

Trust Deed

relating to

the Asteron Retirement Plus Personal Superannuation Plan

Asteron Retirement Investment Limited

Trustee

Date 25 November 2016

BELL GULLY

AUCKLAND VERO CENTRE, 48 SHORTLAND STREET
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This Trust Deed is made on

25 November

2016

by **Asteron Retirement Investment Limited (Trustee)**

Introduction

- A. The Trustee is the trustee of the Asteron Retirement Plus Personal Superannuation Plan (the **Plan**).
- B. The Plan was established by a deed dated 14 February 1994, as amended by deeds of amendment dated 8 January 1998, 22 December 1999, 28 January 2000, 1 July 2003 and 19 February 2014 (the **Existing Deed**).
- C. Clause 5 of the Existing Deed allows the Trustee at any time to amend all or any of the provisions of the Existing Deed, subject to the conditions set out in that clause 5.
- D. The Trustee wishes to amend the Existing Deed by substituting this deed for the Existing Deed in connection with the transition of the Plan to the Financial Markets Conduct Act 2013 (the **FMC Act**).
- E. Prior to executing this Deed, the Trustee obtained a certificate from its solicitors as required by section 12 of the Superannuation Schemes Act 1989.

It is declared

With effect on and from the date that the Trustee elects under clause 19(1)(a) of Schedule 4 to the FMC Act (the **Effective Date**), the Existing Deed is amended by substituting the provisions of the Existing Deed with all the provisions of this deed, so that from the Effective Date the Plan will be operated, administered and governed in accordance with the provisions of this deed (the **Trust Deed**).

The Trustee established a superannuation scheme called Asteron Retirement Plus Personal Superannuation Plan (the **Plan**) for the benefit of any person (the **Member**) who agreed to be bound by the Rules annexed hereto (the **Rules**).

1. In this Trust Deed and the Rules:

“**Accumulation Value**” means in respect of a Member the amount standing to his credit under the Policies and is determined as the value of units held by the Member in each applicable Investment Portfolio at the bid price for those Investment Portfolios (calculated in accordance with the Policies), plus any prepaid and unallocated payments, less fees, including any outstanding fees not yet brought to charge;

“**Asteron**” means Asteron Life Limited;

“**Contributions**” means the amount each Member agrees to contribute to the Plan;

“**Custodian**” means a person appointed to hold the assets of the Plan under clause 13A(a) and includes, to the extent the context permits, any sub-custodian appointed by the Custodian to hold such Plan assets under clause 13A(b);

“**FMC Act**” means the Financial Markets Conduct Act 2013;

“**FMC Regulations**” means the Financial Market Conduct Regulations 2014;

“**Investment Direction**” means a direction by a Member relating to the investment of the Member's Accumulation Value and future Contributions;

“**Investment Portfolio**” means a separate investment fund maintained by Asteron comprising investments of a specified kind;

“**Policies**” means policies issued to the Trustee by Asteron;

“**Reserve Account**” means an account maintained by the Trustee for the purpose of crediting any benefits forfeited to the Plan under this Trust Deed and Rules; and

“**Restricted Scheme**” has the meaning given to it by the FMC Act.

Any reference to a statute (or to any particular part or section or definition) shall (subject to any other provisions of this Trust Deed or the Rules) include a reference to any regulation made under the statute and to any subsequent modification or re-enactment of the statute or regulations.

2. The Trustee established the Plan as from the fourteenth day of February 1994. The Plan shall be administered in accordance with:
 - (a) the terms of this Trust Deed and the Rules, which shall be binding upon (and legally enforceable as between) the Trustee and the Members, and upon any person claiming under or in trust for them or any of them respectively; and
 - (b) with the FMC Act.
3. The Trustee shall operate the Plan in compliance with the FMC Act and any amendments thereto and any legislation enacted in substitution therefor.
- 3A. Notwithstanding anything else contained in this Trust Deed or the Rules, the Trustee, in exercising its powers and performing its duties as trustee of a Restricted Scheme, must comply at all times with its duties under the FMC Act.
4. The Policies and all monies received to make such payments as are prescribed by this Trust Deed and the Rules shall be held on trust in accordance with the terms of this Trust Deed and the Rules and the FMC Act.
5.
 - (a) The Trustee may from time to time amend, modify or add to any of the trusts, powers or provisions of this Trust Deed and the Rules in accordance with the FMC Act.
 - (b) Where any frameworks or methodologies are specified in notices issued by the Financial Markets Authority under subpart 4 of Part 9 of the FMC Act, which would be applicable to the Plan and are inconsistent with this Trust Deed and the Rules, this Trust Deed and the Rules shall be deemed to be modified to the extent necessary to be consistent with such frameworks or methodologies in respect of the Plan, except to the extent that this Trust Deed and the Rules have been amended under clause 5(a) in response to such frameworks or methodologies.
- 6.1
 - (a) The Trustee shall provide the benefits under the Plan by Policies effected with Asteron.

