



Deed of Amendment

in relation to the Generate KiwiSaver Scheme

—
Generate Investment Management Limited (Manager)
Public Trust (Supervisor)
—

Deed of Amendment

Generate KiwiSaver Scheme

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Details

Date 11 MAY 2022

Parties

Name **Generate Investment Management Limited**
Short form name **Manager**
Notice details Address: Level 9, Jarden House, 21 Queen Street, Auckland 1010
Email: henry@generatekiwisaver.co.nz
Attention: Henry Tongue

Name **Public Trust**
Short form name **Supervisor**
Notice details Address: SAP Tower, Level 16, 151 Queen Street, Auckland 1010
Email: CTS.Enquiry@PublicTrust.co.nz
Attention: Manager Client Services

Background

- A The Generate KiwiSaver Scheme (the **Scheme**) was established by Trust Deed dated 14 December 2012 (the **Original Deed**) and is currently governed by an amended and restated Trust Deed dated 17 December 2020 (as amended and restated) (the **Existing Deed**).
- B Public Trust, a trustee corporation licensed under the Financial Markets Supervisors Act 2011 to act as a Licensed Supervisor for KiwiSaver schemes, is the trustee and Licensed Supervisor of the Scheme.
- C Under clause 17 of the Existing Deed, the Trust Deed may at any time be amended by deed executed by the Manager and the Supervisor, subject to the applicable requirements of the FMCA and provided that the Manager and the Supervisor may not make any amendment that would result in any provision under clause 14, schedule 8 of the Public Service Act 2020 ceasing to apply to the Scheme.
- D Under clause 3.1 of the Existing Deed, the Manager may establish and maintain separate Funds, and such Funds shall be established on terms and conditions, and in such form, which the Manager determines subject to consultation with the Supervisor. The Manager and the Supervisor wish to amend the Existing Deed in order to provide the Manager the ability to establish new funds by way of an establishment deed.
- E Under clause 3.3 of the Existing Deed, the Manager may alter any Fund as and when and on such terms and conditions as it determines subject to providing 10 Business Days prior written notice to the Supervisor. The Manager and the Supervisor have agreed to change the name of the Initial Funds under the Scheme by executing this deed.
- F The Supervisor is satisfied that these amendments will comply with clause 17 of the Existing Deed.
- G Prior to executing this deed, the Supervisor has certified that the amendments made to the Existing Deed do not have a material adverse effect on the scheme participants, and that the Existing Deed (as amended) will comply with sections 135 to 137 of the Financial Markets Conduct Act 2013 (on the basis that the Supervisor has obtained a legal opinion in this respect).

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

Unless the context otherwise requires, capitalised terms have the meaning given to them in the Existing Deed, except that:

Effective Date means, in this deed, the date which the Manager notifies in writing to the Supervisor that this deed will enter into force, expected to be on or around 16 May 2022.

1.2 General construction

Clause headings are included as a matter of convenience and shall not affect the construction of this deed.

2. Amendment

2.1 Clause 1.1

(a) A definition for "Establishment Deed" is to be inserted (in alphabetical order), in clause 1.1 as follows:

Establishment Deed means a deed executed by the Manager and the Supervisor by which a Fund is established in a form similar to that set out in Schedule One, that is entered into in accordance with clause 3.1(a).

(b) The definition of "Initial Funds" is to be replaced as follows, to reflect the change of name of the initial funds (in accordance with clause 3.3 of the Existing Deed):

"**Initial Funds** means the following Funds established under the Original Deed:

- (a) Generate KiwiSaver Moderate Fund;
- (b) Generate KiwiSaver Growth Fund; and
- (c) Generate KiwiSaver Focused Growth Fund."

2.2 Clause 3.1(a)

Clause 3.1(a) is to be replaced with the following provision:

"3.1(a) The Manager shall establish and maintain separate Funds within the Scheme, at any time by executing an Establishment Deed in which all parts of the form set out in Schedule 1 (or such other form the Manager determines) are completed, subject to consultation with the Supervisor. Such Funds are designed to enable Members to have their savings invested by reference to particular asset classes or mixes of asset classes."

