

The SuperLife KiwiSaver scheme

**Trust Deed
Effective 28 March 2007**

DEED dated the 28th day of March 2007.

Between:

Parties:

1. **SUPERLIFE TRUSTEE LIMITED** ("the Trustee")
2. **SUPERLIFE LIMITED** ("the Company").

AND is supplemental to a trust deed dated 29 November 2006 ("the First Deed") between the Trustee and the Company and that established SuperLife KiwiSaver ("the Plan").

Introduction

- A. Clause 14(d) of the First Deed states that the Trustee may by deed vary all or any of the provisions of the First Deed subject first to the provisions of the Superannuation Schemes Act 1989 and secondly to the requirement in proviso B of clause 14(d) that the Plan's status as an approved KiwiSaver scheme not be prejudiced.
- B. The Trustee wishes to vary the provisions of the First Deed in the manner set out below to, *inter alia*, accommodate the final changes to the KiwiSaver Bill before it became law on 1 December 2006 and, in accordance with clause 1 of the First Deed to apply to the Government Actuary for approval as a "KiwiSaver scheme" as that expression is defined in the KiwiSaver Act 2006;
- C. As the Plan has not yet been approved as a KiwiSaver scheme, proviso (B) of clause 14(d) of the First Deed does not affect the amendments made by this deed.
- D. At the date of the amendments made by this deed, the Plan has no members and no assets so that the provisions of sections 138 to 140 of the KiwiSaver Act 2006 will not apply in respect of any proposal by the Trustee under section 135 of that Act.

This deed witnesses

1. **Replacement of First Deed**

With effect from the date of this deed the Trustee varies the provisions of the First Deed by replacing those provisions in their entirety with the provisions of this deed and the Company agrees to continue to be bound by the provisions of this deed.

2. **Continuation of Plan**

The continuation of the Plan is confirmed and the principal purpose for which the Plan was established, namely the provision of retirement benefits to Beneficiaries is also confirmed.

3. **Name**

The Plan shall continue to be known as "SuperLife KiwiSaver".

4. **Definitions**

In the Trust Deed unless the context requires otherwise:-

"Act" means the Superannuation Schemes Act 1989.

"Auditor" means a person who is the holder of a certificate of public practice issued by the Institute of Chartered Accountants of New Zealand and who has been appointed auditor of the Plan by the Trustee.

"Beneficiary" means any Member or other person either presently or contingently entitled to any benefit from the Plan.

"Buying Price" means the price at which Units are allocated as determined by the Trustee from time to time in accordance with clause 9(b).

"Company" means SuperLife Limited and includes any other company which as a result of amalgamation, reconstruction or otherwise is for the time being carrying on the business of the Company and which shall agree to be bound by the provisions of the Trust Deed.

"Employee" means in respect of an Employer any person whom the Trustee deems for the purposes of the Plan to be in the Employer's Service.

"Employee Member" means an Employee who is a Member PROVIDED THAT if an Employee Member shall leave Service and remain a Member, the Employee Member shall cease to be an Employee Member and shall continue as an Individual Member.

"Employer" means the Company and any company or entity in respect of which the Trustee at its sole discretion agrees to allow such company's or entity's employees to participate in the Plan, and in respect of a Member or an Employee means the Employer by which the Member or Employee is employed or was last employed as the case may be and includes any State Sector Employer.

"Employer Section" means a section of the Plan established in accordance with clause 18.

“Enrolled Member” means a natural person in respect of whom the Trustee has received a contribution but who has not personally completed the formalities of becoming an Individual Member.

"Fund" means the assets for the time being held by or on behalf of the Trustee for the purposes of the Plan and includes:-

- (i) any contributions paid to the Plan by Beneficiaries and by the Employers;
- (ii) Transfer Values received in respect of Beneficiaries;
- (iii) all other property received, derived or acquired by the Trustee for the purposes of the Plan.

“Inactive Account” in respect of a Member at any date and means the Member’s Retirement Account to which no contributions have been credited for two years immediately preceding that date.

“Individual Member” means a person who has been admitted to membership of the Plan other than as an Employee of an Employer and who has not ceased to be a Member under clause 6(b).

“KiwiSaver Act” means KiwiSaver Act 2006.

“KiwiSaver Scheme” means a superannuation scheme that is registered as a “KiwiSaver scheme” as that expression is defined in the KiwiSaver Act.

"Member" means a natural person who is an Employee Member, an Enrolled Member or an Individual Member and who has a balance in his or her Retirement Account of more than zero subject however to the provisions of clause 6(b).

