



09 ANNUAL REPORT

New Zealand Local Authority Protection Programme
Disaster Fund

CONTENTS

CHAIRMAN'S REPORT	2		
AUDIT REPORT	4		
STATEMENT OF FINANCIAL PERFORMANCE	5		
STATEMENT OF MOVEMENTS IN EQUITY	6	TRUSTEE INFORMATION	16
STATEMENT OF FINANCIAL POSITION	7	2008 / 2009 FUND YEAR MEMBERSHIP	17
STATEMENT OF CASH FLOWS	8	ABOUT LAPP	18
NOTES TO THE FINANCIAL STATEMENTS	9	DIRECTORY	20
HIGHLIGHTS OF 2008 / 2009 FUND YEAR	15	NEW TRUST DEED	21
		PARTICIPATION DEED	33

CHAIRMAN'S REPORT

I have pleasure in presenting the Chairman's Report for the 2008/2009 financial year.

LAPP is a charitable trust that offers councils and council controlled organisations access to a disaster fund for the cost of repair following damage to their reticulation, flood protection and certain specified assets and cover for their other assets. There are significant long-term savings available for councils that purchase cover from LAPP, and on behalf of the trustees I encourage you most strongly to explore this further with the Fund's administrators.

During the year the final repair work was completed following extensive damage to reticulation and flood protection assets in the 2004 Manawatu floods. The cost of this claim to the Fund was \$4.8 million. There were no new claims in the year.

An adverse performance of the Fund's investment in WINZ units saw a book loss on this investment as at 30 June 2009 of \$1.7 million. The return from all investments combined was positive however and totalled \$242,000, a useful contribution to the Fund's net surplus for the year of \$3.4 million. The bulk of LAPP's funds are conservatively invested in bank deposits.

During the year we welcomed two new members to the Fund: North Shore City Council and Waitaki District Council. At 30 June 2009 LAPP's membership stood at 58.

The administrators and risk managers of the Fund continue to work with a number of other councils that have expressed a strong interest in LAPP as their preferred

protection vehicle for their obligations under Section 26.5.1 of the recently updated (June 2009) National Civil Defence Emergency Management Plan.

Because of the Fund's strength and after considering member feedback, the trustees approved two enhancements to the cover offered by the Fund for reticulation and flood protection assets, effective 1 July 2009. These are:

- All members will have the same deductible per claim: the lower of \$500,000 and 0.1% of the member's asset value covered by the Fund.
- LAPP will cover 100% of the 'gap' between the central government deductible and its deductible.

This means that for damage to reticulation and flood protection assets above the deductible (the lower of \$500,000 and 0.1% of the member's asset value covered by the Fund), members can claim through central government and LAPP the full cost of repairs and replacement.

During the year, we maintained continuing contact with representatives of the Ministry of Civil Defence and Emergency Management. We believe that local authorities have a better chance of receiving government support for damage to reticulation and flood protection assets if they are a member of LAPP.

We will continue to liaise with central government in exploring ways to create greater certainty for local authorities particularly our members' disaster planning and budgeting issues.

Well attended member meetings were held across the country with presentations from the Administration Manager and Risk Management Partners. The meetings were used to update members on LAPP's financial position, as a refresher course on what LAPP covers and how LAPP works, and to explain the enhancements to LAPP's protection.

Risk management is an important part of our activities. Each member is visited every four years by a risk management professional from our advisors Risk Management Partners to review the infrastructure assets covered by the LAPP Fund, asset management practices and management of natural hazard exposures to these assets. This programme ensures that the Trustees have up-to-date information on the assets being covered by the LAPP Fund. Regular reports are prepared for members as well as for the Fund's reinsurers.

The LAPP Fund continues to be at the forefront of natural hazard risk assessment for infrastructure hazards and works closely with the Institute of Geological and Nuclear Sciences (GNS) and with the National Institute for Water and Atmospheric Research (NIWA). Two major studies on volcanic risks and tsunami risks to members were finalised during the year.

