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## **TRUST DEED FOR THE MARITIME KIWISAVER SCHEME**

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This Trust Deed is made on 11 November 2020

**Simon Brodie, Raymond Joseph Carroll Fife, Joseph David Fleetwood, James Henry King, Russell Lawrence Mayn, Walter Melville Rushbrook, John Brodie Stevens, Deepthi Pandadu Swarnapuri, Raymond Paul Welson and David William Young (Trustees)**

## OPERATIVE PROVISIONS

### 1 INTRODUCTION

- 1.1 The Maritime KiwiSaver Scheme (**Scheme**) is currently governed by a Trust Deed dated 31 March 2016 (**Trust Deed**). The Trustees are the current trustees of the Scheme.
- 1.2 Under clause 16 of the Trust Deed, the Trustees may in situations specified under the Trust Deed, alter the provisions of the Trust Deed.
- 1.3 The Trustees wish to amend the Trust Deed in order to address the repeal of the Trustee Act 1956 and changes brought about under the Trusts Act 2019 and other Governing Legislation.
- 1.4 The Trustees are satisfied that the amendments to the Current Trust Deed made in his Deed satisfy the conditions of clause 16.1 and 16.3 of the Current Trust Deed.
- 1.5 The Trustees have obtained a certificate from a lawyer that the Current Trust Deed, as amended and restated, will comply with Sections 135 to 137 of the Financial Markets Conduct Act 2013 on the basis set out in the certificate.

### 2 COVENANTS

- 2.1 In accordance with the power contained in clause 16.1 of the Trust Deed the Trustees hereby amend the Trust Deed with effect from 30 January 2021 (**Effective Date**) by rescinding each and every one of the existing clauses, subclauses and schedules to the Trust Deed to the extent that the entire provisions of the trust deed for the Scheme after the Effective Date are those set forth in the clauses, subclauses and schedules of this Deed.

## PART A - INTERPRETATION PROVISIONS

### 3 INTERPRETATION

- 3.1 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

**Accounts** means the accounts established under this Deed.

**Act** means the Financial Markets Conduct Act 2013.

**Administration Manager** means the person or persons (if any) to whom the Trustees have contracted some or all of the administration of the Scheme.

**Auditor** shall mean in relation to the Scheme a person or firm of Chartered Accountants who is licensed under the Audit Regulation Act 2011 and who meets the requirements of Governing Legislation and is appointed by the Trustees to audit the accounts of the Scheme.

**Cash** includes funds on call or short term bank deposits (generally less than seven days) at a registered bank.

**Chairman** means the chairman of the Trustees, appointed under Clause 4.2.4.

**Chartered Accountant** has the meaning given in the Act.

**Dependant** means in relation to a Member the spouse, any child of the Member or any other person whether or not related by blood or marriage to the Member whom the Trustees may in their absolute discretion from time to time determine to be or to have been dependent either wholly or in part on the Member at the time of the happening of the relevant event.

**Deputy Chairman** means in relation to the Scheme any deputy chairman of the Trustees, appointed under Clause 4.11.

**Earnings** means salary or wages as defined in the KiwiSaver Act.

**Employer** means any employer that is a party to an employment contract.

**Employment Contract** means any contract of employment prescribing terms and conditions of employment of Waterside Workers on the New Zealand Waterfront or Seafarers working in the Seafaring Industry or any other agreement instrument or order which, in the opinion of the Trustees, is relevant to the prescription of terms and conditions of employment of Waterside Workers on the New Zealand Waterfront or Seafarers in the Seafarers Industry.

**Financial Markets Legislation** has the meaning set out in Section 6(1) of the Act.

**FMA** means the Financial Markets Authority.

**FMC Regulations** means the Financial Markets Conduct Regulations 2014.

**Governing Legislation** means all legislation applicable to the Trustees and/or the Scheme at applicable points in time and which may include, without limitation, the Financial Markets Legislation, the FMC Regulations, the Trusts Act 2019, the KiwiSaver Act and any methodologies or frameworks issued by the FMA under such legislation.

**In-house Asset** has the meaning given in Section 176(3) of the Act.

**Investment Manager** means the person or persons (if any) to whom the Trustees have contracted some or all of the investment of the Scheme Property.

**Issuer Obligations** has the meaning given in the Act.

**KiwiSaver Act** means the KiwiSaver Act 2006.

**KiwiSaver Rules** means the KiwiSaver Scheme Rules contained in Schedule 1 to the KiwiSaver Act as amended from time to time, with certain of the KiwiSaver Rules relevant to permitted withdrawals as at the date of this Deed being set out in Schedule 1.

**KiwiSaver Scheme** means any KiwiSaver scheme registered under the Act.

**Licensed Independent Trustee** means a licensed independent trustee under Section 131 of the Act whose licence covers the Scheme and who is independent under Section 131(3) of the Act.

**Maritime Retirement Scheme** means the Maritime Retirement Scheme established by Deed of Rescission and Replacement dated on or about the date of this Deed.

**Member** means a Waterside Member or a Seafarer Member as the context requires.

**Member Investment Choices** has the meaning given by Clause 9.1.

**Members Account** means a Member's account established under Section 33.

**Membership** means in relation to a Member the most recent period of continuous participation in the Scheme.

**New Zealand Waterfront** means any place within New Zealand where work in relation to or in connection with the Waterfront Industry is carried out.

**Organisation of Seafarers' Employers** means the Seafarers' EMC appointed by the New Zealand Shipping Federation or its successor.

**Organisation of Waterfront Employers** means Stevedores and Ports NZ Incorporated or its successor.

**Other Reserve Accounts** means such other reserve accounts established under Clause 32.3.

**Participating Employer** means any Employer who has been admitted as a Participating Employer pursuant to Section 30, but does not include any Employer who has ceased to be a Participating Employer, and in relation to a Member means that Employer by which the Member is for the time being employed.

**Portfolio** means an investment choice made available by the Trustees for one or more categories of Member under Clause 9.1.

**Registered Scheme** means a managed investment scheme that is for the time being registered under the Act as a superannuation scheme, KiwiSaver scheme, or workplace savings scheme, and includes the Maritime Retirement Scheme.

**Related Party** has the meaning given in Section 172 of the Act.

**Related Party Benefit** has the meaning given in Section 172 of the Act.

**Reserve Account** means the reserve account established under Section 32.

**Review Date** means 1 April in each year or such other date as shall be determined from time to time by the Trustees.

**Review Period** means a period commencing on a Review Date and ending immediately prior to the next Review Date.

**Scheme** means the Maritime KiwiSaver Scheme established under this Deed.

**Scheme Property** has the meaning given in Section 6 of the Act.

**Seafarer** means a person employed in the Seafaring Industry in accordance with an appropriate Employment Contract.

**Seafaring Industry** means Seafarer or Seafarer- related work as determined by the Trustees, including:

- (a) manning of seagoing vessels, dredges and ferries;
- (b) manning of offshore facilities including oil and gas rigs and seabed operations;  
and
- (c) clerical and other support work directly or indirectly related to the above,

which the Trustees in their absolute discretion from time to time decide is appropriate to recognise as falling within the concept of Seafaring Industry work.

**Seafarer Member** means a Seafarer or such other person within the Seafaring Industry who has been admitted to membership of the Scheme at the discretion of the Trustees and who in the opinion of the Trustees remains a Member.

**SIPO** means the statement of investment policy and objectives for the Scheme in the form and containing the contents required by the Act.

**Special Resolution** has the meaning given to it in the Act.

**Trustees** means the Trustees for the time being appointed to administer the Scheme.

**Union** means the Maritime Union of New Zealand or its successor or any industrial union of workers taking its place in any union reconstruction.

**Waterfront Industry** means waterside or waterside-related work as determined by the Trustees including:

- (a) loading and unloading ships and other seafaring vessels in New Zealand;
- (b) work within the limits of any New Zealand port involving:
  - (i) receiving and delivering or otherwise handling cargo for or from any ship or other seafaring vessel, including the packing and unpacking of containers; or
  - (ii) the driving or operation of cranes, forklift trucks, or other mechanical or logistical equipment; or
  - (iii) the carrying out of any work similar in nature to that traditionally carried out by tally clerks, foremen stevedores, or permanent hands in connection with waterside-related work; and
- (c) clerical and other support work directly or indirectly related to the above,

which the Trustees in their absolute discretion from time to time decide is appropriate to recognise as falling within the concept of waterfront industry work.

**Waterside Member** means a Waterside Worker or such other person within the Waterfront Industry who has been admitted to membership of the Scheme at the discretion of the Trustees and who in the opinion of the Trustees remains a Member.

**Waterside Worker** means a person employed in the Waterfront Industry in accordance with an appropriate Employment Contract.

- 3.2 Parts A and B of this Deed contain general provisions that apply to all Members.
- 3.3 Part C of this Deed contains KiwiSaver specific provisions that apply to all Members.
- 3.4 In this Deed, full section references, i.e. Section 1, Section 2 and Section 3, are referred to throughout as 'Sections'. Sub-section references, i.e. sub-section 1.1, 1.2 and 1.3 are referred to throughout as 'Clauses'.
- 3.5 The Scheme shall be a New Zealand currency fund and nothing herein shall require the Trustees to make any payments other than in New Zealand and in New Zealand currency.
- 3.6 This Deed shall in all respects be governed by and interpreted according to the laws of New Zealand.



