10/16 Credit less any allowable lump sum or the relevant proportion of that Total Credit or Benefit Credit, shall, on any person becoming entitled to a Pension or Electing that a Pension be paid to any person, and if the person making the Election and the person entitled to receive the Pension agree, be paid to any other Superannuation Scheme provided by the Board and paid from that scheme as a pension in accordance with the terms of the trust deed for that scheme.

1/5/99 **23A TRANSFER OF PENSIONERS TO PENSION SCHEME**

1/5/99 23A.1 Subject to **clause 23A.7**, on any person making an Election and consequently becoming immediately entitled to a Pension under this Scheme on or after such date as the Board may determine, the Board shall transfer that person and the liability to pay the Pension to that person, to the Pension Scheme.

1/5/99 23A.2 Subject to **clauses 23A.7** and **23A.8**, the Board may, on such date as it  
20/10/16 may determine, transfer all persons already receiving a Pension under this Scheme, and the liability to pay their Pensions, to the Pension Scheme.

1/5/99 23A.3 Any Pension to be transferred under **clause 23A.1** or **23A.2** shall include:

23A.3.1 any Pension or other Benefit payable or contingently payable to any other person as a result of an Election made by a

Contributor under **clause 12** or otherwise; and

23A.3.2 any minimum payment which would have applied in relation to that Pension under the terms of this Scheme or of which the Board advises the Contributor.

- 1/5/99      23A.4      On transfer of the liability to pay any Pension under **clause 23A.1**, the Board shall transfer from this Scheme to the Pension Scheme, assets with a value as determined by the Board (having considered the advice of the Actuary) to meet the liability so transferred.
- 1/5/99      23A.5      On transfer of the liability to pay any Pensions under **clause 23A.2** the Board shall transfer from this Scheme to the Pension Scheme, assets with a value as determined by the Board equal to the balance of the Pension Account as at the date of transfer of the liability.
- 1/5/99      23A.6      On transfer of the liability to pay any Pension under **clauses 23A.1** or **23A.2** and assets under **clause 23A.4** or **23A.5** (as the case may be) the Pension so transferred shall be payable from the Pension Scheme and neither the person so transferred nor any other person shall be entitled to receive any further payment from this Scheme in respect of that Pension.
- 1/5/99      23A.7      The Board must not transfer the liability to pay the Pension of a person from this Scheme to the Pension Scheme unless it is satisfied, after considering the advice of the Actuary, that:
- 23A.7.1 the terms of that person's Pension under the Pension Scheme are not materially and adversely different from the terms on which that person's Pension would have been paid under this Scheme; and
- 23A.7.2 the transfer of assets from this Scheme to the Pension Scheme under **clause 23A.4** or **23A.5** is fair and equitable to that person and to all members and beneficiaries of this Scheme materially affected by the transfer.
- 20/10/16      23A.8      In accordance with section 179 of the FMC Act, any transfer under clause 23A.2 is subject to the prior written consent of either (i) the person who is the subject of the transfer or (ii) the FMA.



20/10/16 24 **REDUCTION UNDER PART III OF THE SUPERANNUATION SCHEMES ACT 1989 [AS IT WAS PRIOR TO ITS REPEAL]**

30/3/93 Notwithstanding any other provision of this Scheme every Pension payable on 31 March 1990, the first instalment of which first became payable after 31 March 1980 shall be reduced with effect from the first payment date after 31 March 1990 as follows:

24.1 In the case of persons receiving such Pensions where the appropriate tax code as at 31 March 1990 is code T:

	<b>On such of the Pension as:</b>	<b>Reduction</b>
24.1.1	Does not exceed \$4,853	Zero
24.1.2	Exceeds \$4,853 but does not exceed \$6,240	15%
24.1.3	Exceeds \$6,240 but does not exceed \$9,880	35%

24.2 In the case of persons receiving such Pensions where the appropriate tax code as at 31 March 1990 is code T: 15%

13/10/98 **24A MINIMUM PENSIONS**

13/10/98 24A.1 The Board may from time to time determine a minimum annual amount for a Pension payable from this Scheme (the "Minimum Pension") and a date (the "specified date") from which that minimum amount is to apply.

13/10/98 24A.2 The Board may from time to time offer to a person who began receiving a Pension from this Scheme before 13 October 1998, which is less than the Minimum Pension, an opportunity to elect (by written notice to the Board) to cancel his or her Pension with effect from a date specified by the Board, being on or after the specified date (the "effective date"), and have the value of the Pension entitlement from the effective date (as determined by the Actuary) paid to him or her as a lump sum.

13/10/98 24A.3 Where any person receives a payment under **clause 24A.2**, he or she will cease to be a Member, Contributor or Beneficiary from the date of the payment.

**PART IX****TRUSTEE PROVISIONS****25 TRUSTEES - APPOINTMENT AND REMOVAL**

- 22/11/91  
20/10/16
- 25.1 The Board is the trustee of this Scheme pursuant to section 20(1)(a) of the Act and the 'manager' of the Scheme for the purposes of the FMC Act.
- 25.2 The members of the Board hold office in accordance with Part II of the Act.
- 25.3 The Board is a body corporate, and as such cannot retire from the office of trustee, nor can another trustee be appointed other than by Act of Parliament.

**26 POWERS OF BOARD**

- 20/10/16  
30/1/21
- 26.1 The Board may give guarantees, undertakings and (subject to section 135(1)(f) of the FMC Act and the Trusts Act) indemnities and incur all such obligations relating to this Scheme as the Board in its discretion thinks fit.
- 30/3/93
- 26.2 The Board may borrow money for the purposes of –
- 26.2.1 making any investment; or
- 26.2.2 paying any Benefit; or
- 26.2.3 meeting any liability (as defined in the Act); or
- 26.2.4 the management (as defined in the Act) of this Scheme.
- 26.3 The Board may enter into any insurance or reinsurance contract relating to the payment pursuant to this Scheme of any Benefit contingent on the death or survival of human life.
- 20/10/16
- 26.4 The Board in its capacity as manager shall have the functions and duties and have the responsibilities accorded to it as a manager under the FMC Act. In particular the Board is responsible for the following functions:
- 26.4.1 offering the interests in the Scheme;
- 26.4.2 issuing the interests in the Scheme;
- 26.4.3 managing the Scheme's Property and investments; and

26.4.4 administering the Scheme.

## 27 **POWER OF AMENDMENT**

22/11/91 27.1 **[RESERVED]**

30/3/93

20/10/16 27.2 The Board may amend this Trust Deed from time to time **PROVIDED THAT** no amendment shall have any effect unless the provisions of section 139 of the FMC Act are complied with.