The LAPP Fund website at www.lappfund.co.nz provides members with information on the infrastructure assets covered by the LAPP Fund and member risk profiles. The web site also carries information relating to claims procedures and pertinent information from the Ministry

of Civil Defence and Emergency Management and other relevant authorities relating to natural hazard risk assessment and the reinstatement of assets following a major natural hazard event. We recommend members regularly visit the site to keep themselves up-to-date with the latest changes and publications.

Bob Elliott retired as a LAPP Trustee on 30 June 2009. Bob, a former Chief Executive of Gisborne City Council, had been a trustee of LAPP since May 1996 and Chairman since 2005. We wish Bob well and thank him for his enormous contribution.

This has been a busy year for the administrators and risk managers of the Fund and I wish to thank the administration management staff, particularly Christopher Munden, Tim Sole and Roger Gyles along with Risk Management Partners, Bryan Whitefield and Marlene Kanga, for their work during the year. I also thank my fellow trustees for their active participation and input into the Fund's affairs.



Kinsley Sampson
Chairman

AUDIT REPORT

TO THE MEMBERS OF NEW ZEALAND LOCAL AUTHORITY PROTECTION PROGRAMME DISASTER FUND



We have audited the financial statements on pages 5 to 14. The financial statements provide information about the past financial performance of the Trust and its financial position as at 30 June 2009. This information is stated in accordance with the accounting policies set out on page 9.

Trustees' responsibilities

The Trustees are responsible for the preparation of financial statements which give a true and fair view of the financial position of the Trust as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date.

Auditors' responsibilities

It is our responsibility to express an independent opinion on the financial statements presented by the Trustees and report our opinion to you.

Basis of opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the Trustees in the preparation of the financial statements;
- whether the accounting policies are appropriate to the Trust's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with New Zealand Auditing Standards. We planned and performed our audit so as to obtain all the information and explanations

which we considered necessary in order to provide us with sufficient evidence to obtain reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditors we have no relationship with or interests in the Trust.

Unqualified opinion

We have obtained all the information and explanations we have required.

In our opinion:

- proper accounting records have been kept by the Trust as far as appears from our examination of those records;
- the financial statements on pages 5 to 14:
 - comply with New Zealand generally accepted accounting practice;
 - give a true and fair view of the financial position of the Trust as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date.

Our audit was completed on 9 October 2009 and our unqualified opinion is expressed as at that date.

Wellington

STATEMENT OF FINANCIAL PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2009

	Note	2009 \$	2008 \$
INCOME			
Members' Contributions		3,371,573	2,936,300
New Entrant Additional Contributions		1,680,750	596,864
Interest – Bank Deposits		1,771,598	2,014,508
Income from Managed Funds (net)	3	(1,529,111)	(1,118,455)
TOTAL INCOME		5,294,810	4,429,217
EXPENDITURE			
Direct Expenses			
2004 Manawatu Flood Claims	10	(366,276)	-
Risk Management Programme		180,420	153,903
Excess of Loss Insurance Premium		1,739,825	1,638,474
		1,553,969	1,792,377
Other Expenses			
Administration Fees	5	236,180	212,465
Audit Fees-Financial Statements		6,030	6,020
Consultancy		17,195	3,996
Investment Management Fees		-	49,195
Legal Fees		1,806	7,856
Meeting/Travel Expenses		8,934	10,852
Printing and Stationery		7,641	7,281
Trustees' Liability Insurance		12,500	12,500
Trustees' Remuneration		12,600	23,573
Sundry Expenses		541	17,794
		303,427	351,532
TOTAL EXPENDITURE		1,857,396	2,143,909
Net Surplus before tax		3,437,414	2,285,308
Tax expense		-	-
NET SURPLUS		3,437,414	2,285,308

The notes to the Financial Statements form part of and are to be read in conjunction with this Statement of Financial Performance.