**PART B – GENERAL PROVISIONS****4 APPOINTMENT AND REMOVAL OF TRUSTEES**

- 4.1 The number of Trustees of the Scheme shall be 10 or 11 unless a corporate body is appointed to act as sole Trustee in the manner provided in Clause 4.12.
- 4.2 The Trustees shall comprise:
- 4.2.1 up to four Trustees appointed from time to time by the Union;
  - 4.2.2 up to two Trustees appointed from time to time by the Organisation of Waterfront Employers;
  - 4.2.3 up to two Trustees appointed from time to time by the Organisation of Seafarers' Employers;
  - 4.2.4 one person appointed by the Trustees appointed under Clauses 4.2.1 to 4.2.3 (inclusive) to be an independent Chairman; and
  - 4.2.5 one Licensed Independent Trustee appointed by the Trustees who are appointed under Clauses 4.2.1 to 4.2.4 (inclusive).
- 4.3 The Trustees appointed under Clause 4.2 may from time to time appoint an additional independent trustee, who need not be but may be a Licensed Independent Trustee, on such terms as they in their discretion determine.
- 4.4 A Licensed Independent Trustee may not:
- 4.4.1 be removed or resign in accordance with this Deed unless:
    - (a) all functions and duties of the position have been performed; or
    - (b) another Licensed Independent Trustee has been appointed, and accepted appointment, in his or her place; or
    - (c) the court consents;
  - 4.4.2 (despite anything to the contrary in this Deed) be removed under this Deed without the FMA's consent.
- 4.5 If the Scheme does not, for any reason, have a Licensed Independent Trustee then the provisions of the Act shall apply in relation to the appointment of a person to fill the vacancy in the office until a substitute appointment has been made under this Deed.
- 4.6 The Trustees appointed from time to time under Clauses 4.2.1 and 4.2.2 shall hold office for 3 years or such other term as determined by their appointors.

- 4.7 The Chairman appointed under Clause 4.2.4 shall be reappointed annually and shall be reviewed at least once every three years. Following that review the Chairman may be reappointed but may be replaced at the absolute discretion of the Trustees appointed under Clauses 4.2.1 to 4.2.3 (inclusive).
- 4.8 Subject to Clause 4.4, the Licensed Independent Trustee shall be reappointed annually and shall be reviewed at least once every three years. Following that review the Licensed Independent Trustee may be reappointed but may be replaced at the discretion of the remaining Trustees.
- 4.9 The office of a Trustee shall become vacant if a Trustee:
- 4.9.1 being a natural person dies or becomes of unsound mind; or
  - 4.9.2 is convicted of an indictable offence; or
  - 4.9.3 becomes bankrupt or makes an assignment to creditors; or
  - 4.9.4 resigns office as a Trustee by notice in writing addressed to the other Trustees and if the Trustee is appointed under Clauses 4.2.1 to 4.2.3 (inclusive) notice to the party or organization who appointed them; or
  - 4.9.5 is removed from office by the party or parties which appointed the Trustee in the manner provided in Clause 4.2; or
  - 4.9.6 being a Trustee appointed as Chairman under Clause 4.2.4 is removed from office under Clause 4.7; or
  - 4.9.7 being a Licensed Independent Trustee:
    - (a) the Trustee's licence expires or is cancelled under the Act; or
    - (b) the Trustee is removed by the FMA if it is satisfied that the Trustee no longer meets the requirements in the Act; or
    - (c) the Trustee is replaced under Clause 4.8, or
  - 4.9.8 is substituted by the court under the Act.
- 4.10 The Trustees appointed under Clauses 4.2.1 to 4.2.3 (inclusive) shall have the right at any time without being required to cite any reason by majority resolution to remove any independent Chairman appointed pursuant to Clause 4.2.4 or any Licensed Independent Trustee appointed pursuant to Clause 4.2.5 by giving such Trustee 28 days' notice in writing of such removal by registered letter addressed to the last known address or place of business of such Trustee or delivered to the Trustee personally.
- 4.11 A Deputy Chairman of the Trustees may be appointed from time to time by the vote of a majority of the Trustees. If the Chairman is absent from a meeting, the Deputy Chairman shall act as the Chairman.

4.12 Notwithstanding the foregoing provisions the Union, the Organisation of Waterfront Employers and the Organisation of Seafarers' Employers may agree to jointly appoint a sole corporate trustee as Trustee of the Scheme, in which case such corporate trustee shall hold office until removed by notice in writing signed by or on behalf of the Union, the Organisation of Waterfront Employers and the Organisation of Seafarers' Employers. In such case the corporate trustee must comply with Governing Legislation.

## **5 PROCEEDINGS OF TRUSTEES**

- 5.1 The Trustees shall meet, adjourn and regulate proceedings as they think fit. A Trustee may at any time convene a meeting of the Trustees by giving seven days' notice in writing to the other Trustees for the time being in office or such shorter period to which the Trustees may agree.
- 5.2 Four Trustees shall form a quorum with at least two being Trustees appointed under Clause 4.2.1 and two being Trustees appointed under Clause 4.2.2 and/or 4.2.3.
- 5.3 Meetings of the Trustees constituted in accordance with Clause 5.1 shall be competent to exercise all or any of the authorised powers and discretions vested by this Deed in the Trustees generally.
- 5.4 Questions arising at any meeting shall, unless this Deed requires otherwise, be decided by a majority of votes and if there is an equality of votes the Chairman shall have a second or casting vote. However, in the event of an objection by a Trustee to the Chairman exercising a casting vote on any particular matter, the casting vote will be withheld and the matter in question be referred to a mutually acceptable independent arbitrator for final ruling.
- 5.5 A resolution in writing signed by all the Trustees and duly entered in the minute book of the Trustees shall be as valid and effectual as if it had been duly passed at a meeting of the Trustees duly called and constituted.
- 5.6 The Trustees shall cause proper minutes of all meetings to be kept and the minutes of any meeting if purporting to be signed by the Chairman of such meeting or by the Chairman of a succeeding meeting of the Trustees shall be receivable as prima facie evidence of the matters contained in such minutes.
- 5.7 The Trustees, notwithstanding any rule of law or equity to the contrary, may delegate all or any of the functions, powers, authorities and discretions vested in them to any one or more of the Trustees or to any person or persons or body or bodies corporate.
- 5.8 Any Trustee may charge and be paid such fees or charges for services rendered in connection with the Scheme as may be deemed reasonable by the Trustees.
- 5.9 A Trustee being a beneficiary under the trusts of this Deed may retain for the Trustee's own absolute benefit subject to the conditions of the Scheme all money and benefits accruing to the Trustee as a beneficiary of the Scheme and no decision of the Trustees or the exercise of

any power by the Trustee shall be invalidated on the ground that the Trustee had a direct or personal interest in the result of any such decision or in the exercising of any such power.

- 5.10 The assets of the Scheme shall be held by the Trustees on trust for the benefit of the Members, and shall be managed and administered by the Trustees in accordance with this Deed and Governing Legislation.

## **6 TRUSTEES FUNCTIONS, DUTIES, POWERS AND DISCRETIONS**

- 6.1 The Trustees, acting together as manager of the Scheme, have responsibility for those functions and duties of a manager under the Act (and each Trustee is jointly and severally liable with the other Trustees for the performance of those functions and duties) unless the Act or the FMC Regulations otherwise provide.

- 6.1 Any default duties under the Trusts Act 2019, which would otherwise be applicable to the Trustees or the Scheme are excluded to the maximum extent permitted by the Trusts Act 2019.

- 6.2 The Trustees are responsible for performing the following functions:

- 6.2.1 offering membership of the Scheme;
- 6.2.2 accepting Members into the Scheme;
- 6.2.3 managing the Scheme Property and investments; and
- 6.2.4 administering the Scheme.

- 6.3 The Trustees must:

- 6.3.1 act honestly and in good faith in acting as a manager; and
- 6.3.2 in exercising any powers or performing any duties as a manager:
  - (a) act in the best interests of the Members; and
  - (b) treat Members equitably; and
- 6.3.3 not make use of information acquired through being the manager in order to:
  - (a) gain an improper advantage for themselves or any other person; or
  - (b) cause detriment to the Members.

- 6.4 The Trustees must carry out the functions of a manager in accordance with this Deed, the SIPO, and all other Issuer Obligations.

- 6.5 Subject to Clause 6.6, a Trustee must in exercising any powers or performing any duties, exercise the care, diligence, and skill that a prudent person of business would exercise in the same circumstances.
- 6.6 A Licensed Independent Trustee and any other Trustee whose profession or business is or includes acting as a trustee or investing money on behalf of others must, in exercising any powers, or performing any duties, exercise the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances.
- 6.7 The Trustees shall have the powers and discretions generally to do all such acts and things as the Trustees consider necessary or expedient for the management, administration or investment of the Scheme or otherwise for the performance of the obligations under this Deed and subject to the Act to exercise all the powers in respect of the Scheme as if they were the absolute owners thereof, including not by way of limitation but by way of examples only, the power:
- 6.7.1 to retain the services of professional advisers in relation to the management, administration or investment of the Scheme including in relation to the proper exercise by the Trustees of their powers and discretion;
  - 6.7.2 to employ such agents, nominees or managers (including but without limitation any corporate or other trustee holding office as trustee from time to time or any subsidiary of such corporate or other trustee or other company or organisation associated with such corporate trustee) as reasonably thought fit by the Trustees in relation to the management, administration or investment of the Scheme; and
  - 6.7.3 without prejudice to the powers conferred upon trustees in general law or by Clauses 6.7.1 and 6.7.2, to:
    - (a) appoint and remove any Administration Manager to the Scheme on terms and conditions to be agreed between the Trustees and the Administration Manager;
    - (b) subject to Clause 6.8, appoint and remove any Investment Manager to the Scheme on terms to be agreed between the Trustees and the Investment Manager;
    - (c) appoint and remove from office a custodian trustee in respect of the whole or any part of the assets of the Scheme on such terms and with such duties, powers and discretions as may be agreed between the Trustees and the custodian trustee; and
    - (d) apply for membership of any other Registered Scheme;
- 6.8 Any appointment by the Trustees of an Investment Manager must be in writing. The Trustees may include provisions to protect and assist those dealing with any Investment Manager in the terms of appointment as the Trustees see fit. An Investment Manager may be a related party of a Trustee. The terms of appointment of an Investment Manager may

include rights to be indemnified for liabilities or expenses incurred in relation to the performance of the Investment Manager's contracted functions. The Trustees remain liable for the acts or omissions of an Investment Manager.