30/3/93

20/10/16

20/10/16 27.3 **[RESERVED]**

## 28 **AMENDMENTS IN RESPECT OF FUTURE TAXATION CHANGES**

30/3/93 The Board may, subject to the FMC Act, at any future time vary any benefit under  
20/10/16 this Scheme to take account of changes in taxation that may arise (other than as a result of the passing of the Income Tax Amendment Act 1989);

**PROVIDED THAT** no reduction in benefits under this **clause 28** shall be made until:

30/3/93 28.1 the FMA has been provided with a copy of an opinion of an actuary who is  
20/10/16 a Fellow of the New Zealand Society of Actuaries confirming that the reductions are no more than are necessary to make the benefits of this Scheme secure and the FMA has confirmed in writing to the Board that it agrees with that opinion; and

30/3/93 28.2 the FMA has confirmed in writing to the Board that it is satisfied that the  
20/10/16 reductions in benefits are equitable as between all Members and other Beneficiaries.

## 29 **LIMITATION OF LIABILITY**

29.1 No member of the Board shall be liable to the Board or any other person, nor shall the Board be liable, for any losses:

29.1.1 arising from any act or omission done bona fide in conformity with the decisions of the Board pursuant to the provisions of this Deed or the Act; or

29.1.2 not attributable to the wilful act or omission of the Board or member of the Board, as the case may be, known by the Board or member of the Board to be a breach of trust; or

29.1.3 arising from the neglect or default of any manager appointed under this Scheme or of any solicitor, banker, accountant,

broker, actuary, or other adviser or agent employed or consulted by the Board.

- 30/3/93 29.2 Without limiting **clause 29.1**, neither the Board nor any member of the Board shall be liable for any losses attributable to the Board's or any member of the Board's negligence in the execution of the Board's or any member of the Board's duties under this Deed or the actions of any employee of the Board.
- 30/3/93 29.3 The liability of the Board and of every member of the Board for all losses, damages, costs and expenses of the Board for all claims against the Board and for every action of the Board referred to in this **clause 29** shall be limited to the assets of this Scheme.
- 30/3/93 29.4 No member of the Board shall be liable to contribute personally to any losses, damages, costs or expenses claimed against or payable by the Board unless the loss, damage, cost, or expense has been held by the High Court or any superior court to be attributable to that member of the Board's dishonesty or that member of the Board's omission or wilful act known by that member of the Board to be a breach of trust.
- 20/10/16 29.5 Subject to the Trusts Act, the Board and the members of the Board may be indemnified for the liabilities or expenses incurred in relation to the performance of the Board's obligations as manager of the Scheme  
30/1/21 **PROVIDED THAT** such rights must only be available in relation to the proper performance of duties under section 143(1) and 144 of the FMC Act.

## PART X

### INVESTMENT PROVISIONS

#### 30 INVESTMENT

- 30/3/93 30.1 The Property of this Scheme may only be invested in the global asset  
20/10/16 trust (as defined in the Act), whether by way of debt securities (as defined in the Act) or managed investment products (as defined in the Act), or otherwise.
- 30/3/93 30.2 Nothing in **clause 30.1** shall prevent the Board as trustee of this Scheme depositing money of this Scheme into a bank account (which may be a bank account for one or more existing schemes (as defined in the Act)) to the extent necessary or desirable for the operation of this Scheme.

- 30/3/93  
20/10/16  
30/1/21
- 30.3 None of the provisions of the Trusts Act relating to the investment of trust funds shall apply in respect of this Deed or the investment of the Property of this Scheme.
- 31 **APPOINTMENT OF ADMINISTRATION AND/OR INVESTMENT MANAGERS**
- 30/3/93  
20/10/16
- 31.1 The Board may, subject to the provisions of the FMC Act, on such terms and conditions as it thinks fit, appoint any person (including the Crown) to manage all or any part of:
- 31.1.1 the administration of this Scheme; or
- 31.1.2 the investment of the trust fund (as defined in the Act) of this Scheme; or
- 31.1.3 both.
- 30/3/93
- 31.2 All fees and expenses payable to any such manager or managers shall be paid out of the trust fund of this Scheme.
- 1/4/98  
21/10/16
- 31.3 Where the Board has appointed an Administration Manager to, or agreed that the Administration Manager may, perform or exercise any duty or power given to the Board by this Deed, references in this Deed to the performance or exercise of that duty or power by the Board shall be deemed to be references to the performance or exercise of that duty or power by the Administration Manager.
- 20/10/16
- 31.4 In appointing any person under **clause 31.1**, the Board shall take all reasonable steps to:
- 31.4.1 ensure these functions are performed in the same manner and are subject to the same duties and restrictions, as if the Board were performing them directly; and
- 31.4.2 monitor the performance of those functions.
- 20/10/16  
30/1/21
- 31.5 Any right of indemnification given to an investment manager appointed under clause 31.1 shall be subject to the Trusts Act and shall be only in relation to the proper performance of the appointee's duties in accordance with section 136(2) of the FMC Act.

21/7/93

**PART XA****DISCRETIONARY TRANSFERS**

21/7/93

**31A ELECTIONS TO TRANSFER**21/7/93  
20/10/16

31A.1 Any Member of this Scheme, other than a Beneficiary in receipt of a Pension from this Scheme, may:

31A.1.1 Elect to transfer to another Superannuation Scheme; and

31A.1.2 having made an Election to transfer and subject to this Part XA, transfer to another Superannuation Scheme.

21/7/93

31A.2 Any Member who Elects to transfer under this **clause 31A** shall complete an "election to transfer notice" in the form prescribed by the Board.

1/4/98

31A.2A The Board (or, if the Board shall so agree in writing and on such terms and conditions as the Board shall determine, the Administration Manager) shall consider and decide whether to accept, the Member's Election to transfer.

21/7/93  
16/3/00  
20/10/16

31A.3 The Board is not obliged to accept a Member's Election to transfer under this **clause 31A** unless it is satisfied that the Superannuation Scheme to which the Member has Elected to transfer (referred to below as the "other scheme") is:

31A.3.1 able and has agreed to accept:

31A.3.1.1 the Member as a transferring member; and

31A.3.1.2 the terms on which the Member's Transfer Value will be payable; and

31A.3.2 governed by a trust deed under which the Transfer Value is fully vested to the transferring member immediately on payment of that amount to the other scheme,

and for this purpose the Board may require the trustees of the other scheme to certify to that effect.

21/7/93  
1/4/98

31A.4 **[RESERVED]**

16/5/07

31A.5 A Contributor shall only be permitted to voluntarily transfer that Contributor's Locked-in Total Credit to another scheme in the

circumstances set out in and in accordance with **rule 8** of the Schedule.

- 21/7/93      **31B      CONSEQUENCES OF TRANSFER**
- 21/7/93      31B.1      Once an Election to transfer under **clause 31A** has been accepted by the Board, the Transfer Value for the Transferred Member shall be calculated by the Board.
- 21/7/93      31B.2      The Transfer Value for a Transferred Member shall be calculated as at a date determined by the Board (such date being referred to in this Part XA as the "Transfer Date") being a date not earlier than, and not more than 14 days after, the date the completed election to transfer notice was received by the Board. Subject to section 50(2)(c) of the Act, the Transfer Value shall be the Transferred Member's Benefit Credit.
- 1/4/98
- 1/12/98
- 21/7/93      31B.3      Transfer Values shall remain in this Scheme until payable under **clause 31C**, and if the Board so determines as soon as practicable after the end of each Financial Year Transfer Values shall be credited with earnings (less withholdings, if any, required to be made by law) at the latest Transfer Value Earnings Rate (as defined in **clause 31B.7**) (and where a Transfer Value has been held in this Scheme for less than 12 months, that rate shall be applied on such proportionate basis as the Board shall determine).
- 1/12/98
- 16/3/00
- 21/7/93      31B.4      Where a Transfer Value is payable in accordance with **clause 31C**, the Transfer Value shall be credited with earnings (less withholdings, if any, required to be made by law) for each complete calendar month during the period from the later of the Transfer Date and the last day as at which earnings were credited under **clause 31B.3** to the date of payment at the latest Transfer Value Earnings Rate (as defined in **clause 31B.7**) which rate shall be applied on such proportionate basis as the Board shall determine.
- 1/12/98
- 16/3/00
- 21/7/93      31B.5      Notwithstanding any other clause of this Deed, no distributions from the Reserve Account under **clause 17.4** shall be credited to Transfer Values.
- 1/12/98
- 21/7/93      31B.6      Subject to **clause 31B.6A**, no contributions to this Scheme shall be payable by or on behalf of a Transferred Member and a Transferred Member shall not be a Contributor for the purposes of this Scheme. A Transferred Member shall however remain a Member until the Transfer Value has been paid under **clause 31C**. Nothing in this **clause 31B.6** shall prejudice the Transferred Member's ability (if any) to rejoin this Scheme, and **clause 34** shall continue to apply to the Transferred Member as if the Transferred Member were a Member.
- 1/12/98
- 16/3/00
- 16/5/07
- 16/5/07      31B.6A      If the Transferred Member has a Locked-in Total Credit which is not transferred to another scheme under **rule 9** of the Schedule, then the

Transferred Member shall continue to be a Contributor of this Scheme if and for so long as the Transferred Member has a Locked-in Total Credit.

21/7/93 31B.7 For the purposes of **clause 31B.3** and **clause 31B.4**, "Transfer Value  
1/12/98 Earnings Rate" means an annual earnings rate (which shall not be a  
16/3/00 negative rate but may be zero) which may be declared by the Board from  
time to time for the purposes of this **clause 31B**, after receiving the  
advice of the Actuary.

21/7/93 **31C WHEN TRANSFER VALUES PAYABLE**

21/7/93 31C.1 Subject to **clause 31C.4**, the Transfer Value for a Transferred Member  
16/3/00 shall become payable in one lump sum to the Superannuation Scheme to  
20/10/16 which the Transferred Member has transferred ("the elected scheme") (or  
to another Superannuation Scheme nominated by the Transferred Member  
and approved by the Board (or if applicable, the Administration Manager)  
in the event that the elected scheme for any reason is unable to receive  
such payment), on the earlier of:

31C.1.1 such date as may be agreed between the Board (or, if  
applicable, the Administration Manager) and the trustees of the  
Superannuation Scheme to which the Transfer Value is payable;  
or

31C.1.2 the date of the winding up of this Scheme.

21/7/93 31C.2 [**RESERVED**]  
16/3/00

21/7/93 31C.3 [**RESERVED**]  
16/3/00

21/7/93 31C.4 The Board shall not be required to pay out any Transfer Value under  
16/3/00 **clause 31C.1** until such time as it has been able to convert the Property  
20/10/16 of this Scheme which represents that Transfer Value to cash (or, where the  
Transfer Value is payable to the trustees of a Superannuation Scheme and  
the Board agrees to make the payment in Property other than cash, other  
Property acceptable to the Board and those trustees) and for the purposes  
of this **clause 31C.4** the Board shall not be required to convert any  
Property of this Scheme to cash or other Property if to do so would or  
might, in the opinion of the Board, unduly prejudice the value of the  
Property of this Scheme representing other Members' and Beneficiaries'  
interests in this Scheme.



- 21/7/93 31C.5 [**RESERVED**]  
16/3/00
- 21/7/93 **31D OTHER PROVISIONS RELATING TO TRANSFERS OUT**
- 21/7/93 31D.1 Subject to **clause 31B.6**, nothing in this Part XA shall limit any right  
1/12/98 contained in any other Part of this Deed or the Schedule for any  
16/5/07 Contributor to transfer to any other Superannuation Scheme.  
20/10/16
- 21/7/93 31D.2 Nothing in this Part XA shall confer upon any person any right to require  
20/10/16 the Board to provide for transfers from this Scheme to any other  
Superannuation Scheme.
- 21/7/93 31D.3 The Board shall be under no obligation or liability to see to the application  
20/10/16 of any amount paid (or Property transferred) to the trustees of any  
Superannuation Scheme or any other person under this Part XA.
- 21/7/93 **31E TRANSFERS IN**
- 21/7/93 31E.1 Subject to **clause 3** and to the provisions of this **clause 31E**, the Board  
1/4/98 (or, if the Board shall so agree in writing and subject to such terms and  
20/10/16 conditions as the Board shall determine, the Administration Manager) may  
accept as a Contributor to this Scheme, a person who has become a  
transferred member of another existing scheme (as defined in the Act)  
under provisions in that existing scheme which provide for the transfer of  
members (as defined in the Act) of that scheme to other Superannuation  
Schemes on terms which are the same as or similar to the terms set out in  
this Part XA.
- 1/4/98 31E.1A Any person who wishes to become a Contributor to this Scheme in  
accordance with this **clause 31E** shall complete an application form in  
such form as is prescribed by the Board.
- 1/4/98 31E.1B The Board (or, if applicable, the Administration Manager) shall consider  
and decide whether to accept the application.
- 23/8/04 31E.1C A person may not be accepted as a Contributor to this Scheme under  
**clause 31E.1** if the transfer value that would be paid to this Scheme in  
respect of that person would be less than the Minimum Amount.
- 21/7/93 31E.2 Notwithstanding any other clause of this Deed, no distribution out of the  
Reserve Account under **clause 17.4**, to the extent that such distribution is  
made out of moneys credited to the Reserve Account before 1 April 1993,  
16/5/07 shall be credited to the Total Credit or Locked-in Total Credit of, or  
otherwise used for the benefit of or paid to, any Contributor to whom