STATEMENT OF MOVEMENTS IN EQUITY

FOR THE YEAR ENDED 30 JUNE 2009

	2009	2008
	\$	\$
Net Surplus for the year	3,437,414	2,285,308
TOTAL RECOGNISED REVENUES AND EXPENSES	3,437,414	2,285,308
EQUITY AT BEGINNING OF YEAR	33,525,681	31,240,373
EQUITY AT END OF YEAR	36,963,095	33,525,681

The notes to the Financial Statements form part of and are to be read in conjunction with this Statement of Movements in Equity.

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2009

	Note	2009 \$	2008 \$
TOTAL EQUITY		36,963,095	33,525,681
Represented By:			
Current Assets			
Bank – ANZ National Bank Ltd		427,794	536,535
Short Term Deposits – Bank Deposits	6	26,455,000	23,575,000
Accrued Interest		504,027	825,546
Accounts Receivable		55,686	39,618
GST Receivable		4,949	8,667
New Entrant Additional Contributions	9	262,180	345,895
Total Current Assets		27,709,636	25,331,261
Investments			
Managed Funds:			
AMP – WiNZ Fund	3,6	9,414,162	9,101,828
Total Investments		9,414,162	9,101,828
TOTAL ASSETS		37,123,798	34,433,089
Current Liabilities			
Accounts Payable		131,640	123,364
Contributions Received in Advance		29,063	-
Provision for Claims	10	-	784,044
Total Current Liabilities		160,703	907,408
TOTAL LIABILITIES		160,703	907,408
EXCESS OF ASSETS OVER LIABILITIES		36,963,095	33,525,681

Approved for and on behalf of the Board on 9 October 2009:



KN SAMPSON – CHAIRMAN



LD CAVERS – TRUSTEE

The notes to the Financial Statements form part of and are to be read in conjunction with this Statement of Financial Position.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2009

	Note	2009 \$	2008 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash was Provided from:			
Members' Contributions		5,160,588	4,196,934
Interest Received – Bank		2,093,117	1,650,723
		7,253,705	5,847,657
Cash was Applied to:			
Claims		417,768	735,762
Risk Management Programme		159,839	146,451
Excess of Loss Insurance		1,739,825	1,638,474
Administration Fees		230,251	204,740
Meeting/Travel Expenses		20,196	9,834
Trustees' Remuneration		12,600	23,573
Other Expenses		62,743	90,028
Net GST Paid		(2,221)	(48,952)
		2,641,001	2,799,910
NET CASH INFLOW FROM OPERATING ACTIVITIES	4	4,612,704	3,047,747
CASH FLOWS FROM INVESTING ACTIVITIES			
Cash was Provided from:			
Investment Income		158,555	219,594
Sale of Investments		-	2,045,000
		158,555	2,264,594
Cash was Applied to:			
Purchase of Investments - WINZ Funds		2,000,000	5,000,000
Purchase of Investments - Short term Bank Deposits		2,880,000	-
		4,880,000	5,000,000
NET CASH OUTFLOW FROM INVESTING ACTIVITIES		(4,721,445)	(2,735,406)
Net Increase / (Decrease) in Cash Held		(108,741)	312,341
Opening Cash Balance		536,535	224,194
CLOSING CASH BALANCE		427,794	536,535
Represented By:			
Bank – ANZ National Bank Ltd		427,794	536,535
		427,794	536,535

The notes to the Financial Statements form part of and are to be read in conjunction with this Statement of Cash Flows.

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 1. STATEMENT OF ACCOUNTING POLICIES

Reporting Entity and Statutory Base

These financial statements for the New Zealand Local Authority Protection Programme Disaster Fund ("The Fund") have been prepared in accordance with generally accepted accounting practice and the Charitable Trusts Act 1975.

Measurement Basis

The measurement base adopted is that of historical cost, except for investments which are at market value.

Adoption of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS)

In September 2007, the Accounting Standards Review Board announced the delay of the mandatory adoption of NZ IFRS for certain entities. The Fund satisfies the deferral criteria and has therefore decided to delay the adoption of the NZ IFRS standards.