- 6.9 The Trustees must comply with the requirements of the Act where they contract out all or some of their functions and duties as manager of the Scheme.
- 6.10 The Trustees shall hold the Scheme Property in accordance with Section 156(2) of the Act.
- 6.11 Nothing in this Deed shall be construed as empowering the Trustees to act in a manner which would contravene any provision of the Trusts Act 2019 unless this Deed expressly modifies or excludes a provision in the Trusts Act 2019 as permitted by the Trusts Act 2019.

## **7 BREACH OF TRUST**

- 7.1 No Member shall have any claim for benefits under this Deed against the Employers, a Participating Employer, or the Union or their funds.
- 7.2 Subject to the Act, no Trustee shall be liable for the consequences of any act or omission or for any loss not attributable to such Trustee's own dishonesty or to the wilful commission or omission by such Trustee of any act or omission known by such Trustee to be a breach of trust.
- 7.3 No Trustee shall be bound to take any proceedings against a co-trustee for any breach or alleged breach of trust by that co-trustee.
- 7.4 Subject to the Act, the Trusts Act 2019 and this Deed each Trustee shall be absolutely indemnified by and out of the Scheme (whether as to the capital or the income thereof) for and in respect of any loss or liability which such Trustee may sustain or incur by reason of the carrying out or omission of any function, duty or power of the Trustees in relation to the Scheme under this Deed unless such loss or liability is attributable to such Trustee's dishonesty or to the wilful commission or omission by such Trustee of an act or omission known by such Trustee to be a breach of trust.

## **8 INVESTMENT POWERS**

- 8.1 The Trustees shall invest all money belonging to the Scheme and available for investment in accordance with clause 13.1 as to the investment of trust funds. This requirement shall modify the Trustees' general power to invest under section 58 of the Trusts Act 2019.
- 8.2 The Trustees may at any time and from time to time, but subject to the Governing Legislation, borrow and raise money for any of the purposes of the Scheme and if they deem it necessary to secure the repayment of moneys so borrowed and interest thereon by mortgage or charge over all or any of the assets of the Scheme and no lender shall be

concerned to inquire as to whether the necessity for such borrowing has arisen or as to the purpose for which it is required or as to the application of the money borrowed.

- 8.3 The Trustees may insure against loss or damage by fire, earthquake or any other cause whatsoever any asset of the Scheme to the full insurable value thereof or the full replacement value thereof as the Trustees in their discretion from time to time think fit and also to insure against any risk liability or loss and to pay the premiums for such insurance out of the moneys forming part of the Scheme as the Trustees may think fit.

## 9 MEMBER INVESTMENT CHOICES

- 9.1 The Trustees may from time to time, if they think fit, make investment choices available to Members in the form of different Portfolios.
- 9.2 If and whenever the Trustees decide to make available Member Investment Choices, they may (without limiting the generality hereof) determine the following matters:
- 9.2.1 the Portfolios that may be chosen by Members;
  - 9.2.2 the method by which and time at which Members may choose a Portfolio;
  - 9.2.3 the number of Portfolios that may be chosen by a Member at any one time and, if more than one such Portfolio may be chosen, the basis on which the plural choices will operate (including the time and method and proportions);
  - 9.2.4 the basis on which contributions by a Member and by his or her Participating Employer will be allocated in relation to the Portfolios chosen by the Member when more than one Portfolio is in force;
  - 9.2.5 the frequency with which and method by which a Member may change any of his or her choices;
  - 9.2.6 the Portfolio that will be deemed to apply to a Member who makes no choice;
  - 9.2.7 the basis on which any partial withdrawal by or in respect of a Member may be made when more than one Portfolio is in force;
  - 9.2.8 the closure or termination of a Portfolio; and
  - 9.2.9 all other matters that the Trustees consider necessary or desirable in relation to a Portfolio or the operation of the Member Investment Choices.
- 9.3 Any additional expenses, fees, charges or costs associated with giving effect to and administering a Member's choice of Portfolio or Portfolios under this Section may be debited from the Members Account at the times and in the manner determined by the Trustees as long as such expenses, fees, charges or costs were disclosed to the Member prior to the Member making his or her choice.

- 9.4 No such debiting may be made to the Members Account if he or she was a Member immediately before Member Investment Choices became available and if he or she does not at any time choose a Portfolio that is different from the Portfolio the Member was invested in.
- 9.5 Without limiting the ability of the Trustees to determine earnings under Section 10 when the Trustees make each determination of earnings, they shall have regard to the Member's choice of Portfolio or Portfolios. For the avoidance of doubt, it is declared and acknowledged that the exercise of this power will require the determination of different earning rates in respect of different Portfolios.
- 9.6 The choice of any Portfolio or Portfolios (including any decision by a Member not to change from any existing Portfolio or Portfolios) shall be each Member's sole responsibility, and the Trustees shall not have any liability in respect of it and neither shall they in any circumstances be regarded as representing or implying that any particular Member Investment Choice or Portfolio is appropriate for the Member.
- 9.7 In this Section, a reference to Members or to a Member includes each Member who although entitled to a permitted withdrawal under Section 34 has not requested payment of that benefit and has deferred payment of the whole or a part of the Member's benefit for the purposes of Section 23.

## **10 EARNINGS**

- 10.1 As soon as practical after the expiration of such period as the Trustees determine, the Trustees shall allocate earnings to each Members Account, the Reserve Account and each Other Reserve Account for such period and may do so more frequently if the Trustees consider it appropriate.
- 10.2 The rate of earnings to be allocated to each Account or the value of each such Account or both shall be determined by the Trustees who may have regard to:
- 10.2.1 the nature of the investments of a Portfolio;
  - 10.2.2 the investment performance and other income of the Portfolio;
  - 10.2.3 the liquidity of the investments of the Portfolio;
  - 10.2.4 the taxation liabilities of the Scheme and each Portfolio, including any future or deferred taxation;
  - 10.2.5 any losses or gains of the Portfolio, whether realised or not;
  - 10.2.6 changes in the market value of the assets comprising the Portfolio;
  - 10.2.7 the costs of realising the assets of the Portfolio for cash;
  - 10.2.8 the net expenses of the Scheme; and



- 10.2.9 such other matters as the Trustees may consider appropriate.
- 10.3 In any case where a benefit is payable in respect of a Member, earnings in respect of the period between the last date of allocating earnings and the date of payment of such benefit may be allocated to the Members Account at such rate as the Trustees may determine.
- 10.4 The Trustees in their absolute discretion may, but shall not be obliged to, agree to make an adjustment to the earnings allocated under Clauses 10.2 or 10.3 once the actual earnings for that period have been determined.
- 10.5 The rate of earnings in respect of each Account determined under this Section:
- 10.5.1 may be either positive or negative; and
- 10.5.2 shall be fair and equitable after making due allowance in respect of each Account inter alia for any contributions or withdrawals or other amounts which are or have during the appropriate period been invested in a Portfolio or withdrawn from a Portfolio.

## 11 FINANCIAL INFORMATION AND REPORTING

- 11.1 The Trustees shall ensure that there are kept at all times accounting records that:
- 11.1.1 correctly record the transactions of the Scheme;
- 11.1.2 will enable the Trustees to ensure that the financial statements of the Scheme comply with generally accepted accounting practice and any Governing Legislation; and
- 11.1.3 will enable the financial statements of the Scheme to be readily and properly audited.
- 11.2 In keeping or causing to be kept the accounting records under Clause 11.1:
- 11.2.1 the Trustees must have appropriate systems of control and oversight;
- 11.2.2 the Trustees must keep such accounting records at a suitable location accessible to each Trustee, the Auditor, and the FMA; and
- 11.2.3 the provisions of Part 7 of the Act must be complied with.
- 11.3 Subject to Governing Legislation, the Trustees must ensure that within four months after the end of each Review Period, financial statements that comply with generally accepted accounting practice are:
- 11.3.1 completed in relation to the Scheme and that Review Period; and
- 11.3.2 dated and signed on behalf of the Trustees.

- 11.4 The Trustees shall ensure that within four months after the end of each Review Period:
- 11.4.1 the Scheme's financial statements for that Review Period are audited and reported on by the Auditor in accordance with the requirements of the Act; and
  - 11.4.2 those financial statements, together with the Auditor's report on those financial statements, are delivered to the Registrar of Financial Service Providers for lodgement.
- 11.5 The Trustees must:
- 11.5.1 within four months after the end of each Review Period, prepare an annual report on the affairs of the Scheme during that Review Period; and
  - 11.5.2 within 28 days after the annual report is prepared:
    - (a) send to every Member:
      - (i) a copy of the annual report; or
      - (ii) a notice containing the statements required by the FMC Regulations; and
    - (b) lodge the annual report with the Registrar of Financial Service Providers.