**clause 31E.1** applies, unless the Board determines otherwise.

- 21/7/93 31E.3 The transfer value paid to this Scheme from an existing scheme (as defined in the Act) in respect of a Contributor to whom **clause 31E.1** applies shall, for the purpose of determining any Benefit payable to that Contributor under this Scheme, be treated as that Contributor's own contributions.
- 16/5/07 31E.3A Notwithstanding **clause 31E.3**, if the transfer value paid to this Scheme from an existing scheme includes any amount that is subject to Complying Fund Rules, that part of the transfer value shall, to the extent required by those Complying Fund Rules, be credited to Locked-in Total Credit of the Contributor in this Scheme.
- 21/7/93 31E.4 Notwithstanding **clause 8**, in relation to any Contributor to whom **clause 31E.1** applies, any period of time as a contributor to the other existing scheme shall not be counted as time as a Contributor to this Scheme for the purposes of **clause 7**.
- 28/6/96 31E.5 Subject to **clause 31E.7**, where a person is entitled to pension benefits under the National Provident Fund Superannuation Scheme for the Mediation Service or the National Provident Marlborough Electric Superannuation Scheme, the Board may in its absolute discretion and subject to section 38 of the Act (if applicable) accept that person as a Beneficiary under the Scheme and pay into the Pension Account the transfer value which that person is entitled to transfer;
- 16/12/98
- 28/6/96 31E.6 Where the Board accepts the transfer value under **clause 31E.5**:
- 16/12/98
- 31E.6.1 subject to **clause 31E.6.2**, the transfer value of the person will be converted to a non-assignable and non-commutable pension on the basis of pension tables supplied by the Actuary from time to time under **clause 20.1**. **Clauses 20.2** and **20.3** shall apply mutatis mutandis;
- 31E.6.2 in the case where the person has elected under the National Provident Fund Superannuation Scheme for the Mediation Service or the National Provident Marlborough Electric Superannuation Scheme to accept a pension payable to the person (on behalf of the person and the person's Spouse jointly) and upon the death of either the person or the person's Spouse payable to the survivor of them until that survivor's death:
- 31E.6.2.1 the pension shall be paid in accordance with such election;

31E.6.2.2 any minimum guaranteed payment provisions which applied under the National Provident Fund Superannuation Scheme for the Mediation Service or the National Provident Marlborough Electric Superannuation Scheme prior to the date of winding up of that scheme shall apply as if the person had remained a member under that scheme and the scheme had continued;

31E.6.2.3 **clause 45** shall apply mutatis mutandis;

31E.6.3 the pension will be paid on the same terms and conditions as provided under **clauses 21 and 22**;

31E.6.4 for the purposes of **clause 17.4.3**, the pension paid shall be deemed to be a "Pension" and such distributions shall be credited to the Pension Account under **clause 18A.3**, but no distribution out of the Reserve Account under **clause 17.4.3**, to the extent that such distribution is made out of moneys credited to the Reserve Account before the date of transfer, shall be made in respect of the person, unless the Board determines otherwise;

31E.6.5 for the purposes of **clause 46.2**, the pension paid shall be deemed to be a "Pension".

28/6/96 31E.7 If, in the opinion of the Board, having regard to the advice of the Actuary, the transfer under **clause 31E.5** would have the effect of reducing, postponing or otherwise adversely affecting the benefits, whether vested, contingent, or discretionary, that may in due course flow from, or are attributable to, membership of this Scheme up to the date that the transfer is intended to be effected, either:

31E7.1 the Board shall not accept the transfer value under **clause 31E.5**; or

31E.7.2 the Board shall accept the transfer value, but ensure that adequate steps are taken to eliminate the adverse effect.

16/12/98 31E.8 Where a person is entitled to a benefit under clause 4 of the First Schedule to the Trust Deed of the National Provident Marlborough Electric Limited Superannuation Scheme immediately prior to the winding up of that scheme, but has deferred making an election in relation to that benefit under clause 9.2 of the Trust Deed for that scheme, the Board may in its absolute discretion accept that person as a Beneficiary under the Scheme and pay into the Scheme the transfer amount received in respect of him or

her.

- 16/12/98 31E.9 Where the Board accepts a transfer amount under clause 31E.8, the provisions which applied under clause 9.2 of, and clause 4 of the First schedule to, the Trust Deed for the National Provident Marlborough Electric Limited Superannuation Scheme, shall apply to the Benefit payable under this Scheme, as if the person had remained a member of the National Provident Marlborough Electric Limited Superannuation Scheme and that scheme had continued.

## PART XI

### MISCELLANEOUS

#### 32 ELECTIONS IRREVOCABLE

- 21/7/93 32.1 As soon as an Election under any part of this Scheme has been made it shall be irrevocable except at the discretion of the Board.  
1/4/98

- 1/4/98 32.2 Any Election referred to in **clause 32.1** shall be deemed to be made as soon as it has been received by the Board or Administration Manager or an authorised representative of the Board or Administration Manager.

- 30/3/93 33 **[RESERVED]**  
21/7/93

#### 21/7/93 **33A PERSONS WHO BECOME CONTRIBUTORS ON OR AFTER 1 APRIL 1993**

- 21/7/93 33A.1 Subject to **clause 33A.3** but otherwise notwithstanding any other provision of this Deed, no distribution out of the Reserve Account under **clause 17.4**, to the extent that such distribution is made out of the moneys credited to the Reserve Account before 1 April 1993, shall be credited to the Total Credit or Locked-in Total Credit of, or otherwise used for the benefit of or paid to, a Contributor who became a Contributor on or after 1 April 1993, unless the Board determines otherwise.  
16/5/07

- 21/7/93 33A.2 A Contributor who became a Contributor on or after 1 April 1993 (whether by virtue of transferring into this Scheme under **clause 31E.1** or otherwise) shall not be entitled to any share of the moneys credited to the Reserve Account before 1 April 1993 on a winding up of this Scheme, unless the Board determines otherwise.

- 21/7/93 33A.3 **Clause 33A.1** and **clause 33A.2** shall not apply to any person who rejoins this Scheme on or after 1 April 1993, being a person who was a contributor to this Scheme (in terms of section 38 of the Act and excluding pensioners) on 31 March 1991 unless that person has

previously transferred out of this Scheme under Part XA in which case the Board may apply those clauses to that person.

34 **PROHIBITION OF ASSIGNMENT, BORROWING AND PAYMENT OF DEBTS**

- 30/3/93 34.1 No money payable from this Scheme to any person shall be in any way assigned, charged, alienated or passed by operation of law to any other person.
- 34.2 No Contributor shall borrow against the security of any Benefits payable from this Scheme.
- 34.3 Any money payable from this Scheme on the death of a Contributor shall not be assets for the payment of that Contributor's debts or liabilities.

22/11/91 35 **BANKRUPTCY**

- 22/11/91 35.1 All the benefits of any person under this Scheme shall, to the maximum extent permissible by law, be forfeited to this Scheme in the event that  
30/3/93 the Board considers that the person has committed or is likely to commit  
16/5/07 any act of bankruptcy; and shall be applied by the Board to the benefit of that person or that person's dependants in such manner as the Board considers appropriate having regard to the objects of this Scheme.

36 **INABILITY TO MANAGE AFFAIRS**

- 30/3/93 The Board may, in the event of the inability of a Member or other Beneficiary to manage that person's own affairs, administer any Benefits on that person's behalf.

37 **PAYMENTS IN RESPECT OF MINORS**

- 30/3/93 37.1 Where any Benefit is payable under this Scheme to any minor the Board may pay the Benefit to the minor or, subject to such terms and conditions as the Board may determine, to any other person to be expended on behalf of the minor.
- 37.2 Any receipt given by a minor or other person for money paid under **clause 37.1** shall be a good discharge to the Board.