- (b) Each Member when applying to join the Plan shall give the Trustee an Investment Direction.
 - (c) A Member may at any time amend the Member's Investment Direction by giving to the Trustee a new Investment Direction.
 - (d) The Trustee shall give effect to any Investment Direction by directing Asteron under the Policies to invest or change investments in terms of the Investment Direction, in accordance with the procedures set out in the Policies.
- 6.2
- (a) The Trustee shall, and is by this Trust Deed directed to, invest a Member's Contributions and Accumulation Value under the Policies only in such Investment Portfolios, and to the extent, specified in Investment Directions.
 - (b) An Investment Direction shall constitute a contrary intention for the purposes of section 2(5), and a direction for the purposes of section 13G, of the Trustee Act 1956 with respect to the investment of the Member's Contributions and Accumulation Value and shall be given effect to notwithstanding section 2(5A) of the Trustee Act 1956.
 - (c) Where an Investment Portfolio under the Policies is to be wound-up by Asteron, the Trustee must notify each affected Member and request that each affected Member provide a new Investment Direction or, in the case of an affected Member who is not subject to the withdrawal restrictions in Rule 6 or Rule 12, a withdrawal request pursuant to Rule 5 or Rule 11. Notwithstanding clause 6.2(a), where:
 - (i) the Trustee becomes aware that an affected Member is no longer at the address the Trustee holds for the Member and the Trustee is otherwise unable to contact the Member; or
 - (ii) an affected Member does not return a new Investment Direction or a withdrawal request (if applicable) within the timeframe specified by the Trustee in the notification,

the Trustee shall reallocate that affected Member's Accumulation Value in that Investment Portfolio and future Contributions under the Policies to another Investment Portfolio or Investment Portfolios chosen by Asteron without having received a new Investment Direction from that affected Member.
- 6.3 Subject to the provisions of this Deed:
- (a) all moneys belonging to the Plan and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds and in accordance with the FMC Act; and
 - (b) notwithstanding anything to the contrary in section 13D(1) of the Trustee Act 1956 the Trustee and any investment manager shall in exercising the powers of investment, exercise the care, diligence and skill required of that person by section 13B or section 13C of the Trustee Act 1956, as is applicable, and the FMC Act.
- 6.4 The valuation methodology that applies to valuation of the assets comprising the Plan shall be that those assets are measured at net market value in accordance with the latest accounting standard for the valuation of investments.
7. The Trustee shall maintain a Reserve Account, to which shall be credited any benefits forfeited to the Plan under this Trust Deed and Rules. The Reserve Account may be applied from time to time by the Trustee for the benefit of all or any of the Members.

8. The Plan shall be wound up and the trusts hereby declared shall cease and determine upon the Trustee receiving a direction from Asteron that the Plan be wound up. Each Member shall then be paid out his benefits realised by the Trustee under the Policies. The Trustee must, on the winding up of the Plan, comply with the relevant requirements of the FMC Act.
9.
 - (a) The Trustee may make available different types of benefits to different classes of Members. Each Member shall, on becoming a Member, be given a Membership Certificate setting out the details of his membership of the Plan. He shall also be given in writing brief details of the principal rights and benefits applicable to the class of Members to which he has elected to belong.
 - (b) The Trustee may admit two persons to a membership and they shall be treated as a single Member. Such a membership will be referred to as a joint membership. A person may have more than one membership under the Plan. The rights and obligations of the person as a Member shall be treated as unique and not associated with those of any other Member(s).
10. The Trustee must prepare the Plan's annual report and provide it to Members in accordance with the requirements of the FMC Act and the FMC Regulations. The Trustee must provide Members with the information required to be provided to Members by the Trustee under the FMC Act and the FMC Regulations.
11. This Deed shall be construed and shall take effect in accordance with the laws of New Zealand.
12. The Plan shall at all times have a sole corporate trustee that complies with the relevant FMC Act requirements relating to the composition of trustees of a Restricted Scheme. Subject to the FMC Act requirements relating to the removal, resignation and appointment of a licensed independent trustee of a Restricted Scheme, the Trustee can be removed and a new trustee appointed by Asteron by notice to the Trustee.
13. The Trustee may, in addition to any powers granted by law:
 - (a) delegate any of its powers, duties and discretions from time to time to any persons for such remuneration and on such terms and conditions, including the extent to which expenses will be reimbursed, as may be agreed by the Trustee and the delegate; and
 - (b) appoint and remove one or more administration managers, auditors, advisory trustees, agents, investment managers and nominees for such remuneration, on terms, including the extent to which expenses will be reimbursed, and with such powers, duties and discretion as are agreed by the Trustee and the appointee.

The Trustee remains liable for the performance of its functions.

Subject to the related party transaction provisions in the FMC Act, any delegate or appointees under this deed may be Asteron or any related company or any officer of Asteron or any related company.

- 13A.
 - (a) The Trustee may appoint, in writing, a Custodian to hold all or any of the assets of the Plan, on terms and with such powers, duties and discretion as are agreed by the Trustee and the Custodian. The Custodian must meet the requirements for such person under the FMC Act. The Trustee will be jointly and severally liable with the Custodian for the performance by the Custodian of the functions (and subject to the same duties and restrictions) imposed on it pursuant to this clause 13A(a) and the FMC Act with respect to the Plan.

- (b) If authorised in writing by the Trustee, a Custodian appointed under clause 13A(a) may itself appoint one or more sub-custodians in which any of the assets of the Plan is to be held. Any sub-custodian appointed under this clause 13A(b) must meet the requirements for such a person under the FMC Act. The Trustee and the Custodian shall be jointly and severally liable with the appointed sub-custodian for the performance by the sub-custodian of the functions (and subject to the same duties and restrictions) imposed on it pursuant to this clause 13A(b) and the FMC Act with respect to the Plan.
 - (c) The Trustee may agree with the Custodian or sub-custodian appointed pursuant to clause 13A(a) or clause 13A(b), the fees that may be charged and the extent to which expenses will be reimbursed.
14. Subject to the indemnity limitations under the FMC Act, no Trustee (or director, officer or agent of the Trustee) shall be liable for:
- (a) any losses other than those arising from its own fraudulent acts or omissions;
 - (b) any losses arising in respect of an investment made by the Trustee in accordance with an Investment Direction;
 - (c) any act done or omitted to be done in good faith for the purposes of the Plan;
 - (d) the acts, omissions or defaults of any actuary, solicitor, banker, accountant, broker, adviser or other agent or any clerk employed in good faith by the Trustee,
- provided that notwithstanding any delegation by the Trustee, the Trustee remains liable for the performance of its functions.
15. Without prejudice to the right to indemnity by law given to trustees and subject to clause 14, and to the indemnity limitations under the FMC Act:
- (a) the liability of the Trustee in respect of any matter arising under the Deed is limited to the assets of the Plan from time to time;
 - (b) the Trustee (and each director, officer and agent of the Trustee) shall, except in the case of fraud, wilful negligence or wilful breach of trust, be indemnified out of the Plan in respect of:
 - (i) all liabilities and expenses incurred directly or indirectly by the Trustee (or director, officer or agent of the Trustee) in connection with the Plan or in the exercise of any powers, duties or discretion of the Trustee under the Trust Deed; and
 - (ii) against all actions, proceedings, costs, expenses, claims or demands in respect of any matter or thing done or omitted in any way relating to the Plan;
 - (c) the Trustee shall have a lien or charge on the assets of the Plan and may retain and pay out of the assets of the Plan all sums necessary to give effect to such indemnity.
16. The Trustee may agree to:
- (a) limit the liability (in connection with the services in respect of the Plan) of; and/or
 - (b) indemnify and reimburse out of the Plan's property,

any investment manager, administration manager or Custodian appointed in respect of the Plan, to the fullest extent permitted by the FMC Act, in respect of any debt, liability or obligation incurred by or on behalf of the investment manager, administration manager or Custodian in respect of the Plan or any action taken or omitted to be taken in connection with the Plan (including, without limitation, legal fees and disbursements).

17. No provision of this Deed has the effect of exempting the Trustee from any liability, or indemnifying the Trustee, to the extent that doing so would be void under the FMC Act or any other statute.
18. The Trustee must comply with the requirements in the FMC Act relating to pricing errors and non-compliance with pricing methodology, provided that where the amount of reimbursement or compensation required is less than the minimum level of reimbursement or compensation determined in accordance with the current unit pricing guidelines applicable to the Trustee, then no reimbursement or compensation will be required.
19. When required by the FMC Act, the Trustee must call a meeting of Members in the manner and on the basis set out in the FMC Act and the FMC Regulations. A meeting of Members shall be conducted in accordance with the requirements of the FMC Act, other than in respect of the power of appointment of the chairperson of the meeting, which shall be vested in the Trustee.
20. The Rules shall be deemed to form part of this Trust Deed. In this Trust Deed and the Rules, where the context so admits, words importing the singular number shall include the plural number and words importing the masculine gender shall include the feminine gender.

Rules

Preamble

Rules 1 to 6 inclusive apply only to membership with one person in it. Rules 7 to 12 inclusive apply only to membership with two persons in it. Rules 13 to 16 inclusive apply to both types of membership.

Rules Applying to Membership with One Person

1. Membership

Any person aged 16 years or over may apply to the Trustee to become a Member by completing a Membership Application form. A Membership Certificate will be issued once the Membership Application has been accepted.

The membership of a Member shall terminate upon his reaching the Retirement Date defined in Rule 2, or, if earlier, upon his death or upon withdrawal from the Plan, or if he fails to maintain a positive Accumulation Value.

2. Retirement Date

The Retirement Date shall be the date on which the Member reaches the retirement age nominated by the Member on the Membership Application form or such date as agreed by the Trustee. The Retirement Date shall not be earlier than his 55th birthday.

3. Benefits and how they are provided

(a) There are three benefits available under the Plan:

(i) **Accumulation Value**

(ii) **Death Benefit**

The Death Benefit is the amount selected by the Member on the Membership Application form and as provided under the Policies.

(iii) **Total Permanent Disablement Benefit**

The Total Permanent Disablement Benefit is the amount selected by the Member on the Membership Application form to be payable upon his becoming totally and permanently disabled as described in the Policies.

(b) The Trustee shall effect Policies with Asteron to provide the benefits under the Plan. Benefits payable shall be subject to the terms of the Policies and any exclusions contained therein.

(c) The benefits outlined in Rules 3(a)(ii) and (iii) shall not apply to persons who become Members on or after 1 January 2000.

4. When benefits payable

(a) **Retirement**

The Member, on or after the Retirement Date, shall be entitled to the Accumulation Value.

(b) **Death**

In the event of the death of the Member, there shall be payable to his legal personal representative the greater of:

- (i) the Accumulation Value; and
- (ii) any Death Benefit provided under the Policies in respect of the Member, as at the date of death.

(c) **Total Permanent Disablement**

In the event of the Total Permanent Disablement of the Member, the Member shall be entitled to the greater of:

- (i) the Accumulation Value; and
- (ii) any Total Permanent Disablement Benefit provided under the Policies in respect of the Member, as at the date of Total Permanent Disablement.

Upon the payment of the benefit his membership will terminate. The Member may elect not to receive the benefit and continue his membership. If the benefit payable is greater than the Accumulation Value, the Member may elect not to receive the benefit but to have the excess added to the Accumulation Value, in which case the Total Permanent Disablement Benefit will be reduced to zero, and any Death Benefit reduced by the amount of Total Permanent Disablement Benefit.

5. Withdrawal

- (a) The Member has a right to withdrawal from the Plan at any time before Retirement Date. The benefit payable upon withdrawal shall be the Accumulation Value at the date of withdrawal.
- (b) The Member has a right, while remaining a Member, to withdraw at any time an amount less than the Accumulation Value.
- (c) If an amount is withdrawn, including any amount claimed under the insurance benefits, by the Member from the Plan, the amount of any Death Benefit referred to in Rule 4 shall be reduced by an amount equal to the amount withdrawn, or to zero if the amount withdrawn is greater than the Death Benefit. The reduced Death Benefit will become the Death Benefit referred to in the Membership Certificate. The amount of any Total Permanent Disablement Benefit shall be similarly reduced.

6. Restriction on withdrawals

- (a) The Member may, when applying for membership of the Plan, elect to waive Rule 5, in which case the withdrawal rights do not apply.

- (b) Notwithstanding these rights having been waived, the Trustee may consent to the Member's applying for reinstatement of these rights if the Trustee is satisfied that the Member:
- has emigrated permanently from New Zealand, or
 - has been made redundant, or
 - has been unemployed for six consecutive months, or
 - has become totally and permanently disabled, or
 - is suffering from hardship, or
 - has benefits which are deemed trivial by the Trustee.

Rules Applying to Membership with Two Persons

7. Membership

Any two persons aged 16 years or over may apply to the Trustee to become a Member by completing a Membership Application form. A Membership Certificate will be issued once the Membership Application has been accepted.

The membership shall terminate upon the older person reaching the Retirement Date defined in Rule 8, or, if earlier, upon the second death, or upon withdrawal from the Plan, or if the Member fails to maintain a positive Accumulation Value.

8. Retirement Date

The Retirement Date shall be the date on which the older person in the membership reaches the retirement age nominated on the Membership Application form or such date as agreed by the Trustee. The Retirement Date shall not be earlier than the 55th birthday of the older person in the membership.

9. Benefits and how they are provided

- (a) There are three benefits available under the Plan:

(i) **Accumulation Value**

(ii) **Death Benefit**

The Death Benefit is the amount selected by each person on the Membership Application form and as provided under the Policies.

(iii) **Total Permanent Disablement Benefit**

The Total Permanent Disablement Benefit is the amount selected by each person on the Membership Application form to be payable upon his becoming totally and permanently disabled as described in the Policies.

- (b) The Trustee shall effect Policies with Asteron to provide the benefits under the Plan. Benefits payable shall be subject to the terms of the Policies and any exclusions contained therein.
- (c) The benefits outlined in Rules 9(a)(ii) and (iii) shall not apply to persons who become Members on or after 1 January 2000.

10. When benefits payable

(a) Retirement

The Member, on or after the Retirement Date, shall be entitled to the Accumulation Value.

(b) Death

In the event of the death of either person in the membership, there shall be payable to the surviving person in the membership the greater of:

- (i) 50% of the Accumulation Value; and
- (ii) any Death Benefit provided under the Policies in respect of the deceased person, as at the date of death.

Upon the payment of the benefit, the membership will continue in force for the surviving person for any Death Benefit or Total Permanent Disablement Benefit being provided. The Accumulation Value, however, will be reduced to 50% of the Accumulation Value as at the date of death of the deceased person. If the surviving person elects not to receive the benefit payable on the death of the deceased person, the surviving person shall be entitled to all rights as if he had been the sole Member on the Membership Certificate, and any excess of the Death Benefit over 50% of the Accumulation Value shall be added to the Accumulation Value. In either event, the membership will then become a membership with one person, and be governed by Rules 1 to 6 inclusive, and Rules 13 to 16 inclusive.

In circumstances in which the Simultaneous Deaths Act 1958 may apply, payment will be made in accordance with the law.

(c) Total Permanent Disablement of Either Person in the Membership

In the event of the Total Permanent Disablement of either person in the membership, the Member shall be entitled to the greater of:

- (i) 50% of the Accumulation Value; and
- (ii) any Total Permanent Disablement Benefit provided under the Policies in respect of the Total Permanent Disablement person.

Upon the payment of the benefit, the membership will continue in force for any other benefits being provided under the membership, except that any Total Permanent Disablement Benefit in respect of the Total Permanent Disablement person will be reduced to zero, any Death Benefit in respect of him will be reduced by the amount of the benefit paid, and the Accumulation Value of the membership will be reduced to 50% of the Accumulation Value as at the date of the Total Permanent Disablement claim.

The Member may elect not to receive the benefit and continue the membership. If the benefit payable is greater than 50% of the Accumulation Value, the Member may elect not to receive the benefit but to have the excess added to the Accumulation Value, in which case

membership will continue in force for the benefits being provided under the membership except that the Total Permanent Disablement Benefit of the Total Permanent Disablement person will be reduced to zero, and the Death Benefit in respect of him will be reduced by Total Permanent Disablement Benefit applicable to him.

(d) **Simultaneous Total Permanent Disablement**

In the event of the simultaneous Total Permanent Disablement of both persons, the Member shall be entitled to the rights and benefits described in Rule 10(c) applicable to each person in the membership. The Member may exercise different rights for the two persons and the relevant part of Rule 10(c) will be applied accordingly. However, if the Member elects to receive the total of the benefits payable to the two persons, then upon the payment of the benefit, membership will terminate.

11. **Withdrawal**

- (a) The Member has a right to withdrawal from the Plan at any time before Retirement Date. The benefit payable upon withdrawal shall be the Accumulation Value at the date of withdrawal.
- (b) The Member has a right, while remaining a Member, to withdraw at any time an amount less than the Accumulation Value.
- (c) If an amount is withdrawn, including any amount claimed under the insurance benefits, by the Member from the Plan, the amount of any Death Benefit referred to in Rule 10 shall be reduced by an amount equal to the amount withdrawn, or to zero if the amount withdrawn is greater than the Death Benefit. The reduced Death Benefit will become the relevant Death Benefit referred to in the Membership Certificate. The amount of any Total Permanent Disablement Benefit shall be similarly reduced.

12. **Restriction on withdrawals**

- (a) The Member may, when applying for membership of the Plan, elect to waive Rule 11, in which case the withdrawal rights do not apply.
- (b) Notwithstanding these rights having been waived, the Trustee may consent to the Member's applying for reinstatement of these rights if the Trustee is satisfied that either person in the membership:
- has emigrated permanently from New Zealand, or
 - has been made redundant, or
 - has been unemployed for six consecutive months, or
 - has become totally and permanently disabled, or
 - is suffering from hardship, or
 - the benefits of the membership are deemed trivial by the Trustee.
- (c) No withdrawal shall be permitted unless it is consented to by both persons constituting the Member.

General Rules

13. Contributions

Contributions to the Plan shall be of such an amount payable at such times and to such funds as is agreed with the Trustee, who shall arrange for payment to be made directly to Asteron.

A Member is credited with the accumulation of Contributions and investment income, less the fees including any outstanding fees not brought to charge in accordance with the Policies, and the cost of any insurance. The fees and cost of insurance are detailed in the Policies and Membership Certificates.

14. Assignment of benefits

Subject to the written consent of the Trustee, the benefits secured under the Membership may be assigned.

15. Incapacity of Member

- (a) If a Member becomes bankrupt or an event happens whereby the Member may be deprived of all or any part of any benefit to which the Member may be entitled under the Plan then the benefit shall be forfeited to the Fund PROVIDED THAT the Trustee may apply the forfeited benefit to support the Member and the dependents of the Member in amounts and at times and generally in such manner as the Trustee decides.
- (b) If a Member becomes a person subject to a property order under the Protection of Personal and Property Rights Act 1988 the Trustee shall pay the Member's benefit in accordance with the decision of any manager or other person duly appointed to manage the affairs of the Member PROVIDED THAT if no such manager or other person is appointed then the benefit shall be paid to any attorney of such person who is appointed an attorney of such person pursuant to an enduring power of attorney relating to property under the said Act, and if there shall be no such attorney the benefit shall be forfeited to the Plan in which case the Trustee shall apply all or any part of the Member's benefit to support the Member and dependents of the Member in amounts and at times and generally in such manner as the Trustee decides.

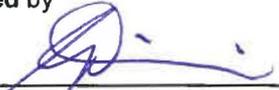
16. Unclaimed benefits

If within 6 years after the date on which a benefit first becomes payable to or in respect of a Member the Trustee, after making reasonable efforts to do so, is unable to trace the person entitled to the benefit, the benefit shall be forfeited to the Plan and the proceeds allocated to the Reserve Account.

Execution

Executed and delivered as a deed

**Asteron Retirement Investment
Limited by**



Director
GRANT R. WILLIS

Print Name



Director
PAUL SMEATON

Print Name