## 12 LIMIT BREAKS AND PRICING ERRORS

- 12.1 The Trustees must report to the FMA any material breaches of any limits under a SIPO to the extent required by Governing Legislation.
- 12.2 The Trustees must report to the FMA in relation to any material error in the calculation of the price of an asset or material non-compliance with any methodology for pricing investments or allocating earnings to Accounts as set out in this Deed or notices issued by the FMA, and must correct such error or non-compliance and take any prescribed steps, to the extent required by Financial Markets Legislation.
- 12.3 Subject to Financial Markets Legislation, for the purpose of Clause 12.2 a 'material error' (unless the Trustees agree otherwise from time to time) is an error that equals or exceeds:
- 12.3.1 0.05%, in relation to cash held on call or short term bank deposits; or
  - 12.3.2 0.30% with respect to any other asset.

**13 STATEMENT OF INVESTMENT POLICY AND OBJECTIVES**

- 13.1 All money belonging to the Scheme and available for investment shall be invested in accordance with the SIPO.
- 13.2 Without limiting the Trustees' powers under Clause 13.1 the Trustees and any Investment Manager so authorised by Trustees may (and shall to the extent required at law) invest the Scheme Property or any part thereof in any Registered Scheme and for this purpose may apply for membership of any Registered Scheme in which the Trustees determine in their absolute discretion (or as required at law) to invest.

**14 VALUATIONS**

- 14.1 The Trustees will determine the market price of each asset on such basis as is considered fair and equitable provided that the valuation method used is applied on a consistent basis over time.
- 14.2 The Trustees may instruct a valuer or other expert to value any property of the Scheme.

**15 RELATED PARTY BENEFITS**

- 15.1 Subject to Clause 15.2, the Trustees (and any Investment Manager, Administration Manager or other person to whom the Trustees have contracted out some or all of its functions and duties as manager) must not enter into a transaction that provides for a Related Party Benefit to be given.
- 15.2 Clause 15.1 does not apply to a transaction or series of transactions if one of the following applies and the Trustees (with the consent of the Licensed Independent Trustee) certifies to that effect:
- 15.2.1 the transaction or series of transactions are in the best interests of the Members;  
or
  - 15.2.2 Section 174 of the Act applies to the transaction or transactions or all Related Party Benefits to be given; or
  - 15.2.3 the transaction or series of transactions are approved by or contingent on approval by a Special Resolution of the Members affected or potentially affected by the transaction or transactions.
- 15.3 Subject to Governing Legislation, the Trustees (or any person to whom the Trustees have contracted out some or all of its functions and duties as a manager) must not acquire any new In-house Asset if, as a result of the acquisition, the Scheme would have, or increase, an In-house Asset ratio of 5% or more in relation to any Related Party or Member.

**16 AMENDMENTS TO TRUST DEED**

16.1 The Trustees by unanimous decision may at any time or times by instrument in writing amend this Deed by way of alteration, rescission, replacement or addition to the provisions of this Deed provided that no amendment shall be made that is in conflict with the provisions of an Employment Contract or Governing Legislation if the alteration, rescission, replacement or addition:

16.1.1 is in the opinion of the Trustees necessary, desirable or expedient to comply with the provisions of, or to reflect the changes to, any statute ordinance regulation guidance or bylaw or any law made under the authority of any statute, regulation bylaw or ordinance or is the requirement of any competent statutory authority; or

16.1.2 is in the opinion of the Trustees necessary to or expedient in order for the Scheme to comply with any taxation requirements; or

16.1.3 is in the opinion of the Trustees made to correct a manifest error or is of a formal technical or administrative nature only.

16.2 Before any amendment is made to this Deed, the requirements of the Governing Legislation must be complied with.

16.3 Notwithstanding Clause 16.1 no amendment to this Deed shall be made which would have the effect of:

16.3.1 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 the Scheme up to the date the amendment is made; or

16.3.2 removing any right of the Members or other beneficiaries to participate in the management of the Scheme; or

16.3.3 increasing the contributions, fees, or charges payable by any Member; or

16.3.4 providing for the reversion of any assets of the scheme to any Employer or Participating Employer to any greater extent than already provided for hereunder,

without the written consent of every Member, and of every other beneficiary who is in receipt of a benefit from the Scheme at the date the amendment is made, who would be adversely affected by the amendment.

**17 WINDING-UP**

17.1 The Scheme shall be wound up if the Trustees so resolve. In such an event the Trustees shall in accordance with the Governing Legislation:

- 17.1.1 within 14 days after the winding up resolution is made, lodge a copy of that resolution with the FMA ;
- 17.1.2 ensure that final accounts of the Scheme as the case may be, showing the financial position of the Scheme, as at the date on which the winding up takes effect, are prepared;
- 17.1.3 ensure that those final accounts are audited;
- 17.1.4 as soon as practicable after the final accounts have been audited:
- (a) send a copy of those accounts to the FMA and to every person who was a Member of the Scheme immediately before it was wound up; and
  - (b) advise the FMA and the relevant Members in writing as to the manner in which the assets of the Scheme are to be distributed; and
- 17.1.5 inform the FMA of the date on which the distribution of the assets is completed.
- 17.2 Each Member of the Scheme immediately before its winding up shall continue to have the right, upon request:
- 17.2.1 to look at, at any reasonable time, a copy of this Deed; and
  - 17.2.2 to receive, upon payment of a reasonable fee, a copy of this Deed;
- 17.3 Any resolution by the Trustees to wind up the Scheme must be a unanimous resolution of all the Trustees.
- 18 DISTRIBUTION OF SCHEME ON WINDING-UP**
- 18.1 Upon the Scheme being wound-up all moneys and other assets held by the Trustees in respect of the Scheme shall be realised, appropriated and distributed to and for or on behalf of each Member of the Scheme at the wind up date in accordance with Clause 17.1.
- 18.2 On and from the wind up date:
- 18.2.1 no further Waterside Workers or Seafarers shall be admitted as Members of the Scheme; and
  - 18.2.2 no further contributions shall be made by Members or any Participating Employer to the Scheme, except contributions that accrue before the wind up date.
- 18.3 Upon the Scheme being wound up all moneys shall be distributed to and for or on behalf of each Member at the wind up date in the following order of priority:

- 18.3.1 firstly, to provide the expenses of and incidental to the winding-up; and
- 18.3.2 second by way of transfer in accordance with the Governing Legislation to another KiwiSaver Scheme or, if permitted under the Governing Legislation and subject to any requirements of the Governing Legislation, either by way of transfer to another superannuation scheme if the relevant Member so requests on such terms as the Trustees may impose, or by way of payment of a lump sum, in any of these cases of:
- (a) the amounts standing to the relevant Member's credit in the Members Account or a pro-rata share of that credit, if there is insufficient money after providing for winding up expenses to enable payment of all Members' credits in full; and
  - (b) a pro-rata share (calculated in proportion to the credit held in each Members Account) of any balance remaining in the Reserve Account.
- 18.4 Subject to the foregoing provisions of this Deed no part of the Scheme shall revert to an Employer or Participating Employer or any one of them.
- 18.5 The Trustees shall, as soon as practicable, advise the FMA that the distribution of assets has been completed.

## **19 CONTRACT OF EMPLOYMENT**

- 19.1 Nothing herein shall in any way affect the right of any Participating Employer to terminate the employment of any Member, subject to any Member's right of appeal under any statute or Employment Contract.

## **20 MEETINGS**

- 20.1 When required by Financial Markets Legislation, the Trustees shall call a meeting of Members in the manner and on the basis set out in the Act and the FMC Regulations. A meeting of Members shall be conducted in accordance with Financial Markets Legislation.

## **21 BENEFITS INALIENABLE**

- 21.1 No person being entitled to any benefits under this Deed shall assign, charge, alienate or borrow against the security of such benefits.
- 21.2 In the event of bankruptcy of any Member or in the event of proceedings being taken by any creditor for the attachment of the benefits then such benefits shall to the full extent permitted by law become forfeited to the Trustees provided that the Trustees shall then apply any such forfeited benefits towards the support of the Member and/or any Dependents

of such Member to relieve hardship or in such manner as the Trustees in their absolute discretion determine.

21.3 If any person is entitled to any benefits under this Deed and becomes:

21.3.1 the subject of any order of the court under the Protection of Personal and Property Rights Act 1988; or

21.3.2 mentally disordered within the meaning ascribed to those words by the Mental Health (Compulsory Assessment and Treatment) Act 1992,

then the benefits shall be administered in accordance with such order or the decision of any manager duly appointed to manage the affairs of such person or if no such manager is appointed the Trustees may administer the said benefits in accordance with the provisions of this Deed for the maintenance and support and otherwise for the benefit of the person or the person's Dependants or such other persons as the Trustees in their absolute discretion may determine.

## **22 DELAYS IN PAYMENT**

22.1 In the event of any circumstances existing as a result of which it would be impracticable for legal evidentiary or other reasons or it would unduly interfere with the orderly administration of the Scheme or it would not otherwise be in the best interests of the Member or Dependant to be made forthwith upon the event occurring giving rise to the entitlement to benefit the Trustees may (but in the latter two cases only with the consent of that Member or that Dependant) defer payment of such benefit either in whole or in part for such period as is necessary or desirable and may augment the benefit otherwise provided in accordance with this Deed on the happening of that event by such further sum as they in their discretion think proper or as they may agree with such Member or such Dependant but so that such further sum shall not exceed an amount equivalent to earnings allocated for the period of deferment at the same rate as earnings calculated in accordance with Section 10.

## **23 DEFERMENT**

23.1 Any Member who becomes entitled to a permitted withdrawal in terms of Section 34 is not required to seek payment of the benefit and if a Member does not request such payment will be treated as having deferred payment of the whole or a part of the Member's benefit. During any period of deferment of the whole or a part of the Member's benefit, such benefit will continue to attract earnings in accordance with the provisions of Section 10.

23.2 The final settlement of a Member's deferred benefit retained in the Scheme in terms of Clause 23.1 shall be paid as soon as practicable following a request by the Member, or the Member's personal representative, for payment of the Member's deferred benefit provided that the payment of a benefit retained in the Scheme shall be subject to the same provisions

of this Deed as would have applied if payment of the benefit had been made when the Member first became eligible to receive such benefit.

- 23.3 A Member who has deferred the receipt of a benefit in accordance with Clause 23.1 may, subject to the KiwiSaver Act and such terms and conditions as may be prescribed by the Trustees from time to time, elect to withdraw all or part of the Member's deferred benefit as a lump sum or lump sums and/or by regular payments.

## **24 INFORMATION FROM MEMBERS OR DEPENDANTS**

- 24.1 Any Member or Dependant shall produce such evidence or information as may be reasonably required by the Trustees concerning the Member's or Dependant's entitlement under the Scheme and until such evidence or information is produced the Trustees may withhold the payment of any benefit to such Member or such Dependant.

## **25 SATISFACTION OF CLAIMS**

- 25.1 When a benefit in respect of a Member has been paid in accordance with this Deed the Member and the Member's heirs, executors and administrators shall cease to have any claim on the Scheme.

## **26 UNCLAIMED BENEFITS**

- 26.1 If a Member or a beneficiary in respect of a Member cannot be located (after all reasonable inquiries have been made by the Trustees) within seven years from the date on which a benefit became payable to or in respect of the Member or a beneficiary Member, then the benefit should be paid to the Reserve Account.
- 26.2 In event of a claim for a benefit being made later than seven years after the date on which it becomes due, the Trustees shall pay the whole benefit claimed out of the Scheme.

## **27 DISPUTES**

- 27.1 The Trustees shall determine any question arising as to the interpretation or application of this Deed or any amendment thereof and their decision shall be final and binding upon all parties concerned provided that any such determination or decision shall not contravene or be repugnant to the provisions of the Governing Legislation.



**PART C – KIWISAVER SPECIFIC PROVISIONS****28 THE SCHEME**

28.1 The Scheme shall comprise:

- 28.1.1 the Members' contributions pursuant to Section 31;
- 28.1.2 the Participating Employer's contributions pursuant to Section 31;
- 28.1.3 any amounts transferred into the Scheme pursuant to Section 31;
- 28.1.4 the income arising from the investments of the Scheme and the accumulations thereto;
- 28.1.5 any gains or losses in relation to investments of the Scheme ; and
- 28.1.6 any other money or assets which become subject to the trusts created by this Deed in relation to the Scheme,

and at any time shall be represented by all money or assets held by the Trustees for and on behalf of the Scheme.

**29 MEMBERSHIP**

- 29.1 All persons working within the Waterfront Industry employed by a Participating Employer who satisfy such terms and conditions for joining the Scheme as the Trustees may determine from time to time are eligible to join the Scheme provided that where a Participating Employer has chosen to use the Scheme as an employer choice scheme, with the agreement of the Trustees, all permanent employees (as defined under Section 46(3) of the KiwiSaver Act) of that Participating Employer are eligible to join the Scheme.
- 29.2 All Seafarers employed by a Participating Employer and all Seafarers who are either employees of the Union or financial members of the Union shall join the Scheme if employed by a Participating Employer who has arranged with the Trustees for its employees or Union members to become Members under section 47 of the KiwiSaver Act, in accordance with section 48 of the KiwiSaver Act.
- 29.3 Any natural person who is an immediate family member of any Member of the Scheme and who is not admitted to membership of the Scheme under Clause 29.1 or 29.2 is also eligible to join the Scheme.
- 29.4 A person who is eligible to join the Scheme may do so:
  - 29.4.1 by applying to join in such form as the Trustee may prescribe for this purpose from time to time; or

29.4.2 where the person's Participating Employer has chosen the Scheme in accordance with Section 48 of the KiwiSaver Act.

29.5 A person's membership of the Scheme commences once the Trustees have accepted the person's application to join, or at such other date as may be determined pursuant to the Governing Legislation, and continues until the Trustees are satisfied that no further benefits attributable to the person's membership are payable from the Scheme, either immediately or upon the occurrence of any future event.

29.6 A person shall cease to be a Member of Scheme on the first to occur of:

29.6.1 the person's death;

29.6.2 the person receiving the person's full benefit from the Scheme and ceasing to have any further entitlement under the Scheme;

29.6.3 the person transferring from the Scheme to another KiwiSaver Scheme or a foreign superannuation scheme in accordance with the KiwiSaver Act and ceasing to have an entitlement under the Scheme;

29.6.4 receipt of notice by that person under Rule 4(5)(b) of the KiwiSaver Scheme Rules; and

29.6.5 an opt-out notice taking effect under the KiwiSaver Act.

## **30 PARTICIPATING EMPLOYERS**

30.1 The Trustees shall treat any company, partnership or incorporated or unincorporated body that employs Waterside Members or Seafarer Members as a Participating Employer in the Scheme subject to any terms and conditions imposed by the Trustees as a condition of them being treated as a Participating Employer.

30.2 Subject to any such terms and conditions a Participating Employer shall be subject to the same obligations and be entitled to the same benefits as are by this Deed imposed on or granted to other Participating Employers with respect to other Waterside Members or Seafarer Members in the Scheme.

## **31 CONTRIBUTIONS**

### **Member Contributions**

31.1 Each Member shall contribute to the Scheme any minimum contribution required by the KiwiSaver Act, subject to the remaining provisions of this Section 31.

31.2 The Trustees shall accept:

- 31.2.1 contributions required to be made to the Scheme by or in respect of a Member under the KiwiSaver Act (including Crown Contributions);
  - 31.2.2 other amounts payable in respect of a Member; and
  - 31.2.3 amounts transferred from another KiwiSaver Scheme in respect of a Member.
- 31.3 With the approval of the Trustees a Member may make additional contributions to the Scheme in any year but these contributions need not be matched by the Participating Employer. The amount of such additional contributions shall be as elected by the Member, subject to such conditions as to minimum amounts and frequency and manner of payment as the Trustees may prescribe from time to time, provided that contributions to the Scheme made other than through the payroll of a Participating Employer in an year to 30 June shall be capped at the amount required to enable the Member to maximise the Crown Contribution payable in respect of the Member's contributions as provided for in Section MK 4 of the Income Tax Act 2007.
- 31.4 All or part of a Member's contribution to the Scheme may be met by the Member's Participating Employer, if the Member and the Participating Employer so agree, to the extent permitted by the Governing Legislation. A Member may also change his or her contribution rate for the purpose of sub-Clause 31.1 from time to time in accordance with Section 64 of the KiwiSaver Act.
- 31.5 The contributions payable by a Member under sub-Clause 31.1 shall be deducted by the Participating Employer from the Member's salary or wages as defined and in accordance with the KiwiSaver Act.
- 31.6 Subject to compliance with the Governing Legislation the Trustees may offer mortgage diversion to all Members, or a particular Member or category or class of Members, at their discretion. Where mortgage diversion is offered it shall be made available to a Member:
- 31.6.1 Only if requested by the relevant Member and permitted by the relevant mortgagee;
  - 31.6.2 Only after the relevant Member has provided to the Trustees and the relevant mortgagee all of the information that they require to facilitate the mortgage diversion;
  - 31.6.3 Subject to the deduction by or on account of the Trustees of a fee of such amount or such proportion of the amount diverted that complies with the Governing Legislation as the Trustees may determine from time to time in respect of the relevant Member;
  - 31.6.4 On the terms and conditions and subject to the restrictions and limitations contained in the Governing Legislation from time to time; and
  - 31.6.5 Otherwise on such terms and conditions as the Trustees may determine from time to time.

- 31.7 In the event of a refund to the Government department or other person acting as central administrator of KiwiSaver from time to time being required from the Scheme pursuant to the Governing Legislation, or if the Trustees determine to refund an amount where under the Governing Legislation to do so is voluntary, the Trustees shall refund the relevant amount in the manner they determine in accordance with the Governing Legislation from time to time. If the amount in a Members Account is insufficient to meet the amount to be refunded pursuant to this Clause the Trustees shall (subject to the Governing Legislation and any applicable rule of law) be entitled to recover the amount of any shortfall from the Member personally.
- 31.8 A Member may stop and recommence making contributions to the Scheme provided the requirements in the KiwiSaver Act, which relate to contributions holidays, have been complied with.
- 31.9 Where a Member stops making contributions as referred to in Clause 31.8, they must nevertheless continue to make all required contributions to the Scheme (including on the basis that their contribution to the Scheme is deemed to be zero for the relevant period).

#### **Employer Contributions**

- 31.10 A Participating Employer shall make the following contributions:
- 31.10.1 in respect of a Member who is a Waterside Worker, such amount (if any) as it may agree with the Member from time to time and notify in writing to the Trustees; and
- 31.10.2 in respect of a Member who is a Seafarer, an amount equal to 4% of that Member's salary or wages as defined and in accordance with the KiwiSaver Act.
- 31.11 The contributions payable by a Participating Employer under Clause 31.10 must be paid in accordance with Section 93 of the KiwiSaver Act.
- 31.12 Employer contributions shall vest completely in the Member immediately after such contribution is made.

## **32 RESERVE ACCOUNT**

- 32.1 There shall be established by the Trustees in connection with the Scheme a Reserve Account and the Trustees shall credit or debit to such account:
- 32.1.1 earnings allocated in terms of Section 10;
- 32.1.2 any amount available for credit to the Reserve Account as a result of the provisions of Clause 26.1.
- 32.1.3 any benefits hereunder which in accordance with this Deed a Member and persons claiming through or under a Member cease to have the right to receive;

- 32.1.4 any moneys arising under the Scheme in respect of a Member which is not required to pay the Member's benefit; and
  - 32.1.5 any income and gains not included in earnings allocated in terms of Section 10.
- 32.2 The Reserve Account may be applied from time to time by the Trustees at their discretion in any one or more of the following ways:
- 32.2.1 augmenting the rate of earnings allocated under Section 10;
  - 32.2.2 payment of the expenses of the Scheme;
  - 32.2.3 subject to the KiwiSaver Act, increasing the retirement benefits of all Members on an equitable basis;
  - 32.2.4 payment of all or any part of a Participating Employers' contributions of the Scheme if they have suspended or terminated their contributions;
  - 32.2.5 payment of all or part of the contributions of all Members in any year on an equitable basis;
  - 32.2.6 subject to the KiwiSaver Act, to transfer amounts to a KiwiSaver Scheme nominated by a Participating Employer; and/or
  - 32.2.7 payment of any benefit paid under Clause 26.2;
- in such manner as the Trustees may from time to time consider appropriate.
- 32.3 The Trustees may establish such Other Reserve Accounts as the Trustees may from time to time determine.

### **33 MEMBERS' ACCOUNTS**

- 33.1 The Trustees shall establish for each Member an Account in the Member's name to be known as the Members Account.
- 33.2 The Members Account at any date shall be the sum of:
  - 33.2.1 contributions received by the Scheme from or in respect of a Member in accordance with Section 31;
  - 33.2.2 any amount transferred into the Scheme from another KiwiSaver Scheme or superannuation scheme in respect of the Member;
  - 33.2.3 any Crown Contribution paid in respect of the Member;

33.2.4 any other amount received by the Scheme in respect of the Member which the Trustees consider should be credited to the Members Account in respect of the Member;

33.2.5 earnings to that date allocated in terms of Section 10;

after making such deduction therefrom in respect of:

33.2.6 any permitted withdrawal paid under Section 34; and

33.2.7 expenses (if any) associated with any payments made in terms of Clause 33.2.6 above,

as the Trustees in their discretion consider to be equitable and prudent.

#### **34 PERMITTED WITHDRAWALS**

34.1 A Member shall be entitled to receive a payment from the Scheme if he or she is entitled to make a withdrawal pursuant to the KiwiSaver Rules.

34.2 A Member who is entitled to a withdrawal pursuant to the KiwiSaver Rules may elect:

34.2.1 to receive the withdrawal as a lump sum; or

34.2.2 to transfer the withdrawal to another KiwiSaver Scheme, or if permitted by the Governing Legislation, to another superannuation scheme (including the Maritime Retirement Scheme), in each case subject to and in accordance with the Governing Legislation.

34.3 The benefit under Clause 34.1 shall be an amount equal to the total credit standing to the Members Account and shall be debited to the Members Account. However, unless permitted under the KiwiSaver Rules at the time of withdrawal, the amount of any withdrawal pursuant to Rule 8, 10 or 12 of the KiwiSaver Rules shall not include the amount of the Crown Contribution made by the Crown in respect of the Member pursuant to Section 226 of the KiwiSaver Act, which shall remain in the Members Account.

#### **35 TRANSFERS**

35.1 The Trustees shall effect transfers to or from the Scheme in accordance with the requirements of the KiwiSaver Act.

35.2 No transfer shall be accepted by the Trustees from an overseas scheme other than an Australian complying superannuation scheme (as defined in the KiwiSaver Act) unless the Trustees have complied with the conditions of any applicable exemption from the requirements of the AML Act in relation to any such contribution, where the Trustees have determined to rely on such exemption.

**SCHEDULE 1****KiwiSaver Rules****4 WITHDRAWAL AGE**

- (1) Subject to other permitted withdrawals, a member is not permitted to withdraw amounts from their KiwiSaver scheme before the date on which the member reaches the New Zealand superannuation qualification age.
- (2) Subject to subclauses (4) to (6), a member is permitted to withdraw amounts, not totalling more than the member's accumulation, from their KiwiSaver scheme on and after the date on which the member reaches the New Zealand superannuation qualification age.
- (3) A person ceases, at the option of the provider of the KiwiSaver scheme, to be a member of the KiwiSaver scheme if—
  - (a) the balance in all of the member's accounts reaches zero; and
  - (b) the provider gives notice to the member that the person's membership is terminated.
- (4) Despite subclause (2) and subject to other permitted withdrawals (other than under subclause (2)), a person is not permitted to make a withdrawal from their KiwiSaver scheme before the grandparented end payment date, if the person is a grandparented member.
- (5) On and after the date on which a grandparented member reaches the grandparented end payment date, the member is permitted to withdraw amounts from their KiwiSaver scheme, not totalling more than the member's accumulation.
- (6) For the purposes of these rules,—

**5-year grandparenting date** means the earliest of—

- (a) the date that is 5 years after the day on which the member first became a member of a KiwiSaver scheme; or
- (b) the date that is 5 years after the day, under section 85, on which the Commissioner first received a contribution for a KiwiSaver scheme in relation to the member; or
- (c) the date that is 5 years after the day on which the member first became a member of a complying superannuation fund, if the member has become a member of the KiwiSaver scheme as a result of a transfer from a complying superannuation fund

**grandparented end payment date** means the later of—

- (a) the date on which the member reaches the New Zealand superannuation qualification age;

(b) the 5-year grandparenting date

**grandparented member—**

- (a) means a member for whom 1 of the following dates is before 1 July 2019:
- (i) the date on which the member first became a member of a KiwiSaver scheme;
  - (ii) the date, under section 85, on which the Commissioner first received a contribution for a KiwiSaver scheme in relation to the member;
  - (iii) the date on which the member first became a member of a complying superannuation fund, if the member has become a member of the KiwiSaver scheme as a result of a transfer from a complying superannuation fund; but
- (b) does not include a person who has given their KiwiSaver scheme provider notice of the person's election that this definition does not apply to them.

**4B AMOUNTS FROM AUSTRALIAN COMPLYING SUPERANNUATION SCHEME**

A member may withdraw the amount that was transferred from an Australian complying superannuation scheme (disregarding any positive or negative returns for the purpose of calculating that amount), if the member is 60 years or more and the member's retirement (as that term is defined in regulation 6.01(7) of the Superannuation Industry (Supervision) Regulations 1994 (Aust), with necessary modification for KiwiSaver scheme manager) is taken to have occurred.

**7 RELEASE OF FUNDS REQUIRED UNDER OTHER ENACTMENTS**

- (1) The manager must comply with the provisions of any enactment that requires the manager to release funds from the KiwiSaver scheme in accordance with that enactment.
- (2) A requirement to release funds from the KiwiSaver scheme under any enactment includes a requirement by order of any court under any enactment (including an order made under Section 31 of the Property (Relationships) Act 1976).

**8 WITHDRAWAL FOR PURPOSE OF PURCHASE OF FIRST HOME**

- (1) This Clause applies to a member if the member has not made a withdrawal under this Clause before (whether or not from the member's current KiwiSaver scheme or from a KiwiSaver scheme to which the person previously belonged) and,
  - (a) at least 3 years have expired after the Commissioner received the first contribution in respect of the person (whether or not a contribution in relation to the scheme of which the member is currently a member); or



- (b) the person has been a member of 1 or more KiwiSaver schemes or complying superannuation funds for a combined total period of 3 years or more.
- (2) An amount of contribution that is deducted from salary or wages under this Act is treated, for the purpose of subclause (1)(a), as received by the Commissioner, -
  - (a) for employment income information received by the Commissioner that includes the date of the payday on which the deduction was made, on that date; or
  - (b) otherwise on the 15th day of the month in which the deduction is made.
- (3) A member to whom this Clause applies may make a withdrawal from the KiwiSaver scheme of which the member is currently a member for the purchase of an estate in land located in New Zealand (whether alone or as a joint tenant or tenant in common) if:
  - (a) the purchase is made in the prescribed circumstances; or
  - (b) both of the following apply:
    - (i) the land is, or is intended to be, the principal place of residence for the member or for the member and members of the member's family; and
    - (ii) the member has not, at any time before applying to make a withdrawal under this Clause (whether before or after becoming a member of the KiwiSaver scheme) held an estate in land (whether alone or as a joint tenant or tenant in common); or
  - (c) both of the following apply:
    - (i) the land is, or is intended to be, the principal place of residence for the member or for the member and members of the member's family; and
    - (ii) the member is a qualifying person under the regulations.
- (3B) A member to whom this Clause applies may make a withdrawal from the KiwiSaver scheme of which the member is currently a member for the purchase of an interest in a dwellinghouse on Maori land if:
  - (a) the purchase is made in the prescribed circumstances; or
  - (b) both of the following apply:
    - (i) the dwellinghouse is, or is intended to be, the principal place of residence for the member or for the member and the member's family; and
    - (ii) the member has not, at any time before applying to make a withdrawal under this Clause (whether before or after becoming a member of the

KiwiSaver scheme), held an estate in land (whether alone or as a joint tenant or tenant in common); or

- (c) both of the following apply:
  - (i) the dwellinghouse is, or is intended to be, the principal place of residence for the member or for the member and the member's family; and
  - (ii) the member is a qualifying person under the regulations.
- (4) A member may not make a withdrawal under this Clause of more than an amount equal to the member's accumulation, at the time of the withdrawal, less the total of the following 2 amounts:
  - (a) \$1,000;
  - (b) the amount that was transferred from an Australian complying superannuation scheme (disregarding any positive or negative returns for the purpose of calculating that amount).
- (5) If a person holds an estate in land in any of the following circumstances, that estate must be disregarded for the purposes of subclauses (3)(b)(ii) and (3B)(b)(ii):
  - (a) the person holds the estate in land as a bare trustee;
  - (b) the estate in land is a leasehold estate;
  - (c) the estate in land is an interest in Maori land;
  - (d) the person holds the estate in land as a trustee who—
    - (i) is a discretionary, contingent, or vested beneficiary under the relevant trust; but
    - (ii) has no reasonable expectation of being entitled to occupy the land as the principal place of residence for the person or the person's family until the death of the person who currently occupies the land (the occupier) or the death of the occupier's survivor.
- (6) In this Clause:
  - (a) dwellinghouse means a building that is intended to have as its principal use occupation as a private residence
  - (b) estate means a fee simple estate, a leasehold estate, or a stratum estate
  - (c) Maori land has the same meaning as in the Te Ture Whenua Maori Act 1993.

- (7) It is a condition of subclauses (3) and (3B) that:
- (a) any withdrawal made under the relevant provision must be paid—
    - (i) first, from the member's accumulation excluding the Crown Contribution (disregarding any positive or negative returns for the purpose of calculating the amount of that contribution) paid in respect of the member; and
    - (ii) second, from the Crown Contribution (including any positive or negative returns for the purpose of calculating the amount of that contribution), less the amount paid under Section 226; and
  - (b) any withdrawal made under the relevant provision must be paid to a practitioner (within the meaning of Section 6 of the Lawyers and Conveyancers Act 2006) acting on behalf of the member; and
  - (c) the manager must require from that practitioner, before payment of the withdrawal,
    - (i) a copy of an agreement for the sale and purchase (the agreement) of the estate in land or of the interest in a dwellinghouse on Maori land, showing the member as purchaser; and
    - (ii) for an interest in a dwellinghouse on Maori land, evidence of the member's right to occupy the Maori land; and
    - (iii) an undertaking that the agreement is unconditional at the time the manager makes the request or, if the agreement is conditional, an undertaking that—
      - (A) payment of any amount of the withdrawal will be held by a stakeholder; and
      - (B) the stakeholder is obliged to hold the amount while the agreement is conditional; and
    - (iv) if the agreement is unconditional at the time the manager makes the request, an undertaking that the amount will be paid to the vendors as part of the purchase price or will be repaid to the manager on account of the member if settlement of the agreement is not completed in accordance with the agreement by the due date or any extended date; and
    - (v) if the agreement is conditional at the time the manager makes the request, an undertaking that:

- (A) the stakeholder is obliged to repay the amount to the practitioner if settlement of the agreement is not completed in accordance with the agreement by the due date or any extended date (non-completion), but excepting non-completion due to the purchaser's default; and
  - (B) the practitioner will repay the amount that the practitioner receives from the stakeholder to the manager on account of the member.
- (8) This Clause is subject to the terms of any participation agreement that restricts or prevents the withdrawal of employer vested contributions that are not compulsory employer contributions in relation to the member.

## 9 WITHDRAWAL ON DEATH

If a member dies, the manager must:

- (a) on application by the member's personal representative, pay to that person an amount that is equal to the value of the member's accumulation at the date on which the application is accepted as part of the member's estate; or
- (b) if the requirements of Section 65 of the Administration Act 1969 are met, pay to the relevant person any sum authorised by that Section, subject to that Act.

## 10 WITHDRAWAL IN CASES OF SIGNIFICANT FINANCIAL HARDSHIP

- (1) If the manager (in the case of a restricted KiwiSaver scheme) or the supervisor (in the case of any other KiwiSaver scheme) is reasonably satisfied that a member is suffering or is likely to suffer from significant financial hardship, the member may, on application to that manager or supervisor in accordance with Clause 13, make a significant financial hardship withdrawal in accordance with this Clause.
- (2) The amount of that significant financial hardship withdrawal may, subject to the manager's approval (in the case of a restricted KiwiSaver scheme) or the supervisor's approval (in the case of any other KiwiSaver scheme) under subclause (3), be up to the value of the member's accumulation less the amount of the Crown Contribution (disregarding any positive or negative returns for the purpose of calculating the amount of the Crown Contribution) on the date of withdrawal.
- (3) The manager (in the case of a restricted KiwiSaver scheme) or the supervisor (in the case of any other KiwiSaver scheme)—
  - (a) must be reasonably satisfied that reasonable alternative sources of funding have been explored and have been exhausted; and
  - (b) may direct that the amount withdrawn be limited to a specified amount that, in the opinion of the manager (in the case of a restricted KiwiSaver scheme) or the

supervisor (in the case of any other KiwiSaver scheme), is required to alleviate the particular hardship.

## 12 WITHDRAWAL IN CASES OF SERIOUS ILLNESS

- (1) In addition to a withdrawal on the grounds of serious illness under Clause 11(1)(g), if the manager (in the case of a restricted KiwiSaver scheme) or the supervisor (in the case of any other KiwiSaver scheme) is reasonably satisfied that a member is suffering from serious illness, the member may, on application to the manager (in the case of a restricted KiwiSaver scheme) or the supervisor (in the case of any other KiwiSaver scheme) in accordance with Clause 13, make a serious illness withdrawal in accordance with this Clause.
- (2) The amount of that serious illness withdrawal may be up to the value of the member's accumulation.
- (3) In this Clause, serious illness means an injury, illness, or disability—
  - (a) that results in the member being totally and permanently unable to engage in work for which he or she is suited by reason of experience, education, or training, or any combination of those things; or
  - (b) that poses a serious and imminent risk of death.

## 12B WITHDRAWAL IN CASES OF LIFE-SHORTENING CONGENITAL CONDITIONS

- (1) A member may apply under this clause for a withdrawal, in addition to a withdrawal on the grounds of serious illness under clause 11(1)(g) or 12, when the member suffers from a condition that exists from the date of their birth—
  - (a) that is identified as a life-shortening congenital condition by a regulation made under section 228(1)(mb) (a **listed condition**); or
  - (b) for which the member has medical evidence to verify that the congenital condition is expected to reduce life expectancy below the New Zealand superannuation qualification age for the member or for persons in general with the condition (a **non-listed condition**).
- (2) The member may apply under clause 13 for a congenital condition withdrawal to the manager (in the case of a restricted KiwiSaver scheme) or supervisor (in the case of any other KiwiSaver scheme) if,—
  - (a) for a listed condition that exists for a person from the date of their birth, the manager or the supervisor, as applicable, is satisfied that a medical certificate issued by a medical practitioner verifies that the member suffers from the condition:

- (b) for a non-listed condition that exists for a person from the date of their birth, the manager or the supervisor, as applicable, is satisfied that a medical certificate issued by a medical practitioner verifies that—
  - (i) the condition is a life-shortening congenital condition for the member or for persons in general with the condition; and
  - (ii) the member suffers from the condition.
- (3) The member may choose the amount of the congenital condition withdrawal, which may be up to the value of their accumulation.
- (4) For the purposes of the KiwiSaver scheme rules, a member who makes a congenital condition withdrawal is treated as if—
  - (a) they are not a grandparented member; and
  - (b) they have reached the New Zealand superannuation qualification age referred to in clause 4(1).
- (5) A withdrawal under this clause does not prevent a member continuing in paid employment. However, no Crown contribution or compulsory employer contribution is payable in relation to the member's continuing contributions

#### **14 WITHDRAWAL OR TRANSFER TO FOREIGN SCHEME IN CASES OF PERMANENT EMIGRATION**

- (1) Unless Clause 14B applies, a member may, on application to the manager, and no earlier than 1 year after the member's permanent emigration from New Zealand, withdraw an amount equal to the member's accumulation, at the time of the withdrawal, less the total of the following 2 amounts:
  - (a) the amount of the Crown Contribution arising from a tax credit under Section MK 1 of the Income Tax Act 2007 (disregarding any positive or negative returns for the purpose of calculating the amount of the Crown Contribution);
  - (b) the amount that was transferred from an Australian complying superannuation scheme (disregarding any positive or negative returns for the purpose of calculating that amount).
- (2) Unless Clause 14B applies, a member may, on application to the manager, at any time after the member's permanent emigration from New Zealand, have the manager transfer to a foreign superannuation scheme authorised for that purpose under regulations made under Section 228 the member's accumulation, less the total of the following 2 amounts:
  - (a) the amount of the Crown Contribution arising from a tax credit under Section MK 1 of the Income Tax Act 2007 (disregarding any positive or negative returns for the purpose of calculating the amount of the Crown Contribution);

- (b) the amount that was transferred from an Australian complying superannuation scheme (disregarding any positive or negative returns for the purpose of calculating that amount).
- (3) An application under subclause (1) or (2) must be in the form required by the manager and must include—
  - (a) a completed statutory declaration in respect of the member to the effect that the member has permanently emigrated from New Zealand; and
  - (b) proof to the satisfaction of the manager—
    - (i) of the member's departure from New Zealand (for example, evidence of confirmed travel arrangements, passport evidence, and evidence of any necessary visas); and
    - (ii) that the member has resided at an overseas address at some time during the year following the member's departure from New Zealand.
- (4) The manager may require that any other documents, things, or information produced in an application under subclause (1) or (2) be verified by oath, statutory declaration, or otherwise.

#### **14B EXCEPTIONS TO CLAUSE 14 FOR AUSTRALIAN PERMANENT EMIGRATION**

- (1) This Clause applies for a KiwiSaver scheme (but not for a complying superannuation fund) after a member's permanent emigration to Australia.
- (2) At any time after the member's permanent emigration to Australia, a member may, on application to the manager, have the manager transfer the member's accumulation to an Australian complying superannuation scheme.
- (3) As soon as practicable after receiving a satisfactory application, the manager must transfer the whole of the member's accumulation to the relevant Australian complying superannuation scheme and provide that scheme with any necessary information it reasonably requires.
- (4) An application under subclause (2) must be in the form required by the manager and must include—
  - (a) a completed statutory declaration in respect of the member to the effect that the member has permanently emigrated to Australia; and
  - (b) proof to the satisfaction of the manager—
    - (iii) of the member's departure from New Zealand (see, for examples of proof: Clause 14(3)(b)(i)); and

- (iv) that the member has resided at an Australian address at some time following the member's departure from New Zealand.
- (5) The manager may require that any other documents, things, or information produced in an application under subclause (2) be verified by oath, statutory declaration, or otherwise.

**14C WITHDRAWAL TO MEET TAX LIABILITY ON FOREIGN SUPERANNUATION WITHDRAWAL**

- (1) A member may, on application to the trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case of any other KiwiSaver scheme), withdraw an amount for the payment of the member's liability for—
  - (a) tax, other than interest or penalties, arising under the Income Tax Act 2007 from the member's withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme;
  - (b) repayment obligations arising under the Student Loan Scheme Act 2011 from the member's withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme.
- (2) The amount withdrawn under—
  - (a) subclause (1)(a) may not exceed the lesser of—
    - (i) the member's liability for tax referred to in that paragraph;
    - (ii) the member's liability for terminal tax in the tax year to which the tax relates;
  - (b) subclause (1)(b) may not exceed the member's repayment obligations referred to in that paragraph.
- (3) An amount withdrawn under subclause (1) may not exceed the value at the time of the withdrawal of the member's accumulation less the amount of the Crown Contribution.
- (4) An application under subclause (1) must—
  - (a) be made within the period of 24 months beginning from the end of the month in which the liability of the member for tax or student loan repayments is assessed; and
  - (b) be in the form required by the trustees or manager (as the case may be); and
  - (c) must include a completed statutory declaration giving the relevant details of the foreign superannuation withdrawal, the reinvestment, and the resulting liability of the member for tax under the Income Tax Act 2007; and



- (d) must include any documents and other information that may be required by the trustees or manager (as the case may be) in support of the statutory declaration.
- (5) The trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case of any other KiwiSaver scheme) must—
  - (a) provide to the Commissioner of Inland Revenue, in a form satisfactory to the Commissioner, the details of any withdrawal made by a member under subclause (1); and
  - (b) if payment to a person other than the member is possible, pay to the Commissioner the amount of the withdrawal.

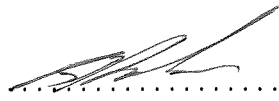
**EXECUTION AND DATE**

Executed as a deed.

Date:

Signed by **Simon Brodie** in the presence of:

  
.....  
Signature of witness

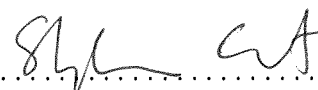
  
.....  
Signature of Simon Brodie

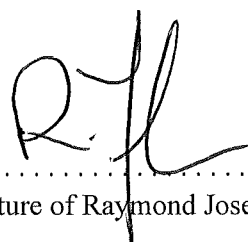
STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

393 CHATSWORTH RD., SILVERSTREAM  
.....  
Address of witness  
WPFEC MUTI

Signed by **Raymond Joseph Carroll Fife** in the presence of:

  
.....  
Signature of witness

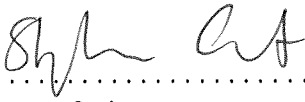
  
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Signature of Raymond Joseph Carroll Fife

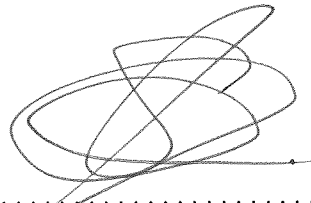
STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

393 CHATSWORTH ROAD, SILVERSTREAM, WPFEC MUTI  
.....  
Address of witness

Signed by **Joseph David Fleetwood** in the presence of:

  
.....  
Signature of witness

  
.....  
Signature of Joseph David Fleetwood

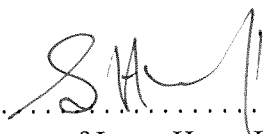
STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

396 CHATSWORTH RD, SILVERSTREAM  
.....  
Address of witness      UPPER HUTT

Signed by **James Henry King** in the presence of:

  
.....  
Signature of witness

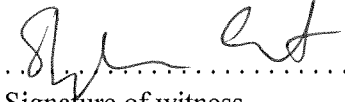
  
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Signature of James Henry King

STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

396 CHATSWORTH RD, SILVERSTREAM  
.....  
Address of witness      UPPER HUTT

Signed by **Russell Lawrence Mayn** in the presence of:

  
.....  
Signature of witness

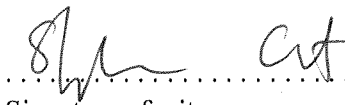
  
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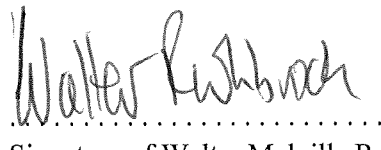
**STEVE GRANT**  
.....  
Name of witness (print)

**PRINCIPAL**  
.....  
Occupation of witness

**398 CHATSWORTH ROAD, SILVERSTREAM, UPPER HUTT**  
Address of witness

Signed by **Walter Melville Rushbrook** in the presence of:

  
.....  
Signature of witness

  
.....  
Signature of Walter Melville Rushbrook

**STEVE GRANT**  
.....  
Name of witness (print)

**PRINCIPAL**  
.....  
Occupation of witness

**398 CHATSWORTH RD, SILVERSTREAM, UPPER HUTT**  
Address of witness

Signed by **John Brodie Stevens** in the presence of:

*Steve Grant*  
.....  
Signature of witness

*John Brodie Stevens*  
.....  
Signature of John Brodie Stevens

STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

396 CHATSWORTH RD., SILVERSTREAM, UPPER HUTT  
.....  
Address of witness

Signed by **Deepthi Pandadu Swarnapuri** in the presence of:

*Steve Grant*  
.....  
Signature of witness

*Deepthi*  
.....  
Signature of Deepthi Pandadu Swarnapuri

STEVE GRANT  
.....  
Name of witness (print)

PRINCIPAL  
.....  
Occupation of witness

396 CHATSWORTH RD., SILVERSTREAM, UPPER HUTT  
.....  
Address of witness

Signed by **Raymond Paul Welson** in the presence of:

*Steve Grant*  
.....  
Signature of witness

*Raymond Paul Welson*  
.....  
Signature of Raymond Paul Welson

*STEVE GRANT*  
.....  
Name of witness (print)

*PRINCIPAL*  
.....  
Occupation of witness

*39 B CHATSWORTH RD, SILVERSTREAM, UPPER HUTT*  
.....  
Address of witness

Signed by **David William Young** in the presence of:

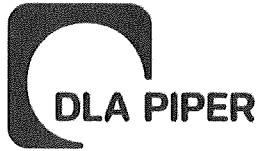
*Steve Grant*  
.....  
Signature of witness

*David William Young*  
.....  
Signature of David William Young

*STEVE GRANT*  
.....  
Name of witness (print)

*PRINCIPAL*  
.....  
Occupation of witness

*39B CHATSWORTH RD, SILVERSTREAM, UPPER HUTT*  
.....  
Address of witness



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Our ref: 1029284

3 November 2020

The Trustees of the Maritime  
KiwiSaver Scheme  
C/- Melville Jessup Weaver  
Level 7, KiwiWealth House  
20 Ballance Street  
WELLINGTON 6011

**CERTIFICATE PURSUANT TO SECTION 139 OF THE FINANCIAL MARKETS  
CONDUCT ACT 2013 (ACT)**

We certify that the trust deed for Maritime KiwiSaver Scheme dated 31 March 2016, when amended as proposed in accordance with the **attached** Trust Deed, will comply with sections 135 to 137 of the Financial Markets Conduct Act 2013 and will not contain any provision that is contrary to those implied in the Trust Deed by or under the Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alasdair McBeth'.

**Alasdair McBeth**

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A list of offices and regulatory information can be found at [www.dlapiper.com](http://www.dlapiper.com).

11 November, 2020

Our Ref: KSS/10032

The Trustees  
Maritime KiwiSaver Scheme  
c/o DLA Piper New Zealand  
PO Box 2791  
**WELLINGTON 6140**

**Attention: Neisha Mistry**

**FINANCIAL MARKETS CONDUCT ACT 2013  
TRUST DEED AMENDMENT CONSENT APPLICATION**

Thank you for your email dated 10 November 2020 and attachments regarding the proposed Deed of Amendment, for the Maritime KiwiSaver Scheme and the Solicitor's sign off. I also acknowledge the prior correspondence regarding the proposed amendment.

Your email requests the Financial Markets Authority exercise its power under section 139(1) of the Financial Markets Conduct Act 2013 and consent to the proposed draft Deed of Amendment to the trust deed of the Maritime KiwiSaver Scheme which is a restricted KiwiSaver scheme.

The Financial Markets Authority is satisfied that the draft Deed of Amendment attached to the Solicitors compliance certificate does not have a material adverse effect on the scheme participants and hereby grants its consent.

I enclose an invoice for the time taken to consider the application. Please pay promptly.

Yours faithfully



Gavin Quigan  
Principal Adviser – Restricted Managed Investment Schemes  
Financial Markets Authority

Direct Line 0-4-474 2430