- 21/12/95 37.3 In relation to any Benefit payable to any Exempted Contributor or as a result of the membership of this Scheme of any Exempted Contributor, the term "minor" in this **clause 37** shall mean a person under the age of 16 years.
- 38 **UNCLAIMED MONEY PAYABLE OUT OF THIS SCHEME**
- All money payable out of this Scheme to any person for which no claim or demand has been made by or on behalf of that person shall remain part of this Scheme but may at any time be paid out of this Scheme to any person establishing a lawful claim to the money.
- 5/4/01 **38A MISSING PERSONS**
- 5/4/01 38A.1 In this **clause 38A** –
- “Existing Scheme” has the same meaning as in the Act:
- “Missing Person” means any Member or Beneficiary from, or in respect of, whom no contributions are being received and for whom the Board has no current address.
- 5/4/01 38A.2 The Board may deduct from any Benefit, entitlement or earnings credited to a Missing Person to which the Missing Person is entitled, a reasonable amount to cover the costs incurred by the Board in endeavouring to locate, and in confirming and satisfying the Scheme’s liability to, the Missing Person; and
- 38A.2.1 the right of any Contributor to receive, under **clause 16** a minimum Earnings Rate is subject to the Board’s power to deduct an amount under this **clause 38A.2**; and
- 38A.2.2 this **clause 38A.2** does not limit any other power the Board may have to charge costs or expenses against this Scheme or any other Existing Scheme, or against a Member or Beneficiary.
- 5/4/01 38A.3 The Board may allocate to any Missing Persons:
- 38A.3.1 property of this Scheme equivalent to the Missing Persons’ share in this Scheme; and
- 38A.3.2 future investment returns from that property received after the date of that allocation.
- 5/4/01 38A.4 The Board may transfer Missing Persons, the liabilities of the Scheme to those Missing Persons and any property allocated to them under **clause 38A.3**, to any other Existing Scheme without the consent of Members or

Beneficiaries or any other person.

5/4/01 38A.5 For the purposes of **clause 38A.3.1** and except as otherwise approved in writing by the Minister of Finance, a share in this Scheme is to be calculated as the value of the liabilities (as determined by the Actuary) of this Scheme to the Missing Persons –

38A.5.1 **plus**, if this Scheme has positive reserves, an equitable share of the reserves, as determined by the Board after receiving advice from the Actuary; or

38A.5.2 **less**, if this Scheme has negative reserves, an equitable share of the reserves, as determined by the Board after receiving advice from the Actuary.

5/4/01 38A.6 The Board may receive transfers of persons who are missing persons under the provisions of an Existing Scheme which are equivalent to **clause 38A.1**, the liabilities of that Existing Scheme to those missing persons, and any property allocated to them under the provisions of that Existing Scheme which are equivalent to **clause 38A.3** without the consent of Members or Beneficiaries or any other person. On receipt of such a transfer the Board shall treat any person so transferred as a Missing Person for the purposes of this **clause 38A** and the property received in respect of them as property allocated for the purposes of **clause 38A.3**.

5/4/01 38A.7 The Board may at any time extinguish the liabilities of this Scheme to a person who has been a Missing Person for a period of at least five years before the extinguishment (whether under this Scheme or under the provisions of any Existing Scheme which are equivalent to the provisions of this **clause 38A**) **PROVIDED THAT:**

38A.7.1 no liability may be extinguished under this **clause 38A.7** unless the Board has used reasonable endeavours to find the current address of that Missing Person; and

38A.7.2 if any person establishes to the satisfaction of the Board that a liability of this Scheme to him or her has been extinguished under this clause during the previous 15 years, the Board must reinstate the liability of this Scheme to that person as if it had never been extinguished.

### 39 IMPLIED TERMS OR CONDITIONS

30/3/93 Every term or condition of this Scheme that was provided in the National Provident Fund Act 1950 and is not expressly provided in this Scheme shall be incorporated

in this Scheme as a term or condition of this Scheme.

- 30/3/93 40 **ACTUARY**
- 30/3/93 20/10/16 The Board shall appoint an Actuary for this Scheme and shall ensure that the financial position of this Scheme is examined by the Actuary so appointed as required by the FMC Act and the Act and that the requirements of those Acts in relation to actuarial examinations are complied with.
- 30/3/93 41 **INFORMATION TO MEMBERS**
- 30/3/93 20/10/16 41.1 Every Member of this Scheme shall have the right to receive annual reports of the Board in respect of this Scheme, to receive estimates of Benefits, and to look at and receive copies of scheme documents and reports as provided for in the FMC Act.
- 20/10/16 41.2 The Board shall comply with the reporting requirements of the FMC Act.
- 42 **RECOVERY OF CONTRIBUTIONS FROM LOCAL AUTHORITY**
- 42.1 All contributions or other money from time to time due to this Scheme from a local authority (as defined in the Act) shall be deemed to be a debt due by that local authority to the Board, and may be recovered accordingly on behalf of the Board by any person authorised by it in that behalf.
- 30/3/93 42.2 Contributions payable by a local authority out of its funds on behalf of any person in respect of whom it is a contributing employer shall not be deemed to form part of the salary or wages of that person.
- 42.3 The contributions payable by a local authority shall be payable monthly, and shall be due on the last day of the month for which they are payable. Interest at a rate not exceeding 5 percent per annum may be charged as from the due date thereof on any amounts unpaid after the expiration of 14 days from that date;
- PROVIDED THAT** where the wage accounting period of any local authority is 4 weeks, the contributions payable by a local authority shall be due and payable on the last day of every such period of 4 weeks and interest as aforesaid may be charged as from the due date thereof on any amounts unpaid after the expiration of 14 days from that date.
- 30/3/93 42.4 If any local authority fails to make any contribution to this Scheme for which it is liable, or fails to deduct from the salary or wages of any person on whose behalf it is a contributing employer any contribution for which that person is personally liable, the total amount of those contributions may, at the request of the Board, be deducted by the Minister from any



subsidy that may be payable to the local authority, and all amounts so deducted may, without further appropriation than this **clause 42**, be paid into this Scheme.

30/3/93  
13/10/98

43 **[RESERVED]**

44 **PAYMENTS IN NZ CURRENCY**

30/3/93

All Benefits payable under this Scheme shall, unless the Board determines otherwise, be payable in New Zealand dollars and to a bank account in New Zealand, or, if the Board agrees, by posting of a cheque in New Zealand dollars to an address nominated by the person entitled to receive the Benefit.

30/3/93

45 **MINIMUM VALUE OF BENEFITS**

30/3/93  
16/5/07  
20/10/16

Notwithstanding any other clause of this Deed, the value of any Benefit payable to or in respect of any Contributor from the Contributor's Total Credit shall not be less than the aggregate of contributions paid by the Contributor which have been credited to the Contributor's Total Credit and any credits the Contributor has transferred to this Scheme from any other Superannuation Scheme under **clause 4.3** or **clause 31E** which have been credited to the Contributor's Total Credit, together with earnings at the Earnings Rate on those amounts (but less any portion of those contributions applied for the provision of death or disability benefits under **clause 15**).

30/3/93

## **PART XII**

### **WINDING UP**

46 **WINDING UP**

46.1 This Scheme may be wound up in whole or in part only at the direction of the Minister of Finance after consultation with the Board and shall be wound up in accordance with any such direction.

30/3/93  
21/7/93

46.2 Upon a winding up of this Scheme in whole or in part, the assets of this Scheme or the appropriate proportion of the assets in the event of partial termination of this Scheme, shall be realised and the proceeds thereof (less the reasonable costs of the winding up) allocated (subject to **clause 33A.2**) pro rata between the remaining Contributors affected by the termination and those Contributors and other Beneficiaries in receipt of a Pension affected by the termination on a basis that takes account of their interests in this Scheme.

- 16/5/07 46.2A The Contributor's pro rata share of the assets of the Scheme, to the extent that that pro rata share is attributable to the Contributor's Locked-in Total Credit, shall be dealt with in accordance with the rules prescribed in the Schedule.
- 20/10/16 46.3 On the winding up of this Scheme, no part of the assets of this Scheme shall revert to:
- 46.3.1 any person other than as provided for in **clause 46.2** and **clause 46.2A** without the written consent of the FMA; or
- 46.3.2 any employer who has contributed to this Scheme.
- 20/10/16 46.4 The Board shall advise the FMA and Inland Revenue of its intention to wind up the Scheme by providing a copy of its resolution to do so within 10 working days in accordance with section 212 of the FMC Act.
- 20/10/16 46.5 **[RESERVED]**
- 47 **PENSIONS ON WINDING UP**
- 30/3/93 47.1 Any Contributor (not being an Exempted Contributor) who has attained  
21/12/95 age 50 years when this Scheme is wound up in whole or in part shall take  
13/10/98 that part of the Benefit arising from any Employer Contributions  
1/12/98 (excluding Locked-in Employer Contributions) as either:  
1/5/99  
16/5/07
- 47.1.1 a Pension; or
- 47.1.2 a cash lump sum, if
- 47.1.2.1 the Contributor's Benefit Credit does not exceed \$10,000 or such greater amount as may be determined under the Small Credit Formula; or
- 47.1.2.2 the Pension would be less than the Minimum Pension.
- 47.2 On the winding up of this Scheme any Pensions being paid or becoming payable shall be secured from a life insurance company or another National Provident Scheme that is able to provide such Pensions.
- 20/10/16 48 **REGISTER**
- 48.1 A register of Members and Beneficiaries must be kept by the Board in a form and manner required by the FMC Act.

- 48.2 Such register may be in electronic form and compiled by a delegate of the Board in a manner approved by the Board.
- 48.3 The following details shall be entered on the register:
- 48.3.1 the names and addresses of each Member or Beneficiary;
- 48.3.2 the date on which the Member or Beneficiary became a Member or Beneficiary of the Scheme;
- 48.3.3 such other information as the Board requires or as is required by the Act or the FMC Act.
- 48.4 The Board must ensure that the register is audited at intervals of not more than 12 months or as required by and in accordance with the provisions of the FMC Act.
- 48.5 The Board must advise the Registrar of the place where its registers are kept and of any change in that place. Changes must be advised to the Registrar within 10 working days of the change in place.

20/10/16

**49 ACCOUNTING RECORDS**

- 49.1 The Board shall ensure that there are kept at all times accounting records that comply with the requirements of section 455 of the FMC Act.
- 49.2 In keeping or causing to be kept the accounting records under **clause 49.1** the provisions of Part 7 of the FMC Act must be complied with.

20/10/16

**50 FINANCIAL STATEMENTS**

- 50.1 Subject to any law relevant to the Board or the Scheme (including the FMC Act), the Board must ensure that financial statements are prepared that comply and are in accordance with the requirements of Part 7 of the FMC Act.

20/10/16

**51 AUDIT**

- 51.1 The Board shall ensure that:
- 51.1.1 the Scheme's financial statements are audited and reported on by the Auditor in accordance with the requirements of the FMC Act; and
- 51.1.2 those financial statements, together with the Auditor's report on those financial statements, are delivered and lodged in accordance

with any requirements of the FMC Act.

20/10/16 52 **THE AUDITOR**

52.1 A person or firm selected by the Board must be appointed Auditor of the Scheme. Such person or firm must be a Qualified Auditor (as defined in the FMC Act) and meet the requirements of any law relevant to the Board or the Scheme.

20/10/16 53 **INTENTION TO BE LEGALLY BINDING**

It is intended that this deed be legally enforceable as between the Board, the Members and the Beneficiaries.

(Schedule follows)

54        **SCHEDULE - LOCKED-IN TOTAL CREDITS**

16/5/07        1        **DEFINITIONS**

1.1    In this **Schedule**:

*Commissioner* means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994;

1/4/08        *ESCT* means employer superannuation contribution tax or any similar tax or  
20/10/16        charge on employer contributions;

*Income Tax Act* means the Income Tax Act 2007;

20/10/16

*KiwiSaver Act* means the KiwiSaver Act 2006;

*KiwiSaver Regulations* means regulations made under section 228 of the KiwiSaver Act;

*KiwiSaver Scheme* means a KiwiSaver scheme as defined in section 4(1) of the KiwiSaver Act;

*KiwiSaver Scheme Rules* means the KiwiSaver Scheme Rules set out in Schedule 1 to the KiwiSaver Act.

*Locked-in Payment Date* means, in relation to a Contributor, the later of the dates specified in paragraphs (a) and (b) of **rule 5.1** of this Schedule;

*Personal Representative* means personal representative as defined in section 4(1) of the KiwiSaver Act;

20/10/16

*Serious Illness* means serious illness as defined in clause 12(3) of the KiwiSaver Scheme Rules; and

20/10/16        *Significant Financial Hardship* means significant financial hardship as defined in clause 11 of the KiwiSaver Scheme Rules.

20/10/16

1.2    Unless inconsistent with the context, references to **clauses** are to clauses of the Deed (being the deed which precedes this Schedule) and references to **rules** are to rules of this Schedule.

16/5/07        2        **CONTRIBUTION RATE**

1/4/08        2.1    Subject to **rule 4** of this Schedule the total amount of contributions credited  
20/10/16        to a Contributor's Locked-in Total Credit while an Election under **clause 9A.1** of the Deed remains in force must be not less than the minimum

amount required to be contributed to a locked-in account under the Complying Fund Rules as amended from time to time.

- 16/5/07      3      **VESTING**
- 3.1      Any Employer Contribution credited to a Contributor's Locked-in Total Credit will, notwithstanding **clause 7.1** of the Deed, vest completely in the Contributor immediately after the contribution is made.
- 16/5/07      4      **SUSPENSION OF CONTRIBUTIONS**
- 4.1      A Contributor may, at any time 2 or more years after first Electing to have contributions credited to a Locked-in Total Credit in this Scheme, Elect to suspend contributions to that Contributor's Locked-in Total Credit and to leave the Locked-in Total Credit in this Scheme where it shall continue to attract earnings, but a Contributor may not, in any one Election made under this **rule 4.1**, suspend contributions for a period exceeding 5 years.
- 1/4/08      4.2      During any period of suspension of contributions to a Contributor's Locked-in Total Credit under **rule 4.1** the Contributor may:
- (a)      resume or continue contributing to the Contributor's Total Credit in this Scheme, subject to **clause 6.3** of the Deed; and
  - (b)      with the agreement of the Board, contribute to the Contributor's Locked-in Total Credit from time to time a lump sum or lump sums of any amount, to be attributed to that Contributor's Locked-in Total Credit.
- 16/5/07      5      **LOCK-IN REQUIREMENT**
- 5.1      Subject to **rules 6.7 to 6.14** of this Schedule, a Contributor may not make a withdrawal from a Locked-in Total Credit until the later of:
- (a)      the date when the Contributor reaches New Zealand Superannuation Qualification Age; and
  - (b)      the date when the Contributor has been a member of a Complying Superannuation Fund (or of a Complying Superannuation Fund and a KiwiSaver Scheme) for 5 years,
- or a date after that date.
- 20/10/16      5.2      For the purposes of **rule 5.1** of this Schedule, membership of this Scheme as a Complying Superannuation Fund shall commence on the later of the date this Scheme received approval as a Complying Superannuation Fund,

and the date the Contributor joined this Scheme.

16/5/07

## 6 **RELEASE OF LOCKED-IN AMOUNT**

### ***Release of locked-in amount on attainment of New Zealand Superannuation Qualification Age***

- 6.1 A Contributor is entitled to withdraw all of the Contributor's Locked-in Benefit Credit on the Locked-in Payment Date.
- 6.2 Any withdrawal under **rule 6.1** of this Schedule is payable as a lump sum unless the Contributor Elects to purchase a Pension in accordance with **rule 7** of this Schedule.
- 6.3 Nothing in **rule 6.1** of this Schedule requires a Contributor to withdraw the Locked-in Benefit Credit on the Locked-in Payment Date.

### ***Release of locked-in amount under legislation***

- 6.4 The Board must comply with the provisions of any statute requiring it to release funds from a Contributor's Locked-in Total Credit (up to a maximum of the Locked-in Benefit Credit) in accordance with that statute.
- 6.5 The requirement under **rule 6.4** of this Schedule includes a requirement by order of any court under any enactment (including an order made under section 31 of the Property (Relationships) Act 1976).

### ***Release of locked-in amount on death***

- 6.6 If a Contributor dies, the Board must, on application by that Contributor's Personal Representative, pay to that person an amount that is equal to the Contributor's Locked-in Benefit Credit at the date on which the application is accepted as part of the Contributor's estate.

### ***Release of locked-in amount for purpose of purchase of first home***

- 6.7 A Contributor may apply to the Board to withdraw all of the Contributor's Locked-in Benefit Credit if the Contributor intends to purchase an estate in land in a circumstance specified in clause 8 of the KiwiSaver Scheme Rules.
- 6.8 The Board in its absolute discretion may permit such withdrawal if, treating the period subsequent to 30 June 2007 (during which the Contributor was a member of this Scheme and/or one or more KiwiSaver Schemes) as membership of a KiwiSaver Scheme, the Board is satisfied, based on whatever supporting evidence it may reasonably require, that clause 8 of

the KiwiSaver Scheme Rules would enable the withdrawal.

***Release of locked-in amount in cases of a Significant Financial Hardship***

- 6.9 In cases of Significant Financial Hardship a Contributor may apply to the Board to withdraw all of the Contributor's Locked-in Benefit Credit.
- 6.10 The Board may in its absolute discretion permit such withdrawal if satisfied (based on whatever supporting evidence it may reasonably require) that if the Contributor's membership of the Scheme were membership of a KiwiSaver Scheme, clause 10 of the KiwiSaver Scheme Rules would enable the withdrawal.

***Release of locked-in amount in cases of Serious Illness***

- 6.11 In cases of Serious Illness a Contributor may apply to withdraw all of the Contributor's Locked-in Benefit Credit.
- 6.12 The Board may in its absolute discretion permit such withdrawal if satisfied (based on whatever supporting evidence it may reasonably require) that if the Contributor's membership of the Scheme were membership of a KiwiSaver Scheme, clause 12 of the KiwiSaver Scheme Rules would enable the withdrawal.

***Release of locked-in amount in cases of permanent emigration***

- 6.13 A Contributor may apply to withdraw all of the Contributor's Locked-in Benefit Credit, or transfer the Contributor's Locked-in Benefit Credit to an overseas superannuation scheme, in the case of permanent emigration from New Zealand.
- 6.14 The Board may in its absolute discretion permit such withdrawal or transfer if satisfied (based on whatever supporting evidence it may reasonably require) that, if the Contributor's membership of the Scheme were membership of a KiwiSaver Scheme, clause 14 of the KiwiSaver Scheme Rules would enable the withdrawal or transfer.

***Procedure for applications***

- 6.15 Any application under this **rule 6** shall be in writing, addressed and delivered to or posted to the Board or an authorised representative of the Board, and shall be accompanied by whatever supporting evidence the Board may reasonably require.



1/4/08

**General**

- 6.16 If a Contributor will be entitled within two months to withdraw an amount under **rule 6.1** the Board must send a notice to the Commissioner stating the date on which the Contributor will be entitled to withdraw.
- 6.17 This rule **6** is subject to **rule 12**.

16/5/07

7 **PENSIONS**

- 7.1 A Contributor who is entitled to withdraw all of that Contributor's Locked-in Benefit Credit under **rule 6.1** of this Schedule may Elect, in lieu of a lump sum, to receive a Pension of such amount as may be provided by the Contributor's Locked-in Benefit Credit (or may Elect to receive up to one quarter of the Contributor's Locked-in Benefit Credit as a lump sum and the balance as a Pension) **PROVIDED THAT** no such Election shall be made where:
- (a) the Locked-in Benefit Credit does not exceed \$10,000 or such greater amount as may be determined under the Small Credit Formula; or
  - (b) the Pension would be less than the Minimum Pension.
- 7.2 In the event that an Election is made under **rule 7.1** of this Schedule, **clauses 12** and **23A** of the Deed shall apply to that Pension as if:
- (a) the Pension had become payable under **clause 11** of the Deed, and
  - (b) the words "Benefit Credit" in **clause 12** read "Locked-in Benefit Credit"; and
  - (c) for the purposes of **clause 23A.7.1**, the terms on which that Pension would have been paid under this Scheme are the same terms that apply to a Pension that is payable under **clause 11.1** of the Deed.

16/5/07

8 **VOLUNTARY TRANSFER**

- 8.1 While the Complying Fund Rules require such transfers (with the intent that this **rule 8.1** will not otherwise apply), the Board shall transfer all or part of a Contributor's Locked-in Benefit Credit to another Complying Superannuation Fund or to a KiwiSaver Scheme if:
- (a) the Contributor requests the transfer; and
  - (b) in the case of a transfer to a KiwiSaver Scheme, the requirements of the KiwiSaver Act 2006 are met; and

- (c) in the case of a transfer to another Complying Superannuation Fund, the amount transferred will remain subject to Complying Fund Rules in the scheme to which it is transferred,

1/4/08

**PROVIDED THAT** consent to the transfer shall first be obtained from the trustees of the Complying Superannuation Fund or KiwiSaver Scheme (referred to in this **rule 8** as the “new fund provider”).

8.2 For the purposes of **rule 8.1** of this Schedule, the Contributor’s Locked-in Benefit Credit shall be the Locked-in Transfer Value.

8.3 In relation to transfers under **rule 8.1** of this Schedule, **clauses 31B** and **31C** of the Deed shall apply (subject to **rules 8.1** and **8.2** of this Schedule), and for this purpose:

- (i) all references in those clauses to “Transfer Value” shall be read as references to the Contributor’s Locked-in Transfer Value;
- (ii) the Contributor shall be deemed to be a “Transferred Member” for the purposes of those clauses; and
- (iii) for the purposes of **clause 31C** of the Deed, the Contributor shall only be permitted to transfer the Locked-in Transfer Value to a scheme that meets the requirements of **rule 8.1** of this Schedule.

1/4/08

8.4 The new fund provider must be given notice of:

20/10/16

- (a) any written evidence provided to the Board by the Contributor under section MK 2(2) of the Income Tax Act;
- (b) the amounts of tax credits received by the Board under subpart MK of the Income Tax Act; and
- (c) any information held by the Board that would be relevant to the new fund provider making a claim under section 68C of the Tax Administration Act 1994, including information as to the periods for which claims have already been made.

16/5/07

## 9 **INVOLUNTARY TRANSFER**

9.1 The Board shall transfer a Contributor’s Locked-in Benefit Credit to a KiwiSaver Scheme, unless the Contributor requests a transfer under **rule 8.1** of this Schedule, if the Contributor ceases to be eligible to be a Contributor to this Scheme before the Locked-in Payment Date **PROVIDED THAT** the Contributor’s Locked-in Benefit Credit shall not be transferred under this **rule 9.1** while the Contributor has a Total Credit in this Scheme.

9.2 The Board may in its discretion decide to transfer a Contributor's Locked-in Benefit Credit to a KiwiSaver Scheme if, before the Locked-in Payment Date:

- (a) the Contributor ceases to be a Contributor under **clause 7A** or **clause 31B.6** of the Deed; and/or
- (b) the Contributor has less than the Minimum Amount in the Contributor's Locked-in Total Credit.

9.3 If this Scheme is wound up (or a portion of this Scheme relating to the Contributor is wound up) under **clause 46** of the Deed before the Locked-in Payment Date, the Contributor's pro rata share of the assets of the Scheme, to the extent that that pro rata share is attributable to the Contributor's Locked-in Total Credit, shall be transferred to a KiwiSaver Scheme.

20/10/16 9.4 The Board shall transfer a Contributor's Locked-in Benefit Credit to a KiwiSaver Scheme if:

- (a) the FMA revokes this Scheme's approval as a Complying Superannuation Fund; and
- (b) the Contributor's Locked-in Benefit Credit is not transferred to another Complying Superannuation Fund where it remains subject to Complying Fund Rules.

9.5 If the Board is required or decides under this **rule 9** to transfer any amount to a KiwiSaver Scheme, then:

- (a) the Board shall notify the Commissioner according; and
- (b) that notice must include:
  - (i) the relevant Contributor's name, address and Tax File Number;
  - (ii) the relevant employer's name and address; and
  - (iii) this Scheme's name and Tax File Number,

with the intent that when the Commissioner receives that notice the relevant portion of the transferred amount will be dealt with in accordance with section 57(1)(d) of the KiwiSaver Act.

16/5/07      10      **TRANSFERS – GENERAL**

If any amount is transferred out of this Scheme under **rule 8 or 9** of this Schedule, then:

- 10.1 the receipt of the trustees of the KiwiSaver Scheme or of the other Complying Superannuation Fund shall be a complete discharge to the Board of all liability in respect of the transferred amount;
- 10.2 the Board shall bear no liability in relation to the application of the amount they have transferred; and
- 10.3 unless the Contributor retains a Contributor's Total Credit in this Scheme the Contributor shall cease to be a Contributor and shall not be entitled to any further benefit from this Scheme.

16/5/07      11      **COSTS**

- 11.1 Any expenses, fees, charges or costs associated with establishing or maintaining a Locked-in Total Credit for a Contributor may be debited from that Contributor's Locked-in Total Credit at times and in a manner determined by the Board.

1/4/08      11.2 Clause 2 of the KiwiSaver Scheme Rules applies to Locked-in Total Credits as if this Scheme was a KiwiSaver Scheme.

1/4/08      12      **RELEASE OF TAX CREDITS**

- 20/10/16      12.1 The amount of any Crown contribution (as defined in the KiwiSaver Act) arising from a tax credit under section MK 3 of the Income Tax Act (disregarding any positive or negative returns for the purposes of calculating that amount of Crown contribution) may not be withdrawn:
- (a) before the Contributor gives the Board a statutory declaration stating the periods for which the person has had their principal place of residence in New Zealand since 1 July 2007; or
  - (b) to the extent to which the Board has notice that the Contributor's claim for a tax credit is wrong, because the number of included days under section MK 4 of the Income Tax Act is or was wrong; or
  - (c) in circumstances in which the withdrawal of that amount is not permitted under the relevant provision of the KiwiSaver Scheme Rules.

30/3/93

**SECTION 38 NATIONAL PROVIDENT FUND RESTRUCTURING ACT 1990**

- (1) No person is entitled to be a contributor to any existing scheme unless that person -
- (a) was a contributor to that scheme immediately before the transfer day; or
  - (b) was a contributor to another existing scheme immediately before the transfer day and is a person, or a person of a kind, whom the Board, in its discretion and after consultation with the Minister, has agreed may contribute to that scheme.
- (2) Any person -
- (a) who has, before the transfer day, contributed to an existing scheme; and
  - (b) whose contributions, or part of whose contributions, remain in the scheme on the transfer day -
- shall for the purposes of this section, be deemed to have been a contributor to that existing scheme immediately before the transfer day.
- (3) Any employer -
- (a) who was not a contributor to an existing scheme immediately before the transfer day; and
  - (b) who, after the transfer day, is or becomes the employer of an employee who was a contributor to an existing scheme immediately before the transfer day -
- may, notwithstanding subsection (1) of this section but subject to the terms of the existing scheme, contribute to any existing scheme to which that employee contributes, as a corporate contributor, for the purpose of subsidising that employee's contributions or obtaining a benefit for that employee.
- (4) Nothing in this section limits -
- (a) the terms of any existing scheme; or
  - (b) any other provision of this Act.

# NATIONAL PROVIDENT PENSION NATIONAL SCHEME

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## TRUST DEED

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