Particular Accounting Policies

The following particular accounting policies which materially affect the measurement of financial performance and financial position have been applied:

INVESTMENTS

Investments are recorded at quoted market value, less the estimated cost of disposal. Changes in the value of investments are recognised in the Statement of Financial Performance.

TAXATION

The Fund has been granted charitable status under section CW 34(1) of the Income Tax Act 2004 by the Inland Revenue Department, hence no taxation has been provided for in the financial statements.

GOODS AND SERVICES TAX

The Financial Statements are prepared on a GST exclusive basis, except for receivables and payables that are stated inclusive of GST.

PROVISION FOR CLAIMS

A provision for claims is recognised when:

- a claim has been received;
- an obligation has been recognised by the Board of Trustees;
- it is probable that an outflow of resources will be required to settle the obligation; and
- a reliable estimate can be made of the amount of the obligation.

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

FOR THE YEAR ENDED 30 JUNE 2009

INCOME RECOGNITION

Interest income is accounted for on an accruals basis. Any unrealised gains or losses arising from the revaluation of investments and realised gains or losses from the sale of investments during the year are included in the statement of financial performance.

FINANCIAL INSTRUMENTS

Financial Instruments carried on the statement of financial position include cash at bank, investments, receivables and payables. There are no off-balance sheet financial instruments. The Fund does not require collateral or other security to support financial instruments with credit risk.

STATEMENT OF CASH FLOWS

The following are definitions of the terms used in the Statement of Cash Flows:

Cash: comprises cash balances held with banks in New Zealand and overseas. Cash excludes term deposits that are not used as part of the Fund's day to day cash management.

Investing activities: comprise acquisition and disposal of investments. Investments include securities not falling within the definition of cash.

Operating activities: include all transactions and other events that are not investing activities.

Changes in Accounting Policies

There have been no changes in accounting policies during the year. All policies have been applied on a basis consistent with previous years.

NOTE 2. NATURE OF ACTIVITIES

The purpose of the Fund is to provide cover to member local governments for losses or damage to infrastructure assets resulting from flooding, earthquakes and other damaging events.

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 3. INVESTMENTS	2009 \$	2008 \$
Income from Managed Funds		
Investment Income	160,355	219,594
Change in Net Current Value	(1,689,466)	(1,338,049)
	(1,529,111)	(1,118,455)
Managed Funds		
<i>AMP:</i> The cost of investments held by AMP at 30 June 2009 was \$12,000,000 (2008: \$10,000,000). Market value of investments held by AMP at 30 June 2009 was \$9,414,162 (2008: \$9,101,828).		
 NOTE 4. RECONCILIATION OF NET SURPLUS TO NET CASH INFLOW FROM OPERATING ACTIVITIES	 2009 \$	 2008 \$
Net Surplus	3,437,414	2,285,308
Items included in Investing Activities		
Investment Income	(158,555)	(219,594)
Loss in Managed Funds	1,687,666	1,338,049
	1,529,111	1,118,455
Add/(less) movements in other working capital items		
Accrued Interest	321,520	(363,785)
GST Receivable	3,718	48,952
New Entrant Additional Contributions	83,715	(96,212)
Contributions received in Advance	29,063	-
Accounts Receivable	(16,068)	759,982
Accounts Payable & Provisions	(775,769)	(704,953)
	(353,821)	(356,016)
NET CASH INFLOW FROM OPERATING ACTIVITIES	4,612,704	3,047,747

NOTE 5. RELATED PARTIES

Administration fees of \$236,180 (2008:\$212,465) relate to the New Zealand Local Government Insurance Corporation Limited, trading as Civic Assurance (Civic). Civic is the Administration Manager of the Fund.

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 6. FINANCIAL INSTRUMENTS

The Fund is involved with a number of financial instruments in the course of its normal activities.

Fair Value

The carrying amounts of all financial assets and liabilities are considered to be equivalent to their fair value.