2.3 Clause 4.3

Clause 4.3 is to be replaced with the following provision:

"4.3 Without limiting any other provision of this deed, the relevant Establishment Deed, the KiwiSaver Act or the FMCA, a person shall cease to be a Member on the first to occur of, the person:

- (a) receiving (or the person's personal representatives or a relevant person for the purposes of section 65 of the Administration Act 1969 receiving) from the Scheme the Member's Accumulation in accordance with the KiwiSaver Scheme Rules (which are implied in the Trust Deed under

section 116 and Schedule 1 of the KiwiSaver Act) and ceasing to have an entitlement under the Scheme;

- (b) transferring from the Scheme to another KiwiSaver Scheme in accordance with the requirements of subpart 3 of Part 2 of the KiwiSaver Act, or to a Superannuation Scheme in accordance with the requirements of the KiwiSaver Act and ceasing to have an entitlement under the Scheme; and
- (c) receiving notice from the Manager under rule 4(5)(b) of the KiwiSaver Scheme Rules.

2.4 Clause 9.4(b)

Clause 9.4(b) is to be replaced with the following provision:

- “9.4(b) subject to the KiwiSaver Act and the relevant Establishment Deed, determine from time to time the minimum amount for each such withdrawal, the permitted manner and frequency of such withdrawals and the minimum balance that must remain in the Scheme and/or any Fund (if there is more than one Fund) after each such withdrawal if the Member is not going to withdraw the full amount of the Member’s Accumulation.”

2.5 New Schedule 1 to be inserted

New Schedule 1 is to be inserted (as appended).

3. Governing law

This Trust Deed shall be interpreted and administered in accordance with New Zealand law.

4. Delivery

For the purposes of section 9 of the Property Law Act 2007 (and without limiting any other mode of delivery) this deed will be delivered by each party on the earlier of:

- (a) physical delivery of an original, executed by the relevant party, to the other party or its solicitors; or
- (b) transmission by the relevant party or its solicitors (or any other person authorised in writing by the relevant party) of a facsimile, photocopied or scanned copy of an original, executed by the relevant party, to the other party or its solicitors.

5. Counterparts

This deed may be executed in counterpart copies each of which, when taken together, shall constitute one and the same instrument. The parties may execute this deed by signing any such counterpart copy.

Appendix 1 – New Schedule 1 to be inserted

Schedule 1 - Form of Establishment Deed

Draft
Date: []

[] - Establishment
Deed

[] (Manager)
[] (Supervisor)

Establishment Deed

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Details

Date

Parties

Name []
Short name **Manager**
Notice details [Address]
[Email]
Attention: []

Name []
Short name **Supervisor**
Notice details [Address]
[Email]
Attention: []

Background

- A The Manager and the Supervisor are parties to a master trust deed dated [•] (**Master Trust Deed**) for the Generate KiwiSaver Scheme (the **Scheme**), which sets out the terms and conditions on which Units in funds managed by the Manager will be offered for subscription.
- B The Master Trust Deed provides that a new Fund within the Scheme may be established by the Manager and the Supervisor entering into an Establishment Deed setting out the specific terms and conditions relating to that Fund.
- C The Manager has resolved to establish a new Fund within the Scheme to be known as the [•] (**Fund**) and the Supervisor and the Manager have entered into this deed for that purpose.
- D This deed and the Master Trust Deed, read together, form the Governing Document for the Fund.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

Unless the context otherwise requires, capitalised terms have the meaning given to them in the Master Trust Deed, except that:

Effective Date means, in this deed, the date which the Manager notifies in writing to the Supervisor that this deed will enter into force, expected to be on or around [DATE].

Fund means the Fund constituted under this deed and the Master Trust Deed as a Fund within the Scheme.

[]

1.2 General construction

The provisions of clauses 1.1 to 1.8 of the Master Trust Deed apply in this deed.

2. Creation of Fund

2.1 Establishment of the Fund

The Fund will commence on and from the Effective Date, on the terms and conditions set out in this deed.

2.2 Constitution of the Fund

The Fund will be constituted by the Manager lodging the sum of \$100 with the Supervisor.

2.3 Name of Fund

The name of the Fund will be the [-] Fund.

3. Investments

3.1 SIPO

The SIPO for the Fund will be established in accordance with clause 3.1(b) of the Master Trust Deed and may be changed in accordance with the Master Trust Deed.

3.2 Authorised Investments

The SIPO will specify Authorised Investments for the Fund from time to time.

4. Issue of Units

The initial Units to be issued under the Disclosure Documents will be issued at an initial Unit Price of NZ\$1.00 per Unit. Any other Units to be issued by the Fund will be issued at a Unit Price determined in accordance with the Master Trust Deed.

5. Withdrawal of Units

5.1 Withdrawals

Units may be redeemed in accordance with the provisions of clause 9.4 of the Master Trust Deed.

[Other provisions relating to withdrawal procedures (e.g. notice period)?]

6. Switching of Units

Units may be switched under clause 3.5 of the Master Trust Deed.

[Other provisions relating to switching (e.g. notice period, special pricing terms)?]

7. Transfer of Units

Units may be transferred in accordance with the provisions of clause 4.3 of the Master Trust Deed.

[Other provisions relating to transfer (e.g. notice period and any other restrictions/limitations)?]

8. Limitation on borrowing

For the purposes of clauses 12.9 and 13.1(b) of the Master Trust Deed, the Manager may specify from time to time in the SIPO any limitation on borrowing.

9. Transaction values

The Manager may specify from time to time in the Disclosure Documents minimum or maximum Transaction values.

10. Master Trust Deed

10.1 Master Trust Deed applies

Except as modified by the terms of this deed, all the terms and conditions set out in the Master Trust Deed must apply to the Fund.

10.2 Inconsistency with the Master Trust Deed

If there is any inconsistency between the terms of this deed and the terms of the Master Trust Deed, this deed will prevail for the purposes of the Fund.

Signing page

EXECUTED as a deed

GENERATE INVESTMENT MANAGEMENT LIMITED by:

Signature of director

Name of director

Signature of director

Name of director

SIGNED on behalf of the **PUBLIC TRUST** by its attorney in the presence of:

Signature of attorney

Name of attorney

Signature of witness

Name of witness

Occupation of witness

City/town of residence

[Insert Certificate of Non-Revocation of Power of Attorney for Public Trust]

Signing page


EXECUTED AS A DEED

GENERATE INVESTMENT MANAGEMENT LIMITED by:

Developed by

Signature of director
Henry Tongue

Name of director

Developed by

Signature of director
Sam Goldwater

Name of director


SIGNED for and on behalf of **PUBLIC TRUST** by its attorney:


Signature of witness

Brian Cheow Hin See
Manager Client Services
Public Trust Corporate Trustee Services

Occupation of witness

City/town of residence


Signature of attorney
Elena Vinton, Head of Client Services (Auckland)
Name of attorney

**CERTIFICATE OF NON-REVOCATION
OF POWER OF ATTORNEY**

I, Elena Vinton, of Auckland, hold the office of Head of Client Services at Public Trust, an entity established under the Public Trust Act 2001, and certify that:

- 1 by deed dated 9 June 2021, Public Trust appointed me its attorney on the terms and conditions set out in the deed of appointment of attorneys which is deposited at Land Information New Zealand under number 12148123.1; and
- 2 at the date hereof I hold the position of Head of Client Services with Public Trust; and
- 3 at the date of this certificate I have not received any notice of the revocation of that appointment.

Date: 12/05/2022



Signature of attorney