“Mix” means a named selection of the Pools in the proportions determined by the Trustee from time to time and announced to Beneficiaries.

“Mortgage Diversion Plan” means an agreement between a Member and the Trustee under clause 10(d).

"Organisation" means a society or other body in respect of which the Trustee at its sole discretion agrees to allow such body’s members to participate in the Plan, and in respect of a Member means the Organisation to which the Member belongs.

"Organisation Section" means a section of the Plan established in accordance with clause 19.

"Plan" means the superannuation scheme constituted and governed by the Trust Deed under which benefits are payable to Beneficiaries.

"Plan Year" means the period commencing on 1 April of one year and ending on 31 March in the next year PROVIDED THAT the Trustee may at any time determine that Plan Year means another period commencing and ending on another date or dates.

“Pool” means a specified section of the Fund into which the Trustee may have segregated part of the assets of the Plan from time to time under clause 16(l).

"Reserve Account" means the Reserve Account as defined in clause 13.

"Retirement Account" means in respect of a Member the Retirement Account as defined in clause 8.

"Schedule" means a schedule annexed to the Trust Deed from time to time which is in force and in respect of a Beneficiary, "Schedule" shall mean the Schedule or Schedules applicable to that Beneficiary.

"Service" means in respect of an Employee Member continuous, permanent employment under a contract of service or apprenticeship with an Employer including employment while a director, any period of temporary absence approved by an Employer and notified to the Trustee and any period deemed by the Trustee to be Service. In the event of any doubt as to whether the requirements of Service have been fulfilled the decision of the Trustee shall be final.

“Significant Hardship” in the case of a Member means that the Member has the financial consequences of an unforeseen adverse event or circumstance of a kind described in clause 11 (financial hardship) or clause 12 (serious illness) of schedule 1 of the KiwiSaver Act.

“State Pension Age” means the age from which a New Zealand resident can qualify to become entitled to the standard New Zealand Superannuation benefit payable to a single person under the New Zealand Superannuation and Retirement Income Act 2001.

“State Sector Employer” means an employer in the state services within the meaning of the State Sector Act 1988 or any person or organisation that participates in the Plan for the purposes of establishing a superannuation scheme for its officers or employees under section 84A of the State Sector Act 1988.

"Transfer Value" means any assets received from or paid to another superannuation scheme under clause 11.

"Trust Deed" means this deed as varied from time to time.

"Trustee" means the trustee or trustees for the time being of the Plan.

"Unit" means an undivided part or share in a Pool.

"Valuation Price" means the price at which Units are realised as determined by the Trustee from time to time in accordance with clause 9(b).

5. Interpretation

In this deed where the context so admits:-

- (i) words implying one gender shall include all genders;
- (ii) words implying the singular number shall include the plural and vice versa;
- (iii) any reference to a statute or to any regulation (or to any particular clause or section) shall if the Trustee so decides include a reference to any subsequent statutory modification or re-enactment and regulations made thereunder or any amendment thereof;
- (iv) the headings to the Trust Deed are for convenience of reference only and are not to be construed as part of the Trust Deed;
- (v) the Trust Deed shall in all respects be governed by and interpreted according to the laws of New Zealand and the Fund shall be denominated in New Zealand currency and nothing in the Trust Deed shall require the Trustee to make any payments other than in New Zealand and in New Zealand currency.

6. Eligibility

(a) Eligibility

(i) Employee Members: An Employee shall be eligible to apply to join the Plan and shall make written application in such form as the Trustee may from time to time require. Upon acceptance by the Trustee such Employee shall become an Employee Member and shall be deemed to have become a Member on the date advised to the Member by the Trustee.

(ii) Individual Members: A person wishing to become an Individual Member whether as a member of an Organisation or otherwise may make written application in such form as the Trustee may from time to time require to apply to join the Plan. Upon acceptance by the Trustee such person shall become an Individual Member and shall be deemed to have become a Member on the date advised to the Member by the Trustee.

(iii) Enrolled Members: If the Trustee receives a contribution in terms of the KiwiSaver Act from the Inland Revenue in respect of a person who is not already a Member then the Trustee shall thereupon deem that person to be an Enrolled Member and shall arrange for the Enrolled Member to complete a written application in such form as the Trustee may from time to time require to become either an Employee Member (if the Enrolled Member's employer is an Employer) or an Individual Member.

(b) Cessation of membership

Unless the Trustee shall otherwise decide, a Member shall cease to be a Member when the Member's balance in his or her Retirement Account is zero and the Trustee gives notice to the Member that the Member's membership has ceased.

7. **Contributions**

Each Member shall contribute to the Plan the amount deducted from the Member's regular remuneration together with other amounts in respect of the Member forwarded by the Inland Revenue to the Trustee from time to time in accordance with the requirements of the KiwiSaver Act and with such regulations, not inconsistent with the requirements of the KiwiSaver Act, as the Trustee may establish in respect of all Members or specified classes of Members and announce to the relevant Members in respect of any additional contributions to those received in respect of the Member from the Inland Revenue and that shall take the form of either:

- (i) a single lump sum contribution of a minimum amount of \$10 or;
- (ii) a regular additional contribution, which shall:
 - (a) in the case of an Employee Member be deducted from the Employee Member's regular remuneration by the Employer, or
 - (b) in the case of an Individual Member be deducted from the Member's bank account by the Trustee, or
 - (c) in the case of any Member, be secured in a manner agreed between the Member and the Trustee and paid to the Trustee at such times as the Trustee shall from time to time decide

PROVIDED THAT

- (A) The minimum lump sum contribution amount may be altered at the Trustee's discretion from time to time on such basis as the Trustee decides and announces;
- (B) The Employer in respect of an Employee Member may also contribute to the Plan in respect of the Employee Member the amounts set out on the terms described in the Employer Section that applies to the Employee Member PROVIDED THAT if the amounts contributed in respect of an Employee Member by the Employer form part of the amount that the Employee Member specifies under section 64 of the KiwiSaver Act as being the Employee Member's contribution rate then, to the extent of the Employer's contributions that the Employee Member so specifies to the Employer in writing in this regard in terms of section 66 of the KiwiSaver Act, such specified contributions shall, notwithstanding any other provision in the Employer Section, be vested completely in the name of the Employee Member immediately after the Plan receives the specified contributions;

- (C) A Member may cease contributions in accordance with the requirements of the KiwiSaver Act.

8. Retirement Account

- (a) The Trustee shall in respect of each Beneficiary who is a Member establish and maintain an account, known as the Retirement Account of the Beneficiary, which shall from time to time be credited or debited as appropriate, with:
 - (i) contributions by or in respect of the Beneficiary under clause 7;
 - (ii) any interest, dividends and other income less an amount which represents the investment management fees payable and the liability or potential liability for taxation in respect of such income as determined by the Trustee;
 - (iii) any Transfer Value received from another superannuation scheme in respect of the Beneficiary under clause 11(a) or paid to another superannuation scheme in respect of a Beneficiary under clause 11(b);
 - (iv) any contributions towards the management and administration expenses received by the Plan in respect of the Beneficiary;
 - (v) management and administration expenses payable in respect of the Beneficiary under clause 14(a) and any fees of the Trustee payable in respect of the Beneficiary under clause 16(m);
 - (vi) the value of any benefit delivered or paid to or in respect of the Beneficiary.
- (b) The Trustee shall be entitled to establish sub-accounts of the Retirement Account in respect of a Beneficiary as it deems appropriate and necessary. Any amount credited to the Beneficiary's Retirement Account under (i) or (iii) or (iv) above and any other amount held to the credit of the Beneficiary's Retirement Account shall be invested in accordance with the Beneficiary's election as advised to the Trustee from time to time having regard to such regulations as the Trustee may establish and announce to Beneficiaries PROVIDED THAT in the case of an Enrolled Member the amount held to the credit of the Beneficiary's Retirement Account shall be invested in the "Cash Pool" (or in a sub-account that comprises cash-type investments) until the Enrolled Member becomes either an Employee Member or an Individual Member, completes the appropriate investment election and advises the Trustee accordingly.
- (c) If an Employee Member or an Individual Member fails to complete an investment election under clause 8(b) the Trustee shall credit any amounts received in respect of such Members to the investment option nominated from time to time by the Trustee as the Plan's "default" investment option.

- (d) If the Retirement Accounts are to be maintained under a unitised system, as determined by the Trustee in its sole discretion, amounts credited or debited to a Retirement Account shall be dealt with under clause 9(a), (b) and (c).

9. Units

(a) Allocation of Units

If accounts are to be maintained under a unitised system as determined by the Trustee in its sole discretion, the allocation of Units shall be dealt with as provided for in this clause.

All amounts credited to a Beneficiary's Retirement Account or the Reserve Account shall be converted into Units in respect of each Pool chosen by the Beneficiary by dividing such amount by the last calculated Buying Price of the appropriate Pool.

For the purpose of any amount debited to a Beneficiary's Retirement Account or to any Pool to which an amount has been credited in respect of a Beneficiary or to the Reserve Account, the number of Units which when multiplied by the last calculated Valuation Price of the appropriate Pool is equivalent to such amount shall be deducted from the number of Units held in the Beneficiary's Retirement Account or from the Pool or the Reserve Account.

(b) Determination of Buying and Valuation Prices

The Buying Price of a Unit at any date shall be determined by the Trustee at its sole discretion having regard to:

- (i) the value at market prices of the underlying investments of the Plan increased by an allowance not exceeding the estimated costs of acquisition, and
- (ii) the total number of Units in force at that date.

The Valuation Price of a Unit at any date shall be determined by the Trustee at its sole discretion having regard to:

- (iii) the value at market prices of the underlying investments of the Plan reduced by an allowance not exceeding the estimated costs of sale, and
- (iv) the total number of Units in force at that date.

(c) Segregation of assets

Where the Trustee has segregated the assets of the Plan into Pools pursuant to clause 16(l), the Buying Price and the Valuation Price shall be determined by the Trustee separately in respect of each Pool.

(d) General provision relating to accounts

The Trustee shall be entitled to maintain the Reserve Account and the Retirement Account in respect of each Beneficiary in a manner other than that provided under clause 9(a), (b) and (c) and in accordance with such regulations as the Trustee may determine and announce to Beneficiaries from time to time.

10. Benefits

(a) Retirement benefit and payment of retirement benefit

On the later of reaching State Pension Age or having been a member of a KiwiSaver Scheme for five years, the Member may :

- (1) elect to receive the full amount standing to the credit of the Member's Retirement Account and/or any part thereof as a cash lump sum and/or
- (2) elect to transfer the amount then standing to the credit of his Retirement Account to another superannuation scheme and/or
- (3) elect to leave some or all of the amount then standing to the credit of his Retirement Account in the Plan and an Employee Member making this election shall thereupon become an Individual Member.

(b) Death benefit and payment of death benefit

If a Beneficiary who is a Member dies there shall be payable to the deceased Beneficiary's personal representatives for the benefit of the deceased Beneficiary's estate a benefit equal to the amount standing to the credit of the deceased Beneficiary's Retirement Account.

(c) On Significant Hardship

Notwithstanding the requirements of clause 10(a) a Member may at any time apply to the Trustee for the payment of a benefit in the event of the Member's Significant Hardship. The Trustee shall require the Member to supply evidence of the kind contemplated by clause 13 of schedule 1 of the KiwiSaver Act to support the application and shall have complete discretion as to the amount to be paid to or in respect of the Member and the conditions on which any amount is paid but otherwise the provisions of Clause 10(a) shall apply in respect of the benefit approved for payment under this sub-clause.

(d) Mortgage Diversion

Notwithstanding the requirements of clause 10(a) the Trustee shall on conditions set by it from time to time (and advised to Members) and in accordance with the requirements of the regulations made in this respect under section 229 of the KiwiSaver Act and following an application by a Member in writing pay to the Member's mortgagee regular amounts to the Member's credit in respect of the Member's mortgage advance from the mortgagee.

- (e) First Home Deposit

Notwithstanding the requirements of clause 10(a) the Trustee shall, if a Member applies in writing to the Trustee and otherwise complies with the requirements of section 8 of the KiwiSaver Act, pay to the Member the amounts permitted by section 8 of the KiwiSaver Act.

- (f) Other permitted benefits

Notwithstanding the other provisions of this clause 10, the Trustee shall be entitled to pay or apply the full amount standing to the credit of the Member's Retirement Account and/or any part thereof in any other circumstance that is permitted in terms of the KiwiSaver Act 2006.

- (g) Compliance with legislation

The Trustee shall comply with the terms of any legislation that requires it to pay part or all of a Member's Retirement Account in accordance with that legislation.

11. Transfers

- (a) Transfer into Plan

If a Member is entitled to a benefit under any other superannuation scheme (the "Transferor Plan") the Trustee shall, in accordance with the KiwiSaver Act, accept from the Transferor Plan a Transfer Value which the trustees thereof may be authorised to pay or transfer to the Plan in respect of such Member PROVIDED THAT the Member shall provide such information to the Trustee and to the Transferor Plan as they reasonably require to satisfy their obligations under the KiwiSaver Act.

Any such Transfer Value accepted by the Trustee shall be credited to the Member's Retirement Account.

- (b) Transfer out of Plan

If a Beneficiary shall advise the Trustee that the Beneficiary wishes to become a member of another superannuation scheme that is a KiwiSaver Scheme ("the Transferee Plan") the Trustee shall at the written request of the Beneficiary, instead of granting the Beneficiary the benefit to which he is entitled under the Plan, transfer to the Transferee Plan a Transfer Value determined by the Trustee as being the amount standing to the credit of the Beneficiary's Retirement Account at the date of transfer so that the Beneficiary shall become entitled to such rights under the Transferee Plan as may be agreed between the Trustee and the trustees of the Transferee Plan or other person authorised thereunder ("the Transferee") PROVIDED THAT:

- (A) The Beneficiary shall provide such information that the Trustee and the Transferee Plan reasonably require to satisfy their obligations under the KiwiSaver Act;
- (B) The Trustee shall in accordance with its obligations under the KiwiSaver Act supply the information required in respect of the Beneficiary to the Transferee Plan, the Inland Revenue and/or the Government Actuary;
- (C) The Trustee may in accordance with the provisions of section 9BAA of the Act transfer a Beneficiary or group of Beneficiaries under this sub-clause (mutatis mutandis) without requiring the written consent of the Beneficiary.

A Beneficiary in respect of whom a transfer is made under this clause shall not be entitled to any other benefit under the Plan and the receipt of the Transferee Plan shall be a complete discharge to the Trustee of all liability in respect of the Beneficiary under the Plan and the Trustee shall be under no liability to see to the application of the amount so transferred.

(c) Transfer out of Plan on permanent emigration

If following a Beneficiary's permanent emigration from New Zealand, the Beneficiary shall become a member of an overseas superannuation scheme that is authorised for this purpose under the KiwiSaver Act ("the Overseas Plan") the Trustee may with the consent of the Beneficiary, instead of granting the Beneficiary the benefit to which he is entitled transfer to the Overseas Plan a Transfer Value determined by the Trustee as being the amount standing to the credit of the Beneficiary's Retirement Account at the date of transfer so that the Beneficiary shall become entitled to such rights under the Overseas Plan as may be agreed between the Trustee and the trustees of the Overseas Plan or other person authorised thereunder ("the Overseas Transferee") PROVIDED THAT:

- (A) No transfer can be made under this clause before the expiry of 12 months after the date on which the Beneficiary left New Zealand;
- (B) The Beneficiary shall be required to provide such evidence and complete such documents as required by clause 14 of Schedule 1 of the KiwiSaver Act before the Trustee will consider an application under this sub-clause.

A Beneficiary in respect of whom a transfer is made under this clause shall not be entitled to any other benefit under the Plan and the payment to the Overseas Transferee shall be a complete discharge to the Trustee of all liability in respect of the Beneficiary under the Plan and the Trustee shall be under no liability to see to the application of the amount so transferred.

12. Provisions relating to benefits

(a) Benefits not assignable

Benefits and rights under the Plan are personal to the Beneficiary and no Beneficiary may assign, charge, borrow against the security of or otherwise alienate his benefits in any way PROVIDED THAT the Trustee shall give effect to any arrangement entered into by a Beneficiary and the Beneficiary's spouse in terms of the Property (Relationships) Act 1976 or any order of a Court of New Zealand the effect of which is to assign any benefit payable under the Plan.

(b) Information from Beneficiary

Each Beneficiary shall produce such evidence or information as may be reasonably required by the Trustee concerning the Beneficiary's entitlement under the Plan and until such evidence or information is produced the Trustee may withhold the payment of any benefit to such Beneficiary.

(c) Mis-statement of information

If any mis-statement is made by a Beneficiary, the Trustee shall be entitled to make adjustments as are reasonable and necessary to the benefits receivable by anyone in respect of the Beneficiary and the Trustee shall also be entitled to vary the terms of the Beneficiary's membership of the Plan to reflect such mis-statement.

(d) Deduction in respect of tax

If the Trustee becomes liable for the payment of any duty, tax or other money to any regulatory or governmental authority in respect of any benefit due to or in respect of a Beneficiary, the Trustee shall be entitled to deduct any such amount so payable from the benefit which would have been payable and to pay the balance of such benefit to or in respect of the Beneficiary in full satisfaction of the Beneficiary's entitlement to benefits under the Plan.

(e) Augmentation of benefits

The Trustee at the request of any person and upon the payment by that person of such additional contributions as the Trustee may consider appropriate shall augment any of the benefits provided in accordance with the Trust Deed for any Beneficiary or provide any other benefits and may establish and maintain such accounts as may be necessary for this purpose.

(f) Unclaimed benefits

The Trustee shall exercise reasonable diligence in tracing Beneficiaries entitled to immediate benefits from the Plan but in the event of the Trustee being unsuccessful any money otherwise potentially payable out of the Plan which is not claimed after the later of five years from the date on which a benefit would otherwise have been payable under clause 10(a) and five years after the last

contribution had been received by or in respect of the Beneficiary shall be paid to the Crown in accordance with section 77 of the Trustee Act 1956.

(g) Incapacity of Beneficiary

If a Beneficiary is in the opinion of the Trustee incapable of managing his own affairs the Trustee shall be entitled to withhold payment of any benefit payable in terms of the Trust Deed and shall thereupon apply such benefit to or for the benefit of the Beneficiary and in such manner as is determined by the Trustee.

(h) Advice on Retirement Account balance

Each Beneficiary shall have the right to be advised as soon as practicable after his request the amount standing to the credit of his Retirement Account.

(i) Annual report

The Trustee shall, within five months after the end of the Plan Year, prepare for that Plan Year a report which shall include the matters specified in the Act and in the KiwiSaver Act. Upon completion a copy of the report shall be given to each Beneficiary and to the Government Actuary PROVIDED THAT the Trustee shall not, unless the Beneficiary otherwise requests, be obliged to give a Beneficiary a copy of the report if the Beneficiary has an Inactive Account.

13. **Reserve Account**

The Trustee shall establish and maintain an account in its name known as the Reserve Account which shall from time to time be credited or debited, as appropriate, with:

- (a) any amounts received by the Trustee which are to be credited to the Reserve Account;
- (b) any interest, dividends and other income less an amount which represents the investment management fees payable and the liability or potential liability for taxation in respect of such income as determined by the Trustee;

Any amount standing to the credit of the Reserve Account shall be invested in accordance with the Trustee's decision from time to time.

The Reserve Account may be applied by the Trustee in all or any of the following ways:

- (1) increasing the Beneficiaries' Retirement Accounts;
- (2) payment of all or part of the expenses of the Plan as provided under clause 14(a);
- (3) payment of benefits in respect of those amounts forfeited under clause 12(g).

If the Reserve Account is to be maintained under a unitised system as determined by the Trustee in its sole discretion the amounts credited or debited to the Reserve Account shall be dealt with under clause 9(a), (b) and (c).

14. **Management and administration**

(a) Payment of expenses

The expenses of the management and administration of the Plan shall be met by the Beneficiaries on the basis of such regulations made from time to time by the Trustee and announced to the Beneficiaries PROVIDED THAT the expenses payable in respect of an Employee Member may be met in whole or in part by the Employer as decided by the Employer and to the extent that they are not met by the Employer shall be met by the Employee Member on the basis of such regulations made from time to time by the Trustee and announced to the affected Beneficiaries.

(b) Receipts cheques etc

The Trustee shall make all necessary arrangements for dealing with receipts and payments under the Plan and may resolve that cheques should be drawn or endorsed by any person it may appoint for the purpose or in such other manner as it may from time to time resolve. The Trustee may give, vary and revoke instructions as to the custody and disposal of any policies and securities, signature of proposal forms, certificates of membership and the giving of receipts and discharges (whether or not for policy moneys or payments) in connection with the Plan.

(c) Resolutions

Anything done or any document signed by a director or officer authorised under the common seal of the Trustee shall be effective as an act of the Trustee in terms of the Trust Deed.

(d) Amendments to Trust Deed

Subject to the provisions of the Act and the KiwiSaver Act, the Trustee may by deed vary all or any of the provisions of the Trust Deed including this clause and such changes may have retrospective effect PROVIDED THAT:

- (A) No amendment of the Trust Deed will be made which would have the effect of changing the Trust Deed or any Schedule (and any deed of participation relating to any Schedule) in respect of a State Sector Employer in such a manner that the administration and operation of the Plan in respect of the State Sector Employer or of any Member employed by the State Sector Employer could contravene the provisions of sections 84B(a) to (g) of the State Sector Act 1988;
- (B) No amendment of the Trust Deed will be made if it would prejudice the status of the Plan as a KiwiSaver Scheme.

(e) Preparation of accounts

The Trustee shall cause to be kept proper books of account in respect of each Plan Year of the Plan and shall at least once in respect of each Plan Year prepare annual accounts and shall arrange for such accounts to be audited by the Auditor, except where such audit is not required under the Act.

15. **Termination of Plan**

(a) Dissolution of the Plan

The Plan shall be dissolved from such date ("the Dissolution Date") as is determined by the Trustee as most appropriate and the Fund applied under clauses 15(b) to 15(d):-

- (i) if an order is made or resolution passed to place the Trustee in liquidation and no replacement is appointed under clause 16 (a), or
- (ii) if the Trustee resolves that the Plan is to be dissolved.

From the Dissolution Date no further contributions shall be payable to the Plan under clause 7 and the Trustee will thereupon comply with the requirements in the KiwiSaver Act in respect of the winding up of KiwiSaver Schemes.

(b) Expenses

Upon the dissolution of the Plan, the Trustee shall be entitled to set aside an amount which is considered necessary by the Trustee to meet any expenses of the administration, dissolution and winding up of the Plan and to meet any tax for which the Trustee may be accountable and which in the opinion of the Trustee may not in either case be recoverable from the Employers or Beneficiaries.

(c) Application of Fund

If the Plan is dissolved, the Trustee shall allocate the Fund, so far as the Fund permits, amongst each Member in proportion to the amount standing to the credit of the Member's Retirement Account as at the Dissolution Date. Any assets held by the Trustee at the Dissolution Date in respect of a death benefit which has become payable under clause 10(b) shall be distributed in accordance with the provisions of that clause and shall not form part of the Fund for purposes of distribution in accordance with this clause.

(d) Securing benefits on dissolution

The Trustee may, subject to the provisions of the Act and of the KiwiSaver Act, secure the benefits described in clause 15(c) at its sole discretion by one or more of the following:

- (i) by the payment of lump sums to any Beneficiaries who at the Dissolution Date have attained the later of State Pension Age and the completion of five years' membership of a KiwiSaver Scheme;
- (ii) in the case of every other Beneficiary by a transfer, with the consent of the Beneficiary whose benefit entitlements are being transferred, to another KiwiSaver Scheme nominated by the Beneficiary PROVIDED THAT if the Beneficiary refuses to consent to such a transfer, the Trustee shall pay the Beneficiary's benefit to another KiwiSaver Scheme specified by the Commissioner of Inland Revenue in accordance with the KiwiSaver Act and, failing such an instruction from the Commissioner, to a KiwiSaver Scheme chosen by the Trustee.

16. **Trustee - appointment of, rights and powers**

(a) Trustee

A corporate body shall be the sole trustee of the Plan.

The Trustee may resign as trustee of the Plan on giving the Members 90 days' notice in writing PROVIDED THAT before the Trustee's resignation takes effect the Trustee shall appoint by deed a replacement to the position of trustee.

(b) Officer may benefit

A trustee or a director or officer of a corporate trustee being a Beneficiary may retain for his own absolute benefit (subject to the conditions of the Plan) all money and benefits accruing to or in respect of him as a Beneficiary and no decision of the Trustee shall be invalidated on the ground that any trustee had a direct or personal interest in the result of any such decision or in the exercising of any power or discretion under the Trust Deed.

(c) Trustee's indemnity

Without prejudice to the right to indemnity by law given to trustees and subject to clause 16(d) and to the Securities Act 1978, each trustee and each director or officer of a corporate trustee shall except in the cases of fraud, wilful neglect, or breach of trust be entitled to be indemnified out of the Plan in respect of all liabilities and expenses incurred by such trustee or director or officer of a corporate trustee in the execution or purported execution of the trusts of the Plan or in the exercise of any powers, authorities or discretions vested in the Trustee by the Trust Deed and against all actions, proceedings, costs, expenses, claims or demands in respect of any matter or thing done or omitted in any way relating to the Trust Deed and the Trustee may retain and pay out of the Fund all sums necessary to give effect to such indemnity.

(d) Limitation of liability

No Beneficiary shall have any claim for benefits hereunder against any Employer or its funds and, subject to the Securities Act 1978, no trustee or director or officer of a corporate trustee or the Company shall be liable for:-

- (i) any losses other than those arising from his own fraudulent acts, wilful neglect or breach of trust;
- (ii) any fraudulent acts, omissions, wilful neglect or breach of trust of a co-trustee, co-director or co-officer except in the case where he has actual prior knowledge;
- (iii) any act done or omitted to be done bona fide in conforming with the decisions of the Trustee hereunder;
- (iv) the acts or defaults of any actuary, solicitor, banker, accountant, broker, adviser or other agent or any clerk employed in good faith by the Trustee.

(e) Indemnities

The Trustee may give any indemnity in connection with the exercise of the powers of the Trustee under the Trust Deed and may bind the Plan to give effect thereto.

(f) General power

The Trustee may in its discretion enter into all such contracts, deeds and documents and do all such acts, matters and things as the Trustee may deem expedient for the purpose of securing the benefits referred to in the Trust Deed or for otherwise effectuating and carrying out the trusts, authorities, powers and discretions conferred on the Trustee in the Trust Deed.

(g) Power to delegate

The Trustee may delegate any of its duties and powers under the Trust Deed to any one or more of its directors or officers.

(h) Power to borrow

The Trustee may borrow any money for the purpose of the Plan upon such terms and conditions as thought fit by the Trustee and may also charge all or any part of the Fund with repayment and payment of interest on any money so borrowed.

(i) Appointment of nominees etc.

The Trustee may employ such nominees or agents as reasonably thought fit by the Trustee in the transaction of any business of the Plan including the holding of assets or the administration of the records of the Plan or the payment of

benefits and any valid receipt therefor given to such agents shall be a good and sufficient discharge to the Trustee.

(j) Power of investment

The Trustee shall invest the Fund in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds and notwithstanding anything to the contrary in Section 13D(1) of the Trustee Act 1956 the Trustee shall, in exercising the power of investment, exercise the care, diligence and skill required of that person or body by Sections 13B or 13C of the Trustee Act 1956 as is applicable.

(k) Investment Manager

Without prejudice to the powers conferred upon the Trustee by general law or by clause 16(i) the Trustee may appoint and remove one or more investment managers (whether a company or an individual) to the Plan ("the Investment Manager") on terms to be agreed between the Trustee and such Investment Manager. The Investment Manager may have such powers and duties in relation to the investment of assets of the Plan including the power to determine and make particular investments in accordance with the provisions of clause 16(j) as decided by the Trustee. The Trustee shall impose on any Investment Manager appointed under this sub-clause a binding obligation that it will, in exercising its power of investment, exercise the care, diligence and skill required by Section 13C of the Trustee Act 1956 as if it were a Trustee.

(l) Segregation of assets

The Trustee shall have the power to segregate the assets of the Plan into a number of different investment pools or mixes of those pools in order to be able to offer Members a choice on how the amount credited to the Retirement Account of each such Member is invested from time to time. The Members' respective interest in such different investment pools shall be divided into Units as provided under clause 9 or otherwise accounted for under clause 8 and shall be regulated in terms of regulations made by the Trustee from time to time and announced to Beneficiaries.

(m) Trustee's remuneration

The Trustee may be paid for its services to the Plan on a basis agreed from time to time between the Company and the Trustee and the amount of that fee shall be debited to the Retirement Accounts of the Beneficiaries on a basis considered equitable by the Trustee.

(n) "Chosen" scheme

The Trustee may enter into an agreement with any Employer to the intent that the Plan shall become the "employer's chosen KiwiSaver scheme" (as that expression is defined in the KiwiSaver Act) of the Employer.

17. **Perpetuities provision**

If the Plan ceases to be exempt under the provisions of section 19 of the Perpetuities Act 1964 the Trustee may take such action as it thinks fit including the re-establishment of the trusts of the Plan and the payment over of the Fund to a new trustee so as to prevent the operation of any rules of law relating to perpetuities which might otherwise invalidate or might be taken to invalidate any of the trusts of the Plan or any disposition made under it or for its purposes.

18. **Employer Section**

The Trustee may with the consent of the Company establish a section of the Plan known as the Employer Section in respect of an Employer to provide benefits in respect of Employees of that particular Employer.

Subject to the provisions of the Trust Deed, the conditions of eligibility, contributions payable, benefits payable, expenses payable and all matters relating to the operation of any such Employer Section shall be as provided in the Schedule to the Trust Deed relating to such Employer.

19. **Organisation Section**

The Trustee may with the consent of the Company establish a section of the Plan known as the Organisation Section in respect of that Organisation to provide benefits in respect of members of a particular Organisation.

Subject to the provisions of the Trust Deed, the conditions of eligibility, contributions payable, benefits payable, expenses payable and all matters relating to the operation of any such Organisation Section shall be as provided in the Schedule to the Trust Deed relating to such Organisation.

Execution by the parties

EXECUTED by
SUPERLIFE TRUSTEE LIMITED
in its capacity as the Trustee by

“M J Chamberlain”

Director

“M R Littlewood”

Director

EXECUTED by
SUPERLIFE LIMITED
in its capacity as the Company by

“M J Chamberlain”

Director

“M R Littlewood”

Director