Credit Risk

Financial instruments which potentially expose the Fund to credit risk consist of cash, short term deposits, receivables and investments in managed funds. The maximum exposure to credit risk is the carrying value of these financial instruments.

All investments and short term deposits are with high credit quality counterparties.

Currency Risk

The Fund is indirectly exposed to currency risk in that future currency movements will affect the valuation of investments in managed funds which invest in foreign currency denominated investments.

Risk management activities are undertaken by the Fund's investment managers to operate within the guidelines provided by the Trustees.

Interest Rate Risk

The Fund is exposed to interest rate risk in that future interest rate movements will affect cash flows and net market values of fixed interest assets and, indirectly, the valuation of investments in managed funds which invest in cash and fixed interest investments. The intention of the Trustees is not necessarily to hold these assets to maturity, but to realise and purchase similar assets as part of the on going management of the investments of the Fund. There is no maturity period for unitised investments.

	Effective Interest Rate 2009	2009 \$	6 months or less	6 – 12 months	1 – 2 years	Non-Interest Bearing
Financial Assets						
Bank	2.8%	427,794	427,794	-	-	-
Short Term Cash Deposits	4.5%	26,455,000	18,965,000	7,490,000	-	-
Receivables		262,180	-	-	-	262,180
Investments		9,414,162	-	-	-	9,414,162
Total financial assets		36,559,136	19,392,794	7,490,000	-	9,676,342
Financial Liabilities						
Payables		130,150	-	-	-	130,150
Total financial liabilities		130,150	-	-	-	130,150
NET FINANCIAL POSITION		36,428,986	19,392,794	7,490,000	-	9,546,192

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

FOR THE YEAR ENDED 30 JUNE 2009

	Effective Interest Rate 2008	2008 \$	6 months or less	6 – 12 months	1 – 2 years	Non-Interest Bearing
Financial Assets						
Bank	7.91%	536,535	536,535	-	-	-
Short Term Cash Deposits	8.88%	23,575,000	13,365,000	9,210,000	1,000,000	-
Receivables		345,895	-	-	-	345,895
Investments		9,101,828	-	-	-	9,101,828
Total financial assets		33,559,258	13,901,535	9,210,000	1,000,000	9,447,723
Financial Liabilities						
Payables		123,364	-	-	-	123,364
Total financial liabilities		123,364	-	-	-	123,364
NET FINANCIAL POSITION		33,435,894	13,901,535	9,210,000	1,000,000	9,324,359

Liquidity Risk

Liquidity risk is the risk that the Fund will encounter difficulty in meeting obligations from its financial liabilities.

MANAGEMENT OF LIQUIDITY RISK

The Fund's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or risking damage to the Fund's reputation. The Fund manages this risk as they have discretion in the total amount of claims paid, in accordance with the Master Trust Deed. This Deed enables the Trustees to ensure sufficient liquidity and reserves are retained by the Fund. Additionally, cash and short term deposit reserves are maintained at sufficient levels to ensure all such claims can be met.

NOTE 7. COMMITMENTS AND CONTINGENT LIABILITIES

The Fund has the ability to provide support to Members amounting to a maximum of \$136.9 million (2008: \$133.5 million). This amount is made up of retained equity \$36.9 million (2008: \$33.5 million), and reinsurance facilities \$100 million (2008: \$100 million).

The protection will only be available to Members at the discretion of the Trustees exercised in accordance with the provisions of the Trust Deed.

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 8. EVENTS AFTER BALANCE DATE

There have been no material events after balance date (2008: Nil).

NOTE 9. NEW ENTRANT ADDITIONAL CONTRIBUTIONS

New Councils joining the Fund are required to pay an additional levy to the Fund. This amount is payable when:

- the Trustees resolve to cap the Fund and/or contributions are reduced on a pro-rata basis, or
- the Member has a claim

Notwithstanding the above, a Member may make payments on account of the new entrant additional contributions at any time. As at balance date new Members owed the Fund \$262,180 on account of new entrant additional contributions.

	2009	2008
	\$	\$
Opening Balance	345,895	249,683
New Member	-	195,664
Rebates 2008/09	(83,715)	(99,452)
Claims Off-set	-	-
CLOSING BALANCE	262,180	345,895

NOTE 10. PROVISION FOR CLAIMS

	2009	2008
	\$	\$
Opening Balance	784,044	1,075,567
Less: Claims Paid	417,768	291,523
	366,276	784,044
Movement in Provision	(366,276)	-
CLOSING BALANCE	-	784,044

The claims paid and outstanding relate to damage caused in the February 2004 Manawatu flood event. Payments have been made as claims were quantified and approved by the Trustees.

HIGHLIGHTS OF 2008 / 2009 FUND YEAR

- The Fund welcomed North Shore City Council and Waitaki District Council as new members with an additional \$2.1 billion of infrastructure assets now under protection. Membership now stands at 58 councils.
- Fund equity increased by \$3.4 million to \$37 million.
- No new claims were received.
- The LAPP reinsurance programme protecting the Fund's 40% responsibility was successfully renewed. The Fund now buys 40% of \$250 million in excess of a 40% of \$37.5 million retention.

TRUSTEE INFORMATION

The Trustees and their nominating bodies are:

RDR Elliott (until 30 June 2009)	SOLGM	Former CEO, Gisborne District Council
LD Cavers	SOLGM	CEO, Hauraki District Council
WA Raymond QSO	LGNZ	Former Mayor, Timaru District Council
IRF McKelvie	LGNZ	Mayor, Manawatu District Council
KN Sampson MNZM	Civic Assurance	Former Chairman, Civic Assurance
DA Lott	Civic Assurance	CFO, North Shore City Council
DJ McLeod (from 1 July 2009)	SOLGM	CEO, Matamata-Piako District Council

During the year, The Trustees met for formal meetings on 2 occasions.

Attendance was:

RDR Elliott	2
KN Sampson	2
LD Cavers	2
WA Raymond	2
IRF McKelvie	2
DA Lott	1

2008 / 2009 FUND YEAR MEMBERSHIP

Ashburton District Council	Kaikoura District Council	South Wairarapa District Council
Buller District Council	Kapiti Coast District Council	Stratford District Council
Carterton District Council	Kawerau District Council	Tararua District Council
Central Hawke's Bay District Council	Manawatu District Council	Tasman District Council
Christchurch City Council	Marlborough District Council	Tauranga City Council
Clutha District Council	Masterton District Council	Thames Coromandel District Council
Environment Bay of Plenty	Matamata-Piako District Council	Timaru District Council
Environment Southland	Nelson City Council	Upper Hutt City Council
Environment Waikato	New Plymouth District Council	Waimakariri District Council
Gisborne District Council	North Shore City Council	Waimate District Council
Gore District Council	Opotiki District Council	Waipa District Council
Grey District Council	Otorohanga District Council	Wairoa District Council
Hastings District Council	Palmerston North City Council	Waitaki District Council
Hauraki District Council	Papakura District Council	Wanganui District Council
Hawke's Bay Regional Council	Porirua City Council	West Coast Regional Council
Horizons Regional Council	Rangitikei District Council	Westland District Council
Horowhenua District Council	Rotorua District Council	Whakatane District Council
Hurunui District Council	Ruapehu District Council	Whangarei District Council
Hutt City Council	South Taranaki District Council	
Invercargill City Council	South Waikato District Council	

ABOUT LAPP

Before LAPP

Before central government's Disaster Recovery Plan was introduced in July 1991, central government in the event of a disaster took full responsibility for all costs associated with the restoration of water and sewage services along with all other services considered essential to the community that were otherwise uninsurable.

The 1991 Disaster Recovery Plan changed that. The Plan stated that beyond a threshold, central government would only pay a maximum of 60% of restoration costs in the event of a catastrophe and that this 60% would only be offered on the provision that (a) the local authority could demonstrate that the damaged assets had been properly maintained and (b) the local authority could meet the remaining 40% through:

- The use of reserve funds set aside for this purpose, or
- Insurance, or
- Participation in a mutual assistance scheme with other local authorities.

The Introduction of LAPP

A working party formed from various local government interest groups considered the means by which local authorities could meet their 40% obligation under the 1991 Disaster Recovery Plan. Of the many options that were studied by the working party, a mutual assistance scheme structured as a charitable trust was considered to be the best. The following advantages over insurance were identified:

- It is cost effective. There are no profit motives or commissions with a charitable trust, overheads are lower, investment income is retained, and a charitable trust is tax exempt.
- Operating as a mutual assistance scheme with other local authorities offers better opportunities for the sector for the collection of risk management data and for improved risk management practices to be implemented.
- Management of the scheme's assets, their security, and control of the claims processes is retained by local government.
- There is much greater certainty of costs and cover in a mutual assistance scheme compared to the uncertainties of the insurance cycle.

The advantages of a mutual assistance scheme compared to a council setting aside its own disaster reserve are:

- The costs of a disaster are then spread.
- It is too easy for a council to raid its own disaster fund (or cut back planned contributions) for use in other programmes within that local authority.
- One council's reserve fund (as history has shown) will rarely if ever be sufficient in a major event, let alone two big events should a local authority's community be unlucky enough to have back-to-back disasters.

A mutual assistance scheme, namely The Local Authority Protection Programme Disaster Fund (LAPP), began operating on 1 July 1993.

“LAPP: Cost effective, secure and stable, and managed by a local government body that wants to pay claims.”

LAPP Today

LAPP is now in its seventeenth year. In that time there has been a handful of small claims and one medium-sized claim following the February 2004 Manawatu floods.

No large claims in its first 16 years of existence has given LAPP the start its founders had hoped for. This is because it has allowed LAPP to build substantial reserves; reserves that would not have been held by LAPP today if LAPP's members had organised their protection through insurance.

Backed by those reserves and an insurance programme managed by Civic Assurance, LAPP in 2009 has extended the cover it is able to offer to local authorities to ALL of their assets. The advantages to local authorities of using LAPP for ALL of their non-liability protection are:

- Using LAPP is cost effective. There are no profit motives or commissions with LAPP; investment income is fully retained, and LAPP being a charitable trust is tax exempt. Unlike a number of insurance companies, LAPP's overheads are very low.
- Security: all of LAPP's reinsurers have a credit rating of "A" or better. LAPP's reinsurance programme contains an automatic reinstatement of cover clause, so a large disaster in one part of the country will not leave other parts of the country unprotected!
- Stability: members of LAPP must give at least 12 months' notice before terminating their membership, which helps avoid the price shocks and cover shortfalls that insurance can sometimes deliver. A trust fund designed to last 100 years is clearly more stable than 100 one-year insurance policies placed over time with a variety of insurers.

- Very importantly, the control of the claims process is retained by a body that is managed by local government and that *wants* to pay claims.

LAPP of course continues to offer its members the disaster funding protection for local government's 40% share as described in section 26.5 of the June 2009 version of the Guide to the National Civil Defence Emergency Management Plan.

Membership of LAPP

The Administration Manager confirms, as required by the trust deed, that all members have fulfilled their obligations regarding their contributions to the LAPP Fund.

Membership of LAPP is restricted to local authorities and CCO's (Council Controlled Organisations). Current membership stands at 58 local authorities and is still growing. Local authorities and CCO's who would like to consider joining LAPP are invited to contact the Administration Manager and ask for a quotation.

DIRECTORY

ADMINISTRATION MANAGER

Civic Assurance
PO Box 5521
Wellington 6145

REINSURANCE MANAGER

Aon Re Worldwide
Sydney
Australia

RISK MANAGER

Risk Management Partners Pty Ltd
Beacon Hill
Sydney
Australia

THE ADