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**DEED OF AMENDMENT OF
THE PRESBYTERIAN CHURCH OF AOTEAROA NEW
ZEALAND BENEFICIARY FUND TRUST DEED**

PRESBYTERIAN BENEFICIARY FUND TRUSTEE LIMITED

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PARTIES

The Presbyterian Beneficiary Fund Trustee Limited (Trustee)

BACKGROUND

- A The Trustee is the trustee and manager of The Presbyterian Church of Aotearoa New Zealand Beneficiary Fund (**Fund**), a superannuation scheme established by The Presbyterian Church of Aotearoa New Zealand primarily for the purpose of supporting its ministers of religion in their retirement. A fund of this kind has been in existence since the early days of the Presbyterian Church in New Zealand. The Fund was previously a registered superannuation scheme under the Superannuation Schemes Act 1989, and has subsequently been registered under the Financial Markets Conduct Act 2013 (**Act**) as required by that Act. The Fund's purposes have been confirmed by the Courts as for the advancement of religion and charitable (*Presbyterian Church of New Zealand Beneficiary Fund v Commissioner of Inland Revenue* [1994] 3 NZLR 363 (HC) and *Hester v Commissioner of Inland Revenue* [2005] 2 NZLR 172 (CA)).
- B The Fund was governed by a consolidated trust deed dated 27 November 2008, and then a consolidated trust deed dated 1 December 2016. Subsequently, the General Assembly determined that the defined benefits payable to Members under Part B and Part C of the trust deed would be wound up effective 30 June 2017 and a new division (**New Benefit Section**) would be created. To effect that change, the trust deed for the Fund was replaced by a consolidated trust deed dated 30 June 2017 (**2017 Deed**). That consolidated trust deed was further amended and replaced by deed dated 5 April 2018 (**Current Trust Deed**) to clarify and better reflect previous policy decisions relating to the wind up of the Defined Benefit Section and creation of the New Benefit Section, that had previously been approved in accordance with the procedure set out in clauses A16.3 and A16.4 of the 2017 Deed.
- C The Trustee wishes to amend the Current Trust Deed to remove references to the Defined Benefit Section of the Fund as it has been wound up, and to update provisions governing the Complying Section to reflect changes to Governing Legislation.
- D Under clause A16 of the Current Trust Deed, the Current Trust Deed may, subject to the Act, be amended by the Trustee at any time but no amendment shall be made to the Regulations (as defined in the Current Trust Deed) except as provided for in that clause. The Trustee is satisfied that the amendment of the Current Trust Deed by this Deed meets the requirements of that clause.
- E The Act provides that an amendment to or a replacement of a governing document has no effect unless made, amongst other things, pursuant to section 139 of the Act with the consent of the Financial Markets Authority (**FMA**). That section further provides that the FMA must not consent to an amendment to, or a replacement of, the governing document under that section unless, amongst other things, the FMA is satisfied that the amendment or replacement does not have a material adverse effect on the scheme participants. The FMA has provided the requisite consent.



OPERATIVE PROVISIONS

The Trustee, with effect from 24 September 2020, hereby rescinds each and every one of the existing clauses of the Current Trust Deed and substitutes them for the provisions set out in the Schedule so that the Current Trust Deed is replaced in its entirety by the clauses set out in the Schedule.

EXECUTION AND DATE

This deed was executed on 2020

PRESBYTERIAN BENEFICIARY FUND)	Director
TRUSTEE LIMITED)		
signed by two of the)		
Directors)	Director

SCHEDULE

Beneficiary Fund Consolidated Trust Deed

Registered Charity: CC24301

The Presbyterian Church of Aotearoa New Zealand

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BACKGROUND

1. This Deed shall constitute "The Presbyterian Church of Aotearoa New Zealand Beneficiary Fund" governing all Sections of the Fund with the Deed comprising:
 - 1.1 Part A containing provisions generally applicable to both Sections;
 - 1.2 Part B containing the provisions applicable to the New Benefit Section;
 - 1.3 Part C containing the provisions applicable the Complying Section.
2. Prior to 30 June 2017 the Fund consisted of:
 - 2.1 A Defined Benefit Section comprising:
 - (a) Members who joined prior to 1 January 2009 as previously governed by the old Part B; and
 - (b) Members who joined the Fund after 1 January 2009 but before 1 December 2016 as previously governed by the old Part C (Division 1).
 - 2.2 A Complying Section available to members from 1 January 2009 as previously governed by the old Parts D and E.
3. The New Benefit Section as previously governed by the old Part C (Division 2) was established on 1 July 2017.
4. The Defined Benefit Section of the Fund has been wound up. During the wind up period the Members of the Defined Benefit Section remained as Members of that Section.
5. Members of the Defined Benefit Section, as at 30 June 2017, were permitted to choose to continue their membership by placing their entitlement from the winding up of their defined benefits formerly payable under the old Part B and old Part C (Division 1) into the New Benefit Section.
6. Members of the Complying Section as at 30 June 2017 remained as Members of that Section.
7. Ministers who were not already Members of the Fund were not permitted to become Members of the Fund until 30 June 2017.
8. Ministers are now able to join either or both the New Benefit Section and / or the Complying Section in accordance with the terms of this Deed.

CHARITABLE PURPOSE

The activities of the Fund are to be carried out, and the Fund Property is to be applied, for exclusively charitable purposes, namely to advance religion by providing for the protection and life-long support of Ministers by means of a Church-based superannuation scheme established for the dominant purpose of providing benefits for Ministers of religion and their dependants, so that Ministers may devote their time and energies to the service of the Church, so that others may derive spiritual benefit from the exercise of their functions.

PART A

PROVISIONS APPLICABLE TO BOTH SECTIONS

A1. Definitions and interpretation

A1.1 (a) Headings and marginal notes are for convenience only and shall be deemed not to be part of this Deed and shall not affect the interpretation hereof.

(b) In this Deed where the context permits words importing the singular shall include the plural and vice-versa and words importing the masculine shall include the feminine in each case unless a contrary intention appears.

(c) Any reference to a statute (or to any particular part or section of a statute) shall include a reference to any subsequent statutory modification or re-enactment thereof and regulations made thereunder.

(d) All references to a party to this Deed shall in each case include a reference to the executors, administrators, successors and assigns of such party.

A1.2 In this Deed the following words and expressions shall, unless the context requires otherwise, have the following meanings:

"**Account**" or "**Accounts**" means, as applicable in the context, each or any of the Complying Section Member Account, the Complying Section Supporter Account, the Complying Section Tax Benefit Account, the New Benefit Member Account, and the New Benefit Supporter Account.

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

"**Actuary**" means a person who is a Fellow of the New Zealand Society of Actuaries, and who has been appointed by the Trustee to provide actuarial services to the Fund.

"**Administration Manager**" means the person or company (if any) to whom the Trustee has contracted some or all of the administration of the Fund.

"**AML Exemption Notice**" means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 Ministerial exemption notice granted in respect of the Trustee and / or the Fund as replaced or amended from time to time.

"**Assembly**" and "**General Assembly**" means the General Assembly of the Church.

"**Associated**", and other expressions indicating the association of persons with each other, have the meanings given by section YA 1 of the Income Tax Act 2007.

"**Auditor**" means a Qualified Auditor appointed as auditor of the Fund under clause A11.5.

"**Australian Complying Fund**" has the same meaning as the term "Australian complying superannuation scheme" in section YA 1 of the Income Tax Act 2007.

"**Balance**" in respect of a Member means the sum of the Member's New Benefit Member Account, New Benefit Supporter Account, Complying Section Member Account, Complying Section Supporter Account, and Complying Section Tax Benefit Account as established under Part B and Part C respectively.

"**Basic Stipend**" means the annual basic stipend for Ministers as approved by the General Assembly from time to time.

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

"**Book of Order**" means the Book of Order of the Church, adopted and prescribed by the General Assembly on 29 September 2006, as it may be amended from time to time, and which, among other things, provides for the governance of the Church, and orders the life and mission of the Church consistently with its standards.

"**Charities Act**" means the Charities Act 2005.

"**Church**" means The Presbyterian Church of Aotearoa New Zealand.

"**Church Body**" means any body of the Church, including a Parish, that is responsible for the support of a Minister.

"**Commissioner**" means the Commissioner of Inland Revenue.

"**Complying Section**" means the Complying Section described in Part C of this Deed.

"**Complying Section Balance**" in respect of a Member means the sum of the Member's Complying Section Member Account, Complying Section Supporter Account and Complying Section Tax Benefit Account as established under the Complying Section Rules.

"**Complying Section Supporter Account**" means the account established for each Member of the Complying Section under clause C4.3.

"**Complying Section Member Account**" means the account established for each Member of the Complying Section under clause C4.2.

"**Complying Section Tax Benefit Account**" means the account established for each Member of the Complying Section under clause C4.4.

"**Complying Superannuation Fund**" has the meaning given in the Act.

"**Contributing Member**" means a Member who contributes to the Fund.

"Congregation" has the meaning given to that term in the Book of Order.

"Continuing Member" means a Member that was a member of the Old Defined Benefits Section that joined the New Benefit Section and placed their Continuing Value in the Member's New Benefit Member Account.

"Continuing Value" means, with respect to a Continuing Member, the amount placed into the Member's New Benefit Member Account from the Member's entitlement on the wind up of the Old Defined Benefit Section.

"Continuing Value Balance" means the amount comprised of the Continuing Value taking account of any amounts debited or credited to a Member's New Benefit Member Account under B3.2(e), (g) and (h).

"Deed" means this deed as amended from time to time.

"Earning Rates Policy" means the earning rates policy of the Fund under clause A3.15.

"Equivalent Overseas Retirement Scheme" has the meaning given in regulation 82(3) of the FMC Regulations.

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

"Financial Year" means the period of twelve months from 1 July to 30 June each year, or such other period as may be a financial year for this Fund as determined by the Trustee.

"FMA" means the Financial Markets Authority (or any successor organisation).

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

"Fund" means the "The Presbyterian Church of Aotearoa New Zealand Beneficiary Fund" and where the context admits means the assets of any or all parts and Sections.

"Fund Liabilities" include liabilities, borrowings, accrued costs, charges, expenses and outgoings (excluding any investment management fees), contingent liabilities, provisions, liability to taxation (to the extent not provided for in some other manner), reimbursement or indemnity due to the Trustee and unpaid amounts due and payable out of Fund Property to Members or others.

"Fund Property" means all property, rights, and income of the Fund.

"Governing Legislation" means the KiwiSaver Act and the Act and where the context so requires the Trustee Act 1956 or the Trusts Act 2019 (as applicable) and any other applicable statutes or regulations.

"Governing Requirements" means the Governing Legislation and the provisions of this Deed.

"Government Contribution" means either:

- (a) the contribution made by the Government under section 226 of the KiwiSaver Act; or
- (b) the amount of the tax credit under section MK 1 of the Income Tax Act 2007.

"Issue Price" means, in respect of a Portfolio, the issue price of a Unit determined under clause A23.1.

"Investment Manager" means a person or company (if any) to whom the Trustee has contracted the investment of some or all of the money of the Fund.

"Issuer Obligations" has the meaning given in section 6(1) of the Act.

"Kindred Entity" means, for the purposes of this Deed an organisation:

- (a) in which the Church has official representation through appointment by Church courts; or
- (b) which the Church supports but on which it has no official representation; and
- (c) which has signed a deed of adoption by which it covenants with the Trustee to comply with and observe the provisions of this Deed.

"Kindred Service" means employment of a Minister with a Kindred Entity.

"KiwiSaver Act" means the KiwiSaver Act 2006.

"KiwiSaver Scheme" has the meaning given in section 6(1) of the Act.

"KiwiSaver Scheme Rules" means the KiwiSaver Scheme Rules set out in schedule 1 to the KiwiSaver Act.

"Licensed Independent Trustee" means a licensed independent trustee under section 131 of the Act whose licence covers the Fund and who is independent under section 131(3) of the Act.

"Managed Investment Product" has the meaning given in section 8(3) of the Act.

"Member" means any person who is a member of the Fund in accordance with the Trust Deed.

"Member Contribution" means a personal contribution payable by a Member.

"Minister" means an ordained minister of the Church.

"Net Value" means in respect of a Portfolio, the value of Fund Property referable to that Portfolio less Fund Liabilities referable to that Portfolio as determined by the

Trustee, less a fair and reasonable proportion of Fund Liabilities not specifically referable to that Portfolio as determined by the Trustee and less any investment management fees referable to that Portfolio.

"New Benefit Balance" in respect of a Member means the sum of the Member's New Benefit Member Account and the Member's New Benefit Supporter Account.

"New Benefit Member Account" means the account established for each Member of the New Benefit Section under clause B3.2.

"New Benefit Section" means the Section described in Part B of this Deed.

"New Benefit Supporter Account" means the account established for each Member of the New Benefit Section under clause B3.3.

"Old Defined Benefit Section" means the former section which provided benefits in defined benefit form and which was wound up on 30 June 2017.

"Parish" means in relation to a Minister, the Congregation that is responsible for support of the Minister under section 16.9 of the Book of Order.

"PCPT" means The Presbyterian Church Property Trustees.

"PDS" is a product disclosure statement and has the meaning given in the Act.

"Portfolio" means an investment portfolio under clause A19.1.

"Portfolio Direction" means a portfolio direction given by a Member under clause A19.4(c).

"Presbytery" when referring to a Member, means the presbytery under whose jurisdiction the Member falls.

"Qualified Auditor" has the meaning given in section 461E of the Act.

"Redemption Price" means, in respect of a Portfolio, the redemption price of a Unit determined under clause A24.1.

"Register Entries" has the meaning given in the Act.

"Registrar" or **"Registrar of Financial Service Providers"** has the meaning given to the term "Registrar" in the Act.

"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 clause A24.1.

"Retire" when referring to a Member means to no longer receive a stipend or stipend related payment or to leave the service of any entity in respect of which the Member is in service in such circumstances as qualify the Member for a retirement benefit.

"Section" means either the New Benefit Section or the Complying Section, as the case may be, contained in Parts B and C respectively of this Deed.

"SIPO" means the statement of investment policy and objectives for the Fund in the form and with the content required by the Act.

"Special Resolution" has the meaning given in section 6(1) of the Act.

"Spouse" means the legal husband or wife of a person.

"Superannuation Scheme" has the meaning given to it in the Act.

"Total Stipend" means:

- (a) subject to (b) and (c), each Member's Basic Stipend or where applicable such percentage thereof notified to the Trustee by the Church Body (excluding housing and any other non-taxable allowances) plus seniority allowance as received from the Member's Parish; or
- (b) in respect of a Member employed by a Church Body (other than a Parish), the financial support (excluding housing and any other non-taxable allowances), calculated on a gross basis, received from the Church Body of which the Member is in service; or
- (c) in respect of a Member in Kindred Service, the financial support, calculated on a gross basis as notified to the Trustee by the Kindred Entity or as otherwise provided in the applicable deed of adoption, received from the Kindred Entity of which the Member is in service.

"Transaction Cost" means such sum (if any) as the Trustee may from time to time determine:

- (a) either generally or in relation to a particular proposed issue of Units, to be a fair fee, in relation to the Units to be issued, to provide for the likely cost of purchasing or developing assets of the relevant Portfolio. The amount of any Transaction Cost payable on the issue of Units in a Portfolio shall be applied by the Trustee in payment of the purchase and development costs and expenses on behalf of that Portfolio. The Trustee shall keep separate accounting and other records in relation to such expenditure; or
- (b) either generally or in relation to a particular proposed redemption of Units, to be a fair fee, in relation to the Units to be redeemed, to provide for the likely cost of selling or disposing of assets of the relevant Portfolio. The amount of any Transaction Cost payable on the redemption of Units in a Portfolio shall be applied by the Trustee in payment of the sale or

disposition costs and expenses on behalf of that Portfolio. The Trustee shall keep separate accounting and other records in relation to such expenditure.

"Transfer Value" means the amount received or transferred pursuant to clauses B6.3 and C7.3 as the context requires.

"Transition Date" means 30 June 2017.

"Trustee" means Presbyterian Beneficiary Fund Trustee Limited, or such other sole corporate trustee or the PCPT as may be appointed under clause A2 of this Deed.

"Unit" means, in relation to a Portfolio, an undivided part or share in the beneficial interest in the relevant Portfolio as described in clause A20.

"Valuation Day" means a business day for which a Portfolio is valued under clause A21.4 and on which Units in a Portfolio may be issued or redeemed.

"Withdrawal Age" is the date that a Member would be permitted to make a withdrawal under clause 4 of the KiwiSaver Scheme Rules if the Member was a member of a KiwiSaver Scheme.

A1.3 In this Deed, unless the context requires otherwise:

- (a) To the extent that any provision contravenes or is inconsistent with the Act, FMC Regulations or any term implied in this Deed by the Act or the FMC Regulations, that provision has no effect.
- (b) Where any frameworks or methodologies are specified in notices issued by the FMA under the Act, apply to the Fund and relate to any matter required by the Act to be provided for adequately in this Deed, the provisions of this Deed dealing with such matters shall be deemed to be modified to the extent necessary to adopt such frameworks and methodologies in respect of the Fund.

A1.4 With effect from 31 January 2021, the provisions of the Trusts Act 2019 shall be modified or excluded as follows:

- (a) Section 31 (duty not to exercise power for own benefit) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.
- (b) Section 34 (duty to avoid conflict of interest) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.
- (c) Section 36 (duty not to profit) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.
- (d) Any provision of the Trusts Act 2019 or rule of law restricting the remuneration of the Trustee including but not limited to section 37 (duty to

act for no reward) of the Trusts Act 2019 is excluded and this Trust Deed should be modified accordingly

A2. **Trustee**

- A2.1 The Trustee is the trustee and the manager of the Fund for the purposes of the Act.
- A2.2 The Fund shall have one Trustee who must be a sole corporate trustee or the PCPT.
- A2.3 The board of directors of a sole corporate trustee or the board of the PCPT acting as Trustee must include at least one Licensed Independent Trustee.
- A2.4 Any removal or appointment of a trustee shall, subject to this clause A2, be by direction of the General Assembly. The General Assembly shall immediately provide for the appointment of a replacement trustee in the event of the removal of the Trustee.
- A2.5 The Trustee may not be removed by the General Assembly unless:
- (a) all functions and duties of the position have been performed by the Trustee; or
 - (b) another Trustee has been appointed, and accepted the appointment, in its place.
- A2.6 The Trustee shall cease to hold office if the Trustee is substituted by the court under the Act.
- A2.7 If the Fund does not for any reason have:
- (a) if the Trustee is a sole corporate trustee, at least one director of that corporate trustee who is Licensed Independent Trustee; or
 - (b) if the Trustee is PCPT, at least one Board member of PCPT who is a Licenced Independent Trustee,
- then the provisions of the Act shall apply in relation to the temporary appointment of a person to fill the vacancy in the office until a substitute appointment may be made under this Deed.
- A2.8 The Trustee shall keep or cause to be kept proper minutes of all of its resolutions and proceedings and proper books of account and records in connection with the Fund.
- A2.9 The Trustee shall not be bound to act personally but may instruct a solicitor or other agent to transact business required to be done in accordance with this Deed.
- A2.10 Any power, authority or discretion vested in the Trustee under this Deed may be exercised on its behalf by its directors as a board and that board may, subject to A3.8, appoint such delegates or agents as it thinks fit to exercise for or on behalf of

the Trustee all or any of the powers authorities and discretion exercisable by the Trustee under this Deed.

A3. General Powers of the Trustee

A3.1 The Trustee as manager of the Fund has responsibility for those functions and duties of a manager under the Act unless the Act or the FMC Regulations otherwise provide.

A3.2 The Trustee is responsible for performing the following functions:

- (a) offering membership of the Fund;
- (b) accepting Members into the Fund;
- (c) managing the Fund Property and investments; and
- (d) administering the Fund.

A3.3 The Trustee must:

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

A3.4 The Trustee must also carry out the functions of a manager in accordance with this Deed, the SIPO, and all other Issuer Obligations.

A3.5 Subject to clause A3.5, the 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. A Licensed Independent Trustee and any other trustee whose profession or business is or includes acting as trustee or investing money on behalf of others must, in exercising any powers, or performing any duties under this Deed, exercise the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances.

A3.6 The Trustee may in its absolute discretion enter into and execute all such contracts, deeds and documents and do all such acts, matters and things as it deems expedient for the purpose of carrying out the trusts, authorities, powers and discretions conferred upon it by this Deed.

- A3.7 The Trustee shall have an absolute and uncontrolled discretion in the exercise of the trusts, authorities, powers and discretions hereby vested in it and may refrain from exercising all or any of such trusts, authorities, powers and discretions from time to time or at all provided that the Trustee shall at no time contravene the provisions of the Act in the exercise of such trusts, authorities, powers and discretions.
- A3.8 The Trustee may authorise any person or persons to act as its delegate (in the case of a joint appointment, jointly and severally) to perform any act, or exercise any discretion, within the Trustee's power. The authorisation must be written. The Trustee must comply with clauses A3.10 and A3.12 and with the requirements of the Act where it contracts out all or some of its functions as manager of the Fund. The Trustee may include provisions to protect and assist those dealing with any delegate in the authorisation as the Trustee sees fit. Subject to Clauses A3.10 and A3.12, the delegate may be a Related Party of the Trustee. The Trustee may appoint brokers or dealers appropriate for carrying out transactions in relation to the Fund Property. The authorisation of a delegate may include rights to be indemnified for liabilities or expenses incurred in relation to the performance of the delegate's contracted functions. The Trustee remains liable for the acts or omissions of a delegate.
- A3.9 Subject to clause A10.3, the Trustee or a director of the Trustee is hereby authorised to charge and be paid and to retain for its own benefit all reasonable Trustee's fees, administration fees and other fees charged by that Trustee for business done by it in relation to the Fund in the same manner as the Trustee would have been entitled to do if the Trustee had not been a Trustee of the Fund.
- A3.10 The Fund Property shall be held in one of the following ways:
- (a) by the Trustee; or
 - (b) by a person to whom the Trustee has contracted the holding of the Fund Property and who:
 - (i) is a body corporate that the Trustee believes, on reasonable grounds, to be appropriate to hold, and safeguard the Fund Property; and
 - (ii) is not the same person as, or associated with, the Trustee (other than by virtue of the custodianship).
- A3.11 A person to whom the Trustee has contracted the holding of Fund Property under clause A3.10(b) may, if authorised in writing by the Trustee, in turn contract the holding of the Fund Property to another person.
- A3.12 If the holding of the Fund Property is contracted out to another person (the **nominee**) under clause A3.10(b) or clause A3.11 then the person contracting out that function:
- (a) must take all reasonable steps to:

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

A3.13 The Trustee must, in accordance with Governing Legislation, prepare and provide reports to the FMA that contain the information that is required by the FMC Regulations.

A3.14 If the Trustee has reasonable grounds to believe that the Trustee has contravened, may have contravened or is likely to contravene any of its Issuer Obligations in a material respect then the Trustee must, as soon as practicable:

- (a) report the contravention or possible contravention to the FMA; and
- (b) advise the FMA of the steps (if any) that the Trustee has taken or intends to take in light of the contravention or possible contravention and the date by which the steps were taken or are to be taken.

Earning Rates Policy

A3.15 The Trustee must, from time to time and in accordance with such policy or policies as the Trustee establishes from time to time (**Earning Rates Policy**), set or cause to be set a rate or rates with respect to each Portfolio (which may include, without limitation, an interim monthly and an annual declared rate) that is or are applicable to Complying Section Member Accounts, Complying Section Supporter Accounts, Complying Section Tax Benefit Accounts, the New Benefit Member Accounts, and the New Benefit Supporter Account. For the avoidance of doubt, the rate or rates determined pursuant to the Earning Rates Policy may be positive or negative. This clause shall have no effect in the event the Trustee elects under clause A20.1 that the Accounts shall be divided into Units or if the Accounts record the assets attributable to a Member.

Statement of investment policy and objectives

A3.16 All money belonging to the Fund and available for investment shall be invested in accordance with the SIPO.

Limit Breaks

A3.17 The Trustee must report to the FMA any material breaches of any limits under a SIPO to the extent required by Governing Legislation.

A4. **Benefit Entitlement Errors**

- A4.1 The Trustee must report to the FMA in relation to any material error in the calculation of a benefit entitlement (including a Unit price, if applicable), and in such cases the provisions of section 168 of the Act shall apply.
- A4.2 If, under Governing Legislation, reimbursement and compensation is payable to a Member or former Member, the Trustee must comply with all their obligations under those requirements except that the Trustee may choose not to pay any reimbursement or compensation to a Member or former Member for an amount less than \$20 (or such other amount as the Trustee may agree from time to time).

A5. **General Assembly**

- A5.1 The General Assembly shall be the sole judge in any dispute which may arise in connection with the administration of either Section.

A6. **Valuations**

Manager may obtain valuations

- A6.1 The Trustee may instruct a valuer or other expert to value any Fund Property. The costs of those valuations must be paid out of the Fund.

Valuation of listed property

- A6.2 Subject to clauses A6.8, A6.9, A6.10 and to the Governing Legislation, in the case of Fund Property which is listed on any stock exchange the value must be determined by reference to:

- (a) the last listed sale price on the day upon which the valuation is being made;
- (b) if no sale price was listed for that day, then the last bid or buying price on that day; or
- (c) at the option of the Trustee, the amount certified by a firm of stockbrokers or other dealers in the relevant market.

Valuation of deposits

- A6.3 For any deposit and subject to Governing Legislation, the value must be determined by reference to the principal amount of the deposit.

Valuation of unlisted schemes

- A6.4 For interests in a collective investment scheme not listed on a stock exchange and subject to Governing Legislation, the value must be determined by reference to the

amount obtained by multiplying the redemption price of each such interest by the total number of interests of that class held in the collective investment scheme.

Valuation of policies in life insurance

- A6.5 For policies of life insurance held by the Fund for investment purposes and subject to Governing Legislation, the value must be determined by reference to the amount obtained by multiplying the surrender price of each interest in the policy by the total number of interests of that class represented by the policy.

Valuation of derivatives contracts

- A6.6 For any interest under a derivatives contract and subject to Governing Legislation, the value must be determined by reference to the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the derivatives contract as estimated by the Trustee) which would have been realised in respect of that derivatives contract by executing a transaction at the official closing quotation of a derivatives market on that day in respect of equivalent contracts.

Valuation of put options

- A6.7 For any put option granted to the Fund and subject to Governing Legislation, the value must be determined by reference to the excess (if any) of the price receivable upon exercise of the put option or upon the sale of the put option (if such sale is permitted by the terms), whichever is the greater, over the sum of all costs and expenses incurred in entering into or holding the put option and the fair value of the property the subject of the put option as determined by a valuer.

Valuation of call options

- A6.8 For any call option granted to the Fund and subject to Governing Legislation, the value must be determined by reference to the excess (if any) of the fair value of the property the subject of the call option, as certified by a valuer, over the sum of all costs and expenses incurred in entering into or holding the call option and the price payable upon exercise of the call option.

Valuation of other property

- A6.9 For bills of exchange, promissory notes, negotiable certificates of deposit, and any other property not otherwise dealt with in this Clause A6 and subject to Governing Legislation, the value must be determined by reference to the cost of acquisition.

Trustee may use alternative valuation principles

- A6.10 Subject to Governing Legislation, where the Trustee considers in its absolute discretion that the application of the principles of valuation set out in this clause A6 should not, or do not, apply to the valuation of any Fund Property, the Fund Property must be valued by reference to any other principles or policies as determined by the

Trustee, provided that the valuation method used is applied on a consistent basis over time and is used to determine a fair market value of the Fund Property.

A7. Membership

A7.1 The Trustee must not make a regulated offer of membership of the Fund unless:

- (a) the Fund is registered under the Act;
- (b) a PDS has been prepared and registered with the Registrar of Financial Service Providers in respect of the Fund; and
- (c) Register Entries containing all information required by the Act have been uploaded on the public register in respect of the Fund.

A8. Power to borrow

A8.1 The Trustee may at any time and from time to time borrow and raise money for short-term overdraft and hedging purposes and to a maximum level in accordance with the SIPO and secure the repayment of money so borrowed and interest thereon by mortgage or charge over all or any of the assets of the relevant Sections and no lender shall be concerned to enquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required or as to the application of the money borrowed.

A9. Meetings

A9.1 When required by Governing Legislation, the Trustee shall call a meeting of Members in the manner and on the basis set out in the Act and FMC Regulations. A meeting of Members shall be conducted in accordance with Governing Legislation.

A10. Related Party Benefits and prohibition on private pecuniary profit

A10.1 Unless permitted under the Governing Legislation, the Trustee (and any Investment Manager, Administration Manager or other person to whom the Trustee has contracted out some or all of its functions as manager) must not enter into a transaction that provides for a Related Party Benefit to be given.

A10.2 The Trustee (or any person to whom the Trustee has contracted out some or all of its functions as a manager) must not acquire any assets if that acquisition would contravene the Governing Legislation.

A10.3 Without limiting the generality of clauses A10.1 and A10.2, no private pecuniary profit shall be made by any person from the Fund, including, without limitation, by any Trustee, a director of the Trustee, any person Associated with any such person, or by any other person involved in the Fund, and no portion of Fund Property shall be paid

or transferred directly or indirectly to a Trustee, a director of the Trustee, any person Associated with any such person, or any other person involved in the Fund, except that:

- (a) payments may be made to the Trustee, a director of the Trustee, a person Associated with any such person, or any other person involved in the Fund, for goods and services provided to the Fund, provided that those goods or services advance the charitable purposes of the Fund and the payment is reasonable and commensurate with payments that would be made between unrelated parties; and
- (b) the Trustee or any person acting on behalf of the Trustee may be reimbursed, on production of receipts, for reasonable travel, accommodation and other expenses properly incurred by the person concerned in the course of performing duties or exercising powers as Trustee.

A11. Accounts and audit

A11.1 The Trustee shall ensure that there are kept at all times accounting records that:

- (a) correctly record the transactions of the Fund;
- (b) will enable the Trustee to ensure that the financial statements of the Fund comply with generally accepted accounting practice and any prescribed requirements; and
- (c) will enable the financial statements of the Fund to be readily and properly audited.

A11.2 In keeping or causing to be kept the accounting records under clause A11.1:

- (a) the Trustee must have appropriate systems of control and oversight;
- (b) the Trustee must keep such accounting records at a suitable location accessible to the Trustee, each director of the Trustee, the Auditor, and the FMA; and
- (c) the provisions of Part 7 of the Act must be complied with.

Financial Statements

A11.3 Subject to Governing Legislation, the Trustee must ensure that within 4 months after the end of each Financial Year, financial statements that comply with generally accepted accounting practice are:

- (a) completed in relation to the Fund and that Financial Year; and
- (b) dated and signed on behalf of the Trustee.

Audit

- A11.4 The Trustee shall ensure that, within 4 months after the end of each Financial Year:
- (a) the Fund's financial statements for that Financial Year are audited and reported on by the Auditor in accordance with the requirements of the Act; and
 - (b) those financial statements, together with the Auditor's report on those financial statements, are delivered to the Registrar of Financial Service Providers for lodgement.

The Auditor

- A11.5 A person or firm selected by the Trustee must be appointed Auditor of the Fund. Such person or firm must be a Qualified Auditor and meet the requirements of Governing Legislation.

Annual report

- A11.6 The Trustee must:
- (a) within four (4) months after the end of each Financial Year, prepare an annual report on the affairs of the Fund during that year; and
 - (b) within 28 days after the annual report is prepared:
 - (i) send to every Member:
 - A. a copy of the annual report; or
 - B. a notice containing the statements required by the FMC Regulations; and
 - C. lodge the annual report with the Registrar of Financial Service Providers.
- A11.7 The annual report shall comply with and include the matters required under the FMC Regulations.

A12. Winding up

- A12.1 Upon the winding up of the Fund by the General Assembly, the Trustee shall to the extent required by Governing Legislation:
- (a) Within 10 working days after a winding up resolution or an order by the court that the Fund be wound up is made, give a copy of any order or resolution to the FMA;

- (b) Within four months after the date on which the winding up takes effect, ensure that the financial statements of the Fund as at the date on which the winding up takes effect, are prepared in accordance with generally accepted accounting practice and audited;
- (c) Within 20 working days after the final financial statements have been audited ensure that:
 - (i) a copy of those financial statements are sent to the FMA and to every person who was a Member of the Fund immediately before it was wound up; and
 - (ii) advise the FMA and the Members in writing as to the manner in which the remaining assets of the Fund (if any) are to be distributed; and
- (d) Shall inform the FMA of the date on which the distribution of the assets is completed.

A12.2 Upon the winding up of a Section of the Fund by the General Assembly, the Trustee shall comply with the requirements of the Governing Legislation.

A12.3 If, upon the winding up of the Fund, or a Section of the Fund, there remains, after satisfaction of all the debts and liabilities (including payment in full of all Members' entitlements from the Fund, or Section of the Fund, as the case may be), any property of any nature whatsoever, that remaining property shall be distributed by the Trustee as determined by the General Assembly for "charitable purposes" within the meaning of such words as defined in the Income Tax Act 2007.

A13. **Members' rights to information**

A13.1 The Trustee must provide annually to each Member during the relevant year a statement showing the following for that person:

- (a) the amount of each type of contribution received by the Trustee for the year; and
- (b) the Member's balance in the Fund at the start and at the end of the year.

A14. **Register**

A14.1 A register of Members and Beneficiaries must be kept by the Trustee in a form and manner required by the Act.

A14.2 Such register may be in electronic form and compiled by a delegate of the Trustee in a manner approved by the Trustee.

A14.3 The following details shall be entered on the register:

- (a) the full names and addresses of each Member and Beneficiary;
- (b) the date on which the Member or Beneficiary became or ceased to be a Member or Beneficiary of the Fund;
- (c) such other information as the Trustee requires or as is required by the Act.

A14.4 The Trustee must ensure that the register is audited at intervals of not more than 12 months or as required by and in accordance with the provisions of the Act.

A14.5 The Trustee must advise the Registrar of the place where its registers are kept and of any change in that place. Changes must be advised to the Registrar within 10 working days of the change taking place.

A15. **Amendment**

A15.1 Subject to the Act, this Deed may be amended by the Trustee at any time but no amendment shall be made to a Section except as provided in clause A15.3 and A15.4.

A15.2 No amendment shall be made to this Deed which conflicts with the provisions of The Presbyterian Church Property Act 1885 or the Governing Legislation.

A15.3 Any proposed amendment to the substance of a Section shall first be referred by the Trustee to the PCPT, who shall in turn refer the applicable amendments to the Presbyteries for the Presbyteries' opinion.

A15.4 If the majority of Presbyteries are in favour of the proposed amendment, the amendment shall be referred to Members for their consent if required, and no amendment shall take effect without the approval of the General Assembly.

A15.5 No amendment shall be approved by the General Assembly if that amendment would prejudice the charitable taxation status of the Fund.

A16. **Future taxation changes**

A16.1 Notwithstanding anything contained in the Deed at any time or times the Trustee may vary benefit levels without the written consent of Members or Beneficiaries to take account of changes in taxation that may arise in future PROVIDED THAT no reduction in benefits shall be made until:

- (a) the FMA has been provided with a copy of an opinion of the Actuary confirming that the reductions are no more than are necessary to make the benefits of the Fund secure and the FMA has confirmed in writing to the Trustee that it agrees with that opinion; and

- (b) the FMA has confirmed in writing to the Trustee that it is satisfied that all the reductions in benefits are equitable as between all Members and Beneficiaries.

A17. Liability limitation and indemnity

- A17.1 Members and Beneficiaries have no claim against officials of the General Assembly personally, nor against the Trustee, nor against the PCPT, either individually or collectively, nor is there any personal liability in administering the Fund.
- A17.2 Subject to the provisions of this Deed, the Act and (from 31 January 2021) the Trusts Act 2019, the Trustee and its directors may be indemnified for the liabilities or expenses incurred in relation to the performance of the Trustee's obligations as manager of the Fund provided that such rights must only be available in relation to the proper performance of duties under sections 143(1) and 144 of the Act.
- A17.3 Subject to the provisions of this Deed, the Act and (from 31 January 2021) the Trusts Act 2019, except in the case of dishonesty, the wilful commission of an act known to be a breach of trust or the wilful omission of an act when such omission would result in a breach known by the Trustee to be a breach of trust, the Trustee shall be indemnified to the extent of the Fund held by it against all liabilities incurred by it in the execution or attempted execution or arising from the non-execution of the trusts, authorities, powers and discretions hereof and shall have a lien on and may use any moneys for the time being in its hands for such indemnity and generally for the payment of all proper legal and other costs of administration or winding up the Fund and otherwise performing its duties under this Deed. The indemnity hereby provided shall extend to any payment made to any person whom the Trustee bona fide believes to be entitled to the same.
- A17.4 Neither the Trustee nor any other party to this Deed may take any action against a Licensed Independent Trustee by reason of the Licensed Independent Trustee having made a report or disclosure to the FMA under the conditions of the Licensed Independent Trustee's licence.
- A17.5 Every Member shall indemnify the Trustee in respect of any tax paid or payable by the Trustee on behalf of or in respect of the Member.

A18. Kindred Entities

- A18.1 The deed of adoption that is required to be entered into by each Kindred Entity must set out the amounts required to be paid (if any) by the Kindred Entity under this deed. Such deed shall be in the form annexed to this Deed in Appendix A of this Deed or of like effect.
- A18.2 Any reference in any deed of adoption entered into by a Kindred Entity prior to the Transition Date covenanting to pay an "Assessment" to the Fund for each of its employees who became a Member of the Fund in Kindred Service, shall on and from

the Transition Date be deemed to be a covenant to pay the rate required of a Kindred Entity under Appendix B of this Deed in respect of each applicable Member.

A19. **Portfolios**

A19.1 **Establishment of Portfolios**

The Trustee may, from time to time, specify one or more investment portfolios (consisting of specified kinds of assets in specified proportions) each of which corresponds to a particular investment strategy in respect of the Complying Section, the New Benefit Section, or both.

A19.2 **No segregation of Portfolios**

A Portfolio is not a separate fund and the Trustee is not required to hold property of the Fund which is referable to a Portfolio as a separate fund.

A19.3 **Termination of Portfolios**

The Trustee may, subject to the Governing Legislation generally and clause A19.1, determine that a Portfolio (the **Terminating Portfolio**) shall terminate with effect from a particular date (the **Termination Date**), in which event:

- (a) all Members affected by such determination shall be notified by the Trustee in writing of the determination;
- (b) any Member referred to in clause A19.3(a) shall be given the option to elect in writing, in such form as the Trustee may determine from time to time, to transfer, on the Termination Date, that part of the relevant Accounts invested in the Terminating Portfolio to such other Portfolio or Portfolios as the Trustee may offer to such Member; and
- (c) the whole or the part of the relevant Accounts in respect of which any Member fails to sign and return a valid transfer election under clause A19.3(b) prior to the Termination Date shall, with effect from the Termination Date, cease to be invested in the Terminating Portfolio and shall be invested in such manner as the Trustee may determine and notify to the Member, as appropriate.

A19.4 **Portfolio Directions**

- (a) The clauses that follow shall only apply if the Trustee establishes separate Portfolios under clause A19.1.
- (b) If the Trustee establishes a separate Portfolio, then the Trustee may set such terms and conditions relating to Portfolio Directions as it thinks fit, including, but not limited to, limiting the number of Portfolios to which a Member may have their contributions paid into.

- (c) If the Trustee establishes separate Portfolios then Members shall direct the Trustee as to which Portfolio or Portfolios contributions paid by or on behalf of that Member shall be invested by completion of an Portfolio Direction.
- (d) The Trustee shall comply with each Portfolio Direction and is prohibited from investing contributions or any other assets other than in accordance with such Portfolio Directions subject to clause A19.4(g).
- (e) Portfolio Directions:
 - (i) Until 31 January the requirement to comply with each Portfolio Direction is a contrary intention for the purposes of sections 2(5) and 2(5A) of the Trustee Act 1956 as amended from time to time and the wide power of investment contained in clauses A3.2 and A3.7 shall only apply to the extent that such contrary intention permits.
 - (ii) From 31 January 2021 the provisions in this clause A19.4 (including the requirement to comply with each Portfolio Direction) shall modify the Trustee's general power to invest under section 58 of the Trusts Act 2019.
- (f) All other powers of investment conferred on the Trustee under this Deed shall be read subject to the provisions of this clause A19.4.
- (g) A Portfolio Direction is a direction by a Member to the Trustee as to which Portfolio or Portfolios the Trustee shall invest contributions made by or on behalf of the Member; and
- (h) A Member shall complete a Portfolio Direction in the form and manner prescribed by the Trustee at the time of becoming a Member.
- (i) If a Member does not make a Portfolio Direction, the Member's contributions shall be invested in a Portfolio or Portfolios chosen by the Trustee until such time as the Trustee receives a Portfolio Direction for such Member.
- (j) A Member may:
 - (i) amend or vary the Portfolio Direction of that Member for the investment of future contributions made by or on behalf of that Member to another Portfolio or Portfolios that are available for investment or to switch from investing in one Portfolio to investing in another Portfolio or Portfolios that are available for investment, such request to be in writing and in a form approved or prescribed by the Trustee;
 - (ii) request at the Trustee's discretion a switch from investment in one or more Portfolios to investment in another Portfolio or

Portfolios such request to be in writing and in a form approved or prescribed from time to time by the Trustee.

- (k) The Trustee may impose reasonable rules and conditions regarding switching including but not limited to the charging of a reasonable fee to reflect the costs or penalties incurred by the Trustee in complying with the Member's request.
- (l) Any investment of the Member's New Benefit Balance and / or Complying Section Balance or other amounts available for investment in respect of the Member in a Portfolio pursuant to a Portfolio Direction shall be subject to this Deed and any relevant SIPO and any fees or other charges made in respect of the investment of the New Benefit Balance and Complying Section Balance or other amounts held in respect of the Member and available for investment in any Portfolio pursuant to a Portfolio Direction or the withdrawal or switching of such investments may (except to the extent they are reflected in the price of Units in respect of such portfolio, if applicable) be debited against the New Benefit Balance and Complying Section Balance of the Member in such proportions as the Trustee determine to be appropriate.

A20. Units

Accounts may be divided into Units

- A20.1 The Trustee may, in its absolute discretion, divide each Account into Units on the basis of the Portfolios by reference to which the Account is invested. In the event the Trustee:
- (a) divides each Account into Units, clauses A20.2 to A20.6, A21.1 to A21.7, and A22.1 to A22.3 shall apply; and
 - (b) does not divide each Account into Units, clauses A20.2 to A20.6, A21.1 to A21.7, and A22.1 to A22.3 shall not apply.

Fractional Units

- A20.2 The Trustee may create, issue, redeem and cancel fractions of Units, calculated to the fifth decimal place, which will be dealt with for all purposes of this Deed as Units, but in the proportion that the fraction bears to a whole Unit.

Classification of Units

- A20.3 Except in the case of a fraction of a Unit, all Units referable to a Portfolio are of one class and confer identical rights and interests. An Account which is invested by reference to only one Portfolio will accordingly be constituted by Units of one class only, but an Account which is invested by reference to more than one Portfolio will be constituted by Units of different classes.

Rights in Units exclusive

- A20.4 No Member shall have any claim on the Units into which any Account other than an Account established in the name of that Member has been divided.

Transfer of Units

- A20.5 Units are not transferable.

No interest in Scheme Property

- A20.6 A Unit does not confer any interest in particular assets forming part of the relevant Fund Property.

A21. Unit issue and pricing

Determination of issue price

- A21.1 Subject to the Governing Legislation and on each Valuation Day, the Trustees shall calculate the Issue Price at which a Unit referable to a Portfolio may be created and issued by the Trustee (other than a Unit issued before the first Valuation Day of the relevant Portfolio) in accordance with the following formula:

$$IP = (NV-TC)/U$$

Where:

IP = the Issue Price of the relevant Unit

NV = the Net Value of the relevant Portfolio as at the relevant Valuation Day

U = the aggregate of the number of Units in issue referable to the relevant Portfolio as at the relevant Valuation Day (excluding, for the avoidance of doubt, any relevant Units being created and issued by the Trustee at the Issue Price)

TC = any Transaction Cost

Issuing of Units

- A21.2 Upon amounts being credited to an Account, Units referable to the relevant Portfolio must be created and issued by the Trustee in relation to that Account at the relevant Issue Price at which Units are issued on that day.
- A21.3 The number of Units issued and created in respect of each contribution or transfer referable to a Portfolio is the number calculated by dividing the amount of that transfer or contribution to be invested in that Portfolio by the appropriate Issue Price, and shall be issued to the relevant Member.

Calculation of Net Value

- A21.4 Contributions are credited to the relevant account after amounts paid to the Trustee, or consideration transferred, become fund property.
- A21.5 The Trustee will calculate the Net Value of each Portfolio at least once a week (or more frequently as the Trustee may consider necessary or desirable), on the basis of the most recent valuation of each item of Fund Property and determination of Fund Liabilities. The net income of any Portfolio shall be capitalised and retained as an asset of the Portfolio. The Trustee will include such amount as it determines to be the net income of the relevant Portfolio in each calculation of the Net Value of the Portfolio.

First issue of Units

- A21.6 Units issued before the first Valuation Day of a Portfolio will be priced at \$1.00 per Unit.

Bonus Units

- A21.7 The Trustee may in lieu of making a payment out of a Portfolio issue bonus Units referable to the Portfolio not exceeding in value the amount of the payment which would have otherwise been made from that Portfolio and credit any bonus Units so issued to the relevant Member. All bonus Units shall be issued in accordance with clauses A21.2 to A21.3.

A22. Unit redemption

Determination of redemption price

- A22.1 Subject to the Governing Legislation and on each Valuation Day, the Trustee shall calculate the price at which a Unit referable to a Portfolio will be redeemed and cancelled by the Trustee in accordance with the following formula:

$$RP = (NV-TC)/U$$

Where:

RP = the Redemption Price of the relevant Unit

NV = the Net Value of the relevant Portfolio as at the relevant Valuation Day

U = the aggregate of the number of Units in issue referable to the relevant Portfolio on the relevant Valuation Day (including, for the avoidance of doubt, the relevant Units to be redeemed and cancelled by the Trustee at the Redemption Price)

TC = any Transaction Cost

Redemption of units

- A22.2 Upon amounts being debited to an Account, Units referable to the relevant Portfolio must be redeemed and cancelled at the Redemption Price at which Units are redeemed on that day.
- A22.3 The number of Units redeemed and cancelled in respect of each redemption referable to a Portfolio is the number calculated by dividing the amount of the redemption by the appropriate Redemption Price.

A23. Maximum required contribution for certain members

- A23.1 No Member who was a Member of the Fund on or before the Transition Date shall be required to make a monthly Member Contribution to the Fund greater than one twelfth of 4% of the Basic Stipend multiplied by the Member's Benefit Proportion, unless that Member has provided consent to such contributions.

A24. Reserve Account

- A24.1 There shall be established by the Trustee in connection with the Fund a Reserve Account and the Trustee shall credit or debit to such account:
- (a) any amount available for credit to the Fund as a result of the provisions of clause A25.1;
 - (b) 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;
 - (c) where the Trustee has so elected, any amounts forfeited to the Fund under clauses B6.2 and C7.2;
 - (d) any monies arising under the Fund in respect of a Member which are not required to be paid to the Member's benefit; and
 - (e) any other amounts held by the Fund not held in an Account.
- A24.2 The Reserve Account may be applied from time to time by the Trustee at its discretion in any one or more of the following ways:
- (a) payment of expenses of the Fund;
 - (b) payment of any benefit paid under clause A25.2;
 - (c) otherwise, in furtherance of the Fund's charitable purposes,
- in such manner as the Trustee may from time to time consider appropriate.

A25. Unclaimed Benefits

A25.1 Subject to clause A25.3, if a Member or Beneficiary cannot be located (after all reasonable inquiries have been made by the Trustee) within seven years from the date on which a benefit became payable to or in respect of a Member or Beneficiary, then the benefit should be paid to the Reserve Account.

A25.2 Subject to clause A25.3, in the event of a valid claim for a benefit being made later than seven years after the date on which it becomes due, the Trustee shall pay the whole benefit validly claimed out of the Fund.

A25.3 Clauses A25.1 and A25.2 shall not apply in respect of the Complying Section.

A26. Charities Act

A26.1 The Trustee must comply with all requirements and obligations applicable to the Trustee or the Fund under the Charities Act.

A27. Intention to be legally binding

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

PART B

NEW BENEFIT SECTION

B1. Membership

B1.1 Membership

Any Minister (including a Minister in Kindred Service) may at the discretion of the Trustee become a Member of and / or join the New Benefit Section.

B1.2 Compulsory Membership

Membership of the New Benefit Section shall be compulsory for Ministers if so provided in the terms of the Minister's appointment by the Church.

B1.3 Transfer from the Complying Section

The Trustee may, in its sole discretion:

- (a) admit as a Member of the New Benefit Section, a Member of the Complying Section who has reached their Withdrawal Age; and
- (b) accept a transfer of that Member's Complying Section Balance into the New Benefit Section pursuant to clause B6.3.

B1.4 Classes of Membership

There will be two classes of Members in the New Benefit Section:

- (a) Contributing Members, being Members who are in active ministry and in receipt of a stipend or other financial support.
- (b) Non-Contributing Members, being Members who are not in receipt of a stipend or other financial support (for example, Nominated Surviving Spouses, retired Members or Members who are in between Parishes or other employment as a Minister).

B1.5 Cessation of Membership

Subject to the Governing Requirements a Member shall cease to be a Member of the New Benefit Section on the first to occur of:

- (a) the Member's death;

- (b) the payment to the Member of all of the Member's New Benefit Balance and the payment of contributions in respect of that Member to the New Benefit Section ceasing; or
- (c) the Member transferring from the New Benefit Section to another Superannuation Scheme or other scheme and ceasing to have an entitlement under the New Benefit Section.

B1.6 Revocation of Membership

At its discretion, the Trustee may revoke any Member's membership of the New Benefit Section at any time where the Trustee considers that the service of the Minister is no longer consistent with the objects of the Fund. In such a case an amount equal to the Member's New Benefit Balance shall be transferred to another Superannuation Scheme or paid to the Member as a lump sum.

B2. Contributions

B2.1 Member Contributions

Contributing Members who are subject to the provisions of Part B shall pay Member Contributions to the Fund comprising a contribution to the New Benefit Section. The contribution to the New Benefit Section shall be at the percentage rate of the Member's Total Stipend elected by the Member or as otherwise specified or required in accordance with the contribution options outlined in Appendix B of this Deed, subject to clause A23.1. Contributions shall be deducted from the Member's Total Stipend by the Member's Parish treasurer, by the Member's Church Body (other than a Parish), or by the Member's Kindred Entity (as applicable), and remitted to, or paid by direct debit initiated by, the Administration Manager no later than one month after the deduction is made.

B2.2 Restrictions on Member Contributions

All contributions payable by the Member under clause B2.1 shall be made in accordance with the AML Exemption Notice.

B2.3 Kindred Entity and Church Body Contributions

Contributions shall be made to the New Benefit Section in respect of each Contributing Member who is subject to the provisions of Part B. The contributions shall be made in respect of each Member either:

- (a) in the case of Members in Kindred Service, by their Kindred Entities (subject to clause B2.4; or
- (b) in the case of all other Ministers who are Members, by the Member's Church Body.

The contribution shall be at the percentage rate of the Member's Total Stipend or amount elected by the Member or as otherwise specified or required in accordance with the various contribution options outlined in Appendix B of this Deed and shall be payable to the Fund at the same time and in the same manner Member Contributions payable by a Member under clause B2.1 are paid to the Fund.

The Church shall procure each Church Body and/or Kindred Entity pay the applicable contributions required under this clause B2.3.

B2.4 AML Exemption Notice

The Trustee may, at its sole discretion, permit a Member to pay the applicable Kindred Entity contributions from a Member's Total Stipend in accordance with the AML Exemption Notice.

B2.5 Taxation on Church Body and Kindred Entity Contributions

The rates of contribution referred to in clause B2.3 are gross rates. Any taxation payable in respect of any contribution made under clause B2.3 shall be deducted from the contribution payable under clause B2.3 and the net amount remaining shall be paid to the Fund.

B2.6 Leave of Absence

The Trustee may approve a Contributing Member to be treated as a Non-Contributing Member in the following circumstances:

- (a) During a period of study leave. Applications must be made in writing to the Trustee and shall be accompanied by the recommendation of the Presbytery.
- (b) Where the Member is on parental leave for the term of such leave where:
 - (i) the parental leave has been taken under the terms laid down in the Book of Order;
 - (ii) as a consequence the Member is deemed not to have left the service of the Church or other employing body; and
 - (iii) the Member gives notice in writing to the Trustee of his or her election.
- (c) During a break in service. Applications must be made in writing to the Trustee and shall be accompanied by the recommendation of the Presbytery.

Any applications under this clause B2.6 shall be made in the form and manner prescribed by the Trustee from time to time. The Trustee may, at its sole discretion, accept applications that are not received in the prescribed form and manner.

B3. Accounts

B3.1 The Trustee shall establish Accounts for each Member as provided below. These Accounts shall be a record in respect of each Member of all relevant contributions and assets held in respect of the Member, and Units held for that Member, referable to that Account. The Accounts at any given date list the value of all assets held with regard to the Member at the relevant time, referable to that Account.

B3.2 The Trustee shall establish an account for each Member known as a "New Benefit Member Account" to which shall from time to time be credited or debited:

- (a) contributions to the New Benefit Section for the Member under clause B2.1; and
- (b) a proportionate share of the expenses of administration of the New Benefit Section including any investment management fees (if applicable) as determined by the Trustee; and
- (c) any Transfer Value received from another superannuation scheme or the Complying Section; and
- (d) any Continuing Value received for the Member; and
- (e) if applicable, the amount of any monies to be credited to or debited from, as the case may be, the New Benefit Member Account at the rate or rates determined by the Trustee in respect of the relevant Portfolio or Portfolios in accordance with the Earning Rates Policy; and
- (f) if applicable, amounts paid in the acquisition of assets in respect of the Member referable to the New Benefit Member Account; and
- (g) if applicable, income and cash returns from assets held in respect of the Member referable to the New Benefit Member Account and on money in the New Benefit Member Account not yet invested; and
- (h) if applicable, money received following the realisation of assets held in respect of the Member referable to the New Benefit Member Account; and
- (i) such other amounts as are required either expressly or by implication to be credited or debited in terms of this Deed,

and such account shall be the New Benefit Member Account of such Member.

B3.3 The Trustee shall establish an account for each member known as the "New Benefit Supporter Account" to which shall from time to time be credited or debited;

- (a) contributions to the New Benefit Section under clause B2.3 and the Governing Requirements; and

- (b) a proportionate share of the expenses of administration of the New Benefit Section including any investment management fees (if applicable) as determined by the Trustee; and
- (c) if applicable, the amount of any monies to be credited to or debited from, as the case may be, the New Benefit Supporter Account at the rate or rates determined by the Trustee in respect of the relevant Portfolio or Portfolios in accordance with the Earning Rates Policy; and
- (d) if applicable, amounts paid in the acquisition of assets in respect of the Member referable to the New Benefit Supporter Account; and
- (e) if applicable, income and cash returns from assets held in respect of the Member referable to the New Benefit Supporter Account and on money in the New Benefit Supporter Account not yet invested; and
- (f) if applicable, money received following the realisation of assets held in respect of the Member referable to the New Benefit Supporter Account; and
- (g) such other amounts as are required either expressly or by implication to be credited or debited in terms of this Deed,

and such account shall be the New Benefit Supporter Account of such Member.

B4. Withdrawals

Withdrawal on retirement or leaving active ministry

- B4.1 A Member is entitled to withdraw an amount equal to the balance of the New Benefit Balance if either:
- (a) the Member has left active ministry with the Church; or
 - (b) the Member has reached the New Zealand superannuation qualification age.
- B4.2 A Member who has reached the New Zealand superannuation qualification age is not required to withdraw and may instead elect to defer receipt of their New Benefit Balance.
- B4.3 A Member entitled to withdraw pursuant to clause B4.1(b) may elect to receive their New Benefit Balance in a lump sum or in regular instalments.

Withdrawal on death

- B4.4 Subject to clause B4.5, if a Member dies, the Trustee 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 New Benefit Balance

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.

B4.5 Nomination of Surviving Spouse

- (a) A Continuing Member may nominate their Spouse (a **Nominated Surviving Spouse**) to receive the amount referred to in clause B4.4(a) on the Continuing Member's death. The nomination will be a one-off opportunity for Continuing Members and, if revoked pursuant to clause B4.5(b), the Continuing Member will not have any right to make a further nomination under this clause B4.5(a)
- (b) A nomination under clause B4.5(a) will only be effective if received in the form and manner prescribed by the Trustee and may be revoked at any time by the Continuing Member.
- (c) If there is a Nominated Surviving Spouse, clause B4.4 will not apply and if the Continuing Member dies, the Trustee must pay the Nominated Surviving Spouse an amount that is equal to the value of the Continuing Member's New Benefit Balance as at the date of the Continuing Member's death.
- (d) A Nominated Surviving Spouse may elect to retain the Continuing Member's New Benefit Balance in the Fund in which case, the Nominated Surviving Spouse:
 - (i) will not be able to contribute to the New Benefit Section; and
 - (ii) may withdraw the Continuing Member's New Benefit Balance in regular instalments; or
 - (iii) may defer receipt of the Continuing Member's New Benefit Balance and withdraw the Continuing Member's New Benefit Balance in a lump sum or in regular instalments at a later date.

Withdrawal for purpose of purchase of first home

B4.6 Clause B4.7 applies to a Member if the Member has not made a withdrawal under clause B4.7 before.

B4.7 A Member to whom this clause applies may make a withdrawal from the New Benefit Section for the purchase of an estate in land located in New Zealand (whether alone or as a joint tenant or tenant in common) if both of the following apply:

- (a) 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

- (b) 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 New Benefit Section), held an estate in land (whether alone or as a joint tenant or tenant in common).
- B4.8 A Member may not make a withdrawal under clause B4.7 of more than an amount equal to the balance of the Member's New Benefit Member Account at the time of the withdrawal.
- B4.9 If a person holds an estate in land in any of the following circumstances, that estate must be disregarded for the purposes of clause B4.7(b):
- (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 (within the meaning of the Te Ture Whenua Maori Act 1993).
 - (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.
- B4.10 In clauses B4.7 and B4.9, "estate" means a fee simple estate, a leasehold estate, or a stratum estate.
- B4.11 Any benefits paid under clause B4.7 shall be met from the Member's New Benefit Member Account.

Withdrawal in cases of significant hardship

- B4.12 If the Trustee is satisfied in its absolute discretion that significant hardship would result to a Member and his or her immediate family if the Member were not permitted to make a withdrawal from the New Benefit Section, the Member may, on application to the Trustee in accordance with clauses B4.17 and B4.18, make a withdrawal in accordance with this clause B4.12.
- B4.13 The amount of that significant hardship benefit is subject to the Trustee's approval under clause B4.14, and shall not be more than an amount equal to the Member's New Benefit Balance at the time of the withdrawal.
- B4.14 The Trustee:

- (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 Trustee's opinion, is required to alleviate the particular hardship.

Withdrawal in cases of serious illness

- B4.15 In cases where a Member to whom this clause applies is suffering from Serious Illness (as defined in the KiwiSaver Scheme Rules), the Member may apply to the Trustee in accordance with clauses B4.17 and B4.18 to make a serious illness withdrawal of some or all of the Member's New Benefit Balance in accordance with this clause.
- B4.16 The Trustee may in its absolute discretion permit such a withdrawal if satisfied that if the Member was a member of a KiwiSaver Scheme, clause 12 of the KiwiSaver Scheme Rules would allow the withdrawal.

Application for withdrawal for significant hardship or serious illness

- B4.17 The application for a withdrawal under clause B4.12 or clause B4.15 must be in the form required by the Trustee and may at the Trustee's election include a complete statutory declaration in respect of the Member's assets and liabilities or any other documents, things, or information, that the Trustee requests.
- B4.18 The Trustee:
- (a) may require that any medical matter asserted in support of the application for withdrawal be verified by medical evidence:
 - (b) may require that any other documents, things, or information produced in support of the application be verified by oath, statutory declaration, or otherwise.

Withdrawal of Continuing Value

- B4.19 Subject to clauses B4.20 and B4.21, a Continuing Member will, on giving notice to the Trustee, be entitled to make one or more withdrawals from that Continuing Member's New Benefit Member Account up to an amount equal to in aggregate that Continuing Member's Continuing Value Balance.
- B4.20 The entitlement of a Continuing Member to make a withdrawal under clause B4.19 is subject to any terms and conditions that the Trustee may from time to time determine.
- B4.21 The Trustee may from time to time and in its sole discretion determine that withdrawals or any withdrawal under clause B4.19 will not be permitted if it considers the circumstances necessary and appropriate, including, without limitation, if in the opinion of the Trustee the availability of a withdrawal under clause B4.19 would be inconsistent with the Fund's charitable purposes or would jeopardise the Fund's registration under the Act.

B5. General provisions relating to withdrawals

B5.1 Trustee may reasonably require evidence to establish right to receive permitted withdrawal

The Trustee may reasonably require a Member who applies to make a permitted withdrawal to provide evidence of the facts necessary to establish the Member's right to make the withdrawal and / or require that any documents, things, or information produced in an application be verified by oath, statutory declaration, or otherwise.

B5.2 Release of funds required under other enactment

The Trustee must comply with the provisions of any enactment that requires them to release funds from the New Benefit Section in accordance with that enactment.

B5.3 A requirement to release funds from the New Benefit Section 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).

Benefits Fully Funded

B5.4 The benefits provided to Members of the New Benefit Section pursuant to this Deed shall be fully funded as they accrue.

B5.5 A Member who is entitled to receive a withdrawal pursuant to Part B may elect:

- (a) to receive the withdrawal as a lump sum;
- (b) in the case of a withdrawal under clause B4.1, B4.12, B4.15 or B4.17, to receive the withdrawal in regular instalment payments; or

in the case of a withdrawal under clause B4.1,

to transfer the withdrawal to the Complying Section, a Superannuation Scheme, or other scheme if permitted under the Governing Requirements, in each case subject to and in accordance with the Governing Requirements.

B6. Transfers, alienation and assignment

B6.1 General Prohibition

Subject to clause B6.2, unless permitted or required by the Governing Requirements or other law (and then only to the extent so permitted or required), no Member may transfer, alienate, assign, charge, pass to any other person, mortgage, pledge or grant any other interest in his or her, present or future interest in the New Benefit Section or any withdrawals payable from the New Benefit Section in any way, and the Trustee shall not be entitled to recognise any other person as having an interest of any nature in the Member's present or future interest in the New Benefit Section or

any withdrawal payable from the New Benefit Section, or be obliged to give effect to or see to the performance of any such interest.

B6.2 Forfeiture of Entitlements

Subject to the Governing Requirements the Trustee may from time to time determine (in respect of some or all Members) that if in the opinion of the Trustee a Member becomes of unsound mind, incapable of managing his or her affairs or bankrupt, the Member shall (to a maximum extent permitted by law) forfeit his or her interest in the New Benefit Section. The Trustee shall (subject to compliance with the Governing Requirements) apply such forfeited interest for the benefit of the Member or his or her dependants in such manner as the Trustee shall in its discretion think fit. The Trustee shall not be under any obligation to make enquiry as to whether circumstances exist in respect of any Member which may give rise to the operation of this clause. Any amounts forfeited under this clause may be paid and held by the Trustee to the Reserve Account.

B6.3 Transfers or placement in the New Benefit Section from another scheme or another part or division of the Fund

If any Member is entitled to a benefit or to otherwise transfer or place in the New Benefit Section, an amount from any other Superannuation Scheme or another part or division of the Fund (including under clause C6.6(c)) the Trustee shall on such terms and conditions as it shall determine from time to time (such terms to be consistent with the Governing Requirements), accept a transfer, or placement from that other scheme or part or division of the Fund of an amount notified to it by the trustee of that other scheme (or in the case of a transfer, or placement from another part or division of the Fund, the amount the Member requested be transferred or placed to the New Benefit Section). For the avoidance of doubt, the Trustee may, in its sole discretion, reject a transfer or placement, in if in the opinion of the Trustee it would be inconsistent with the Fund's charitable purposes or would jeopardise the Fund's registration under the Act.

B6.4 A transfer to the Fund from an international source (excluding any transfers from Australian Complying Funds) must meet the conditions of the AML Exemption Notice.

B6.5 Transfers to another scheme

Each Member shall be entitled to transfer any amount they are entitled to receive under the New Benefit Section to another scheme as is required under the Governing Requirements.

B7. Relationship with governing requirements

If there is any inconsistency between the provisions of this Deed, as they relate to the New Benefit Section, and any Governing Requirements, the provisions of the relevant Governing Requirements shall prevail and this Deed shall (only insofar as it relates to the New Benefit Section) be construed accordingly. If there is any inconsistency

between the provisions of Part B and the remainder of this Deed, the provisions of Part B shall prevail.

B8. Winding up

- B8.1 The New Benefit Section may be wound up only by the General Assembly or pursuant to any statutory power contained in the Governing Legislation.
- B8.2 In the event any sums are held in the Reserve Account on the winding up of the New Benefit Section, the Reserve Account shall be applied to meet the costs and expenses of winding up the New Benefit Section.
- B8.3 In the event no sums are held in the Reserve Account on the winding up of the New Benefit Section or the sums held in the Reserve Account are exhausted under clause B8.2, the costs and expenses of winding up the New Benefit Section shall be debited to the Members' New Benefit Member Accounts on an equitable basis.
- B8.4 Upon the winding-up of the New Benefit Section the benefit payable in respect of each Member shall be equal to the Member's New Benefit Balance. Such benefit shall be paid as a lump sum to the Member.
- B8.5 If there is insufficient money to satisfy all the obligations under B8.4, the amount of each benefit payable to a Member shall be abated rateably among all Members.
- B8.6 For the avoidance of doubt, clause A12.3 shall be complied with in respect of the winding up of the New Benefit Section.

PART C

COMPLYING SECTION RULES

C1. Enforceability

C1.1 These Complying Section Rules are enforceable by the Trustee or any Member of the Complying Section.

C2. Membership

C2.1 Membership

Any Minister (including a Minister in Kindred Service) may at the discretion of the Trustee become a member and join the Complying Section.

C2.2 Cessation of Membership

Subject to the Governing Requirements a Member shall cease to be a Member of the Complying Section on the first to occur of:

- (a) the Member's death;
- (b) payment to the Member of all of the Member's Complying Section Balance;
- (c) the Member transferring from the Complying Section to another complying fund, KiwiSaver Scheme, or other scheme and ceasing to have an entitlement under the Complying Section; or
- (d) the transfer of all the Member's Complying Section Balance to the New Benefit Section.

C2.3 Revocation of Membership

At its discretion, the Trustee may revoke any Member's membership of the Complying Section at any time where the Trustee considers that the service of the Minister is no longer consistent with the objects of the Fund. In such a case the Member's Complying Section Balance shall be transferred to another Complying Superannuation Fund or KiwiSaver Scheme in accordance with clause C8.

C3. Contributions

C3.1 Minimum contribution for member

For each pay period a Member must contribute to the Complying Section at least the minimum contribution rate of that Member's gross Salary or Wages (as that term is defined in the KiwiSaver Act) or Total Stipend as is required under Governing Legislation.

C3.2 Member Contributions

Contributing Members who are subject to the provisions of Part C shall pay a Member Contributions to the Fund comprising a contribution to the Complying Section. The contribution to the Complying Section shall be at the percentage rate of the Member's Total Stipend elected by the Member or as otherwise specified or required in accordance with the contribution options outlined in Appendix B of this Deed, or such other amount required by the Governing Legislation, subject to clause A23.1. Contributions shall be deducted from the Member's Total Stipend by the Member's Parish treasurer, by the Member's Church Body (other than a Parish), or by the Member's Kindred Entity (as applicable), and remitted to, or paid by direct debit initiated by, the Administration Manager no later than one month after the deduction is made.

C3.3 Restrictions on Member Contributions

All contributions payable by the Member under clause C3.2 shall be made in accordance with the AML Exemption Notice.

C3.4 Kindred Entity and Church Body Contributions

Contributions shall be made to the Complying Section for each Member who is subject to the provisions of Part C. The contributions shall be made in respect of each Member either:

- (a) in the case of Members in Kindred Service, by their Kindred Entities; or
- (b) in the case of all other Ministers who are Members, by the Member's Church Body.

The contribution shall be at the percentage rate of the Member's Total Stipend or amount elected by the Member or as otherwise specified or required in accordance with the various contribution options outlined in Appendix B of this Deed, or such other amount required by the Governing Legislation, and shall be payable to the Fund at the same time and in the same manner as Member Contributions payable by a Member under clause C3.2 are paid to the Fund.

The Church shall procure each Church Body and/or each Kindred Entity pay the applicable contributions required under this clause C3.4.

C3.5 AML Exemption Notice

The Trustee may, at its sole discretion, permit a Member to pay the applicable Kindred Entity contributions from a Member's Total Stipend in accordance with the AML Exemption Notice.

C3.6 Taxation on Church Body and Kindred Entity Contributions

The rates of contribution referred to in clause C3.4 are gross rates. Any taxation payable in respect of any contribution made under clause C3.4 shall be deducted from the contribution payable under clause C3.4 and the net amount remaining shall be paid to the Fund.

C3.7 Savings suspension

A Member may not take a savings suspension in accordance with subpart 4 of Part 3 of the KiwiSaver Act.

C4. Accounts

C4.1 The Trustee shall establish Accounts for each Member as provided below. These Accounts shall be a record in respect of each Member of all relevant contributions and assets held in respect of the Member, and Units held for that Member, referable to that Account. The Accounts at any given date list the value of all assets held with regard to the Member at the relevant time, referable to that Account.

C4.2 The Trustee shall establish an account for each Member known as a "Complying Section Member Account" to which shall from time to time be credited or debited:

- (a) contributions to the Complying Section by the Member under clause C3.2 and the Governing Requirements; and
- (b) a proportionate share of the expenses of administration of the Complying Section including any investment management fees (if applicable) as determined by the Trustee; and
- (c) any Transfer Value received from another Superannuation Scheme relating to the Member's employment with an employer other than a Kindred Entity; and
- (d) if applicable, the amount of any monies to be credited to or debited from, as the case may be, the Complying Section Member Account at the rate or rates determined by the Trustee in respect of the relevant Portfolio or Portfolios in accordance with the Earning Rates Policy; and
- (e) if applicable, amounts paid in the acquisition of assets in respect of the Member referable to the Complying Section Member Account; and

- (f) if applicable, income and cash returns from assets held in respect of the Member referable to the Complying Section Member Account and on money in the Complying Section Member Account not yet invested; and
- (g) if applicable, money received following the realisation of assets held in respect of the Member referable to the Complying Section Member Account; and
- (h) such other amounts as are required either expressly or by implication to be credited or debited in terms of this Deed,

and such account shall be the Complying Section Member Account of such Member.

C4.3 The Trustee shall establish an account for each Member known as a "Complying Section Supporter Account" to which shall from time to time be credited or debited:

- (a) contributions to the Complying Section for the Member under clause C3.4 and the Governing Requirements, reduced by the amount of Withholding Tax Savings in respect of the Member; and
- (b) a proportionate share of the expenses of administration of the Complying Section including any investment management fees (if applicable) as determined by the Trustee; and
- (c) if applicable, the amount of any monies to be credited to or debited from, as the case may be, the Complying Section Supporter Account at the rate or rates determined by the Trustee in respect of the relevant Portfolio or Portfolios in accordance with the Earning Rates Policy; and
- (d) if applicable, amounts paid in the acquisition of assets in respect of the Member referable to Complying Section Supporter Account; and
- (e) if applicable, income and cash returns from assets held in respect of the Member referable to the Complying Section Supporter Account and on money in the Complying Section Supporter Account not yet invested; and
- (f) if applicable, money received following the realisation of assets held in respect of the Member referable to the Complying Section Supporter Account; and
- (g) such other amounts as are required either expressly or by implication to be credited or debited in terms of this Deed,

and such account shall be the Complying Section Supporter Account of such Member.

C4.4 The Trustee shall establish an account for each Member known as a "Complying Section Tax Benefit Account" to which shall from time to time be credited or debited:

- (a) Government Contributions paid in respect of the Member under the Governing Requirements; and
- (b) Withholding Tax Savings; and
- (c) a proportionate share of the expenses of administration of the Complying Section including any investment management fees (if applicable) as determined by the Trustee; and
- (d) if applicable, the amount of any monies to be credited to or debited from, as the case may be, the Complying Section Tax Benefit Account at the rate or rates determined by the Trustee in respect of the relevant Portfolio or Portfolios in accordance with the Earning Rates Policy; and
- (e) if applicable, amounts paid in the acquisition of assets in respect of the Member referable to Complying Section Tax Benefit Account; and
- (f) if applicable, income and cash returns from assets held in respect of the Member referable to the Complying Section Tax Benefit Account and on money in the Complying Section Tax Benefit Account not yet invested; and
- (g) if applicable, money received following the realisation of assets held in respect of the Member referable to the Complying Section Tax Benefit Account; and
- (h) such other amounts as are required either expressly or by implication to be credited or debited in terms of this Deed,

and such account shall be the Complying Section Tax Benefit Account of such Member.

C4.5 For the purposes of this clause, Withholding Tax Savings shall mean the amount of the employer contributions tax which would have been payable on contributions paid under clause C3.4 had the Complying Section not been approved as a Complying Superannuation Fund for the purposes of the Income Tax Act 2007.

C5. Withdrawals

Lock-in of funds to Withdrawal Age

- C5.1 Subject to other permitted withdrawals, a Member may not make a withdrawal from the Complying Section until the Withdrawal Age or a date after that date.
- C5.2 A Member is entitled to withdraw an amount not more than the balance of the Member's Complying Section Balance on the Withdrawal Age.
- C5.3 Nothing in this clause requires a Member to withdraw from the Complying Section on the Withdrawal Age.

Withdrawal by member's personal representative

- C5.4 If a Member dies, the Trustee 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 Complying Section Balance at the date on which the application is accepted as part of the Member's estate; or
 - (b) if the requirement 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.

Withdrawal for purpose of purchase of first home

- C5.5 A Member to whom this clause applies may apply to make a withdrawal from the Complying Section of some or all of the Member's Complying Section Balance for the purchase of an estate in land located in New Zealand in a circumstance specified in clause 8 of the KiwiSaver Scheme Rules.
- C5.6 The Trustee in its absolute discretion may permit such a withdrawal if, treating the period during which the Member was a member of the Complying Section and / or one or more KiwiSaver Schemes as membership of a KiwiSaver Scheme, the Trustee is satisfied that clause 8 of the KiwiSaver Scheme Rules would enable the withdrawal.
- C5.7 This clause is subject to the terms of any agreement between the Trustee and any Kindred Entity or Church Body that restricts or prevents the withdrawal of Kindred Entity or Church Body vested contributions that are not compulsory Kindred Entity or Church Body contributions in relation to the Member.

Withdrawal in cases of significant financial hardship

- C5.8 In cases where a Member to whom this clause applies is suffering or is likely to suffer from Significant Financial Hardship (as defined in the KiwiSaver Scheme Rules), the Member may apply to the Trustee in accordance with clauses C5.14 and C5.15 to make a significant financial hardship withdrawal of some or all of the Member's Complying Section Balance in accordance with this Rule.
- C5.9 The Trustee may in its absolute discretion permit such a withdrawal if satisfied that if the Member was a member of a KiwiSaver Scheme, clause 10 of the KiwiSaver Scheme Rules would allow the withdrawal.

Withdrawal in cases of serious illness

- C5.10 In cases where a Member to whom this clause applies is suffering from Serious Illness (as defined in the KiwiSaver Scheme Rules), the Member may apply to the Trustee in accordance with clauses C5.14 and C5.15 to make a serious illness withdrawal of some or all of the Member's Complying Section Balance in accordance with this Rule.

- C5.11 The Trustee may in its absolute discretion permit such a withdrawal if satisfied that if the Member was a member of a KiwiSaver Scheme, clause 12 of the KiwiSaver Scheme Rules would allow the withdrawal.

Withdrawal in cases of life-shortening congenital condition

- C5.12 In cases where a Member to whom this clause applies is suffering from a Life-Shortening Congenital Condition (as defined in the KiwiSaver Scheme Rules), the Member may apply to the Trustee in accordance with clauses C5.14 to C5.16 to make a congenital condition withdrawal of some or all of the Member's Complying Section Balance in accordance with this Rule.

- C5.13 The Trustee may in its absolute discretion permit such a withdrawal if satisfied that if the Member was a member of a KiwiSaver Scheme, clause 12B of the KiwiSaver Scheme Rules would allow the withdrawal.

Application for withdrawal for significant financial hardship, serious illness or congenital condition

- C5.14 The application for a withdrawal under clause C5.8 clause C5.10 or clause C5.12 must be in the form required by the Trustee.

- C5.15 The Trustee:

- (a) must require for a withdrawal under clause C5.12 that any medical matter asserted in support of the application for withdrawal be verified by medical evidence:
- (b) may require for a withdrawal under clause C5.8 or clause C5.10 that any medical matter asserted in support of the application for withdrawal be verified by medical evidence:
- (c) may require that any other documents, things, or information produced in support of the application be verified by oath, statutory declaration, or otherwise.

- C5.16 The application for a withdrawal under clause C5.8 must also include a statutory declaration in respect of the Member's assets and liabilities.

- C5.17 The application for a withdrawal under clause C5.12 must also include a statutory declaration by the Member to acknowledge that they understand:

- (a) first, that their funds are to be released to them as if they had reached the New Zealand superannuation qualification age; and
- (b) secondly, that after the withdrawal of the funds, they are no longer eligible to receive Government Contributions and Church Body or Kindred Entity contributions (as applicable) in relation to their future contributions (if any).
- (c)

Withdrawal or transfer to foreign scheme in cases of permanent emigration

- C5.18 A Member may apply to the Trustee to withdraw some or all of the Member's Complying Section Balance, or to transfer the balance in the Member's Complying Section Balance to an Equivalent Overseas Retirement Scheme, in the case of permanent emigration from New Zealand.
- C5.19 Subject to the application of subpart MK of the Income Tax Act 2007, the Trustee may in its absolute discretion permit such a withdrawal or transfer if satisfied that, if the Member's membership of the Complying Section was membership of a KiwiSaver Scheme, clause 14 of the KiwiSaver Scheme Rules would enable the withdrawal or transfer.

Withdrawals permitted by Governing Legislation

- C5.20 Where a withdrawal is permitted under Schedule 28 of the Income Tax Act 2007 but is not explicitly provided for under this Part C, that withdrawal is deemed to be permitted under this Part C, subject to any terms and conditions are imposed in respect of that withdrawal under Governing Legislation.

C6. General provisions relating to withdrawals

Trustee may reasonably require evidence to establish right to make permitted withdrawal

- C6.1 The Trustee may reasonably require a Member who applies to make a permitted withdrawal to provide evidence of the facts necessary to establish the Member's right to make the withdrawal, and / or require that any documents, things, or information produced in an application be verified by oath, statutory declaration, or otherwise.

Government Contributions

- C6.2 Notwithstanding anything in this Deed, the amount of any Government Contribution (disregarding any positive or negative returns for the purposes of calculating that amount of Government Contribution) may not be withdrawn:
- (a) before the Member, the personal representative, or the relevant person under section 65 of the Administration Act 1969 (as the case may be) gives the provider a statutory declaration stating, to the best of their knowledge, the periods for which the Member has their principal place of residence in New Zealand; and
 - (b) to the extent to which the Trustee has notice that their claim for a Government Contribution is wrong, because they have got the time for which the Member meets the requirements of section MK 2 of the Income Tax Act 2007 wrong.

Release of funds required under other enactments

- C6.3 The Trustee must comply with the provisions of any enactment that requires them to release funds from the Complying Section in accordance with that enactment.
- C6.4 A requirement to release funds from the Complying Section 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).

Benefits Fully Funded

- C6.5 The benefits provided to Members of the Complying Section pursuant to this Deed shall be fully funded as they accrue.
- C6.6 A Member who is entitled to a withdrawal pursuant to the provisions in this Part may elect to:
- (a) receive the withdrawal as a lump sum;
 - (b) receive the withdrawal in regular instalment payments;
 - (c) transfer the withdrawal to the New Benefit Section; or
 - (d) to transfer the withdrawal to a KiwiSaver Scheme, or if permitted by the Governing Requirements, to another Superannuation Scheme, or other scheme if permitted under the Governing Requirements, in each case subject to and in accordance with the Governing Requirements.
- C6.7 The amount of any withdrawal is subject to the provisions in this Part.
- C6.8 The conditions of the AML Exemption Notice must be met where a withdrawal is made under this Part and the Member is also making Member Contributions under clause B2.1 or clause C3.2.

Trustee must pay permitted withdrawal as lump sum

- C6.9 The Trustee must, at the Member's request, pay a withdrawal permitted under this Part C as a lump sum.

C7. Transfers, alienation and assignment

C7.1 General Prohibition

Subject to clause C7.2, unless permitted or required by the Governing Requirements or other law (and then only to the extent so permitted or required), no Member may transfer, alienate, assign, charge, pass to any other person, mortgage, pledge or grant any other interest in his or her, present or future interest in the Complying Section or any withdrawal payable from the Complying Section in any way, and the Trustee shall not be entitled to recognise any other person as having an interest of

any nature in the Member's present or future interest in the Complying Section or any withdrawal payable from the Complying Section, or be obliged to give effect to or see to the performance of any such interest.

C7.2 Forfeiture of Entitlements

Subject to the Governing Requirements the Trustee may from time to time determine (in respect of some or all Members) that if in the opinion of the Trustee a Member becomes of unsound mind, incapable of managing his or her affairs or bankrupt, the Member shall (to a maximum extent permitted by law) forfeit his or her interest in the Complying Section. The Trustee shall (subject to compliance with the Governing Requirements) apply such forfeited interest for the benefit of the Member or his or her dependants in such manner as the Trustee shall in its discretion think fit. The Trustee shall not be under any obligation to make enquiry as to whether circumstances exist in respect of any Member which may give rise to the operation of this clause. Any amounts forfeited under this clause may be paid and held by the Trustee in the Reserve Account.

C7.3 Transfers from another Scheme

If any Member is entitled to a benefit or to otherwise transfer an amount from any other Superannuation Scheme the Trustee shall on such terms and conditions as it shall determine from time to time (such terms to be consistent with the Governing Requirements), accept a transfer from that other scheme of an amount notified to it by the trustee of that other scheme. Any amount so received shall be treated as if it were a contribution by the Member pursuant to clause C3.2.

A transfer to the Fund from an international source (excluding any transfers from Australian Complying Funds) must meet the conditions of the AML Exemption Notice.

C8. Transfer of members

- C8.1 A Member may, at any time during his or her membership of the Complying Section, apply to the Trustee, to have the Member's Complying Section Balance transferred to another complying fund or KiwiSaver Scheme.
- C8.2 On application by a Member, the Trustee must, if the other complying fund or KiwiSaver Scheme indicates it will accept that person as a member, transfer the Member's Complying Section Balance to the other complying fund or KiwiSaver Scheme in accordance with subpart 3 of Part 2 of the KiwiSaver Act.
- C8.3 A Member may, at any time during his or her membership of the Complying Section, be transferred to another KiwiSaver Scheme in the circumstances provided for in, and in accordance with, the Governing Legislation.
- C8.4 The Trustee shall require that a Member's Complying Section Balance be subject to Complying Section rules where it is transferred to another Complying Superannuation Fund in accordance with this Rule.

C9. Notification

- C9.1 The Trustee shall notify the Commissioner if a Member's Complying Section Balance must be transferred under clause C8.
- C9.2 The Trustee shall notify the fund provider if a Member's Complying Section Balance is transferred to another Complying Superannuation Fund under clause C8.
- C9.3 For the purpose of this clause:
- (a) notification under clause C9.1 must include the name, address and tax file number of the Member, the name and address of their Kindred Entity or Church Body, and the name and tax file number of the complying fund;
 - (b) notification under clause C9.2 must include:
 - (i) any written evidence provided to the Trustee by the Member under section MK2(2) of the Income Tax Act 2007;
 - (ii) the amount of tax credits received by the Trustee in respect to the Member under subpart MK of the Income Tax Act 2007; and
 - (iii) any information held by the Trustee that would be relevant to the new fund provider making a claim under section 68C of the Tax Administration Act 1994, including information as to the periods for which claims have already been made.

C10. Relationship with governing requirements

If there is any inconsistency between the provisions of this Deed, as they relate to the Complying Section, and any Governing Requirements the provisions of the relevant Governing Requirements shall prevail and this Deed shall (only insofar as it relates to the Complying Section) be construed accordingly. If there is any inconsistency between the provisions of this Part and the remainder of this Deed, the provisions of this Part shall prevail.

C11. Winding up

- C11.1 The Complying Section may be wound up only by the General Assembly or pursuant to any statutory power contained in the Governing Legislation.
- C11.2 In the event any sums are held in the Reserve Account on the winding up of the Complying Section, the Reserve Account shall be applied to meet the costs and expenses of winding up the Complying Section.
- C11.3 In the event no sums are held in the Reserve Account on the winding up of the Complying Section or the sums held in the Reserve Account are exhausted under

clause C11.2, the costs and expenses of winding up the Complying Section shall be debited to the Members' Complying Section Balances on an equitable basis.

- C11.4 Upon the winding-up of the Complying Section the benefit payable in respect of each Member shall be equal to the Member's Complying Section Balance. Such benefit shall be paid to another complying fund or KiwiSaver Scheme, or as a lump sum to the Member if the Member has reached the Withdrawal Age specified in clause C5.1, as the Member shall elect.

Appendix A

DEED OF ADOPTION

This Deed of Adoption made this _____ day of _____ 20____

BETWEEN [_____] (Kindred Entity)

AND **THE PRESBYTERIAN BENEFICIARY FUND TRUSTEE LIMITED** of the second part.

WITNESSES

1. The Kindred Entity desires to participate in the Beneficiary Fund of the Presbyterian Church of Aotearoa New Zealand Fund ("the Fund") and by executing this Deed of Adoption agrees to be bound by the provisions of the Trust Deed so that Ministers in its service may either become Members or continue as Members in the Fund.
2. Except as agreed otherwise in writing with the Trustee, the Kindred Entity covenants to pay the amounts required of it under the Trust Deed (including the amounts required under clause 1 of Appendix 2 of the Deed) for each of its employees who become a Member of the Fund. The Kindred Entity shall continue to pay such amounts until either:
 - (a) such employee ceases to be in Kindred Service; or
 - (b) the Kindred Entity chooses to withdraw participation from the Fund and gives the Trustee not less than one month's written notice of such choice.

Appendix B

CONTRIBUTION OPTIONS

Contributions shall be made to the Fund as outlined below.

1) In the case of:

- i. Members in Kindred Service where the Kindred Entity has entered into a deed of adoption under which the Kindred Entity will contribute to the Fund in accordance with this Deed and this clause 1 of this Appendix B or has otherwise agreed to make such contributions; and
- ii. all other Ministers that are Members,

such Members shall elect an option from the table below specifying:

- (a) in respect of those Members that are Members of the New Benefit Section, the rate of Member Contributions to be made in accordance with clause B2.1 and the rate of Church Body or Kindred Entity (as applicable) contributions to be made in accordance with clauses B2.3 or B2.4; and / or
- (b) in respect of those Members that are Members of the Complying Section, the rate of Member Contributions to be made in accordance with clause C3.2 and the rate of Church Body or Kindred Entity (as applicable) contributions to be made in accordance with clause C3.4.

	New Benefit Section		Complying Section	
	<i>Rate* of Member Contributions to be made in accordance with clause B2.1</i>	<i>Rate* of Church Body or Kindred Entity (as applicable) contributions to be made in accordance with clause B2.3</i>	<i>Rate* of Member Contributions to be made in accordance with clause C3.2</i>	<i>Rate* of Church Body or Kindred Entity (as applicable) contributions to be made in accordance with clause C3.4</i>
Option 1	5%	5%	Not a Member of the Complying Section	0%
Option 2	2%	2%	3%	3%
Option 3	1%	1%	4%	4%
Option 4	0% or not a Member of the New Benefit Section (as applicable)	0%	5%	5%

Subject to clause A23, in the event that a Member to whom this clause 1 of Appendix B applies has not specifically selected to be a Member of a particular Section or division of the Fund and / or has not specified a contribution option in accordance with this clause 1 Appendix B of this Deed, the Member shall be a Member of the New Benefit Section and shall be deemed to have elected Option 1 in accordance with this clause 1 of Appendix B of this Deed.

- 2) Subject to the Governing Legislation, clause A23 and clause B2.4, in the case of Members in Kindred Service where the Kindred Entity has not agreed to contribute to the Fund in accordance with clause 1 of Appendix B, contributions shall be made and the Member shall be a member of one of the Sections as follows:
 - i. in respect of those Members that are Members of the Complying Section or Members that elect to be a member of the Complying Section, the Member shall be deemed to have elected that the rate of Member Contributions to be made in accordance with clause C3.2 shall be 5%* and the amount of Kindred Entity contributions to be made in accordance with clause C3.4 shall be the amount of compulsory employer contributions required to be paid by the Kindred Entity to the Complying Section in respect of the Member under the Governing Legislation, to the Complying Section; or

- ii. in respect of all other Members, the Member shall be a Member of the New Benefit Section and be deemed to have elected that the rate of Member Contributions to be made in accordance with clause B2.1 shall be 5%* and the amount of Kindred Entity contributions to be made in accordance with clause B2.3 shall be the same as the amount of Kindred Entity contributions that would have been made in accordance with clause C3.4 as if the Member were a Member of the Complying Section, to the New Benefit Section.
- 3) Contributions in respect of a Member may also be made at any other rate* as agreed between that Member, the Church Body or Kindred Entity (as applicable), and the Trustee.

*Each of the rates is a percentage rate of the Total Stipend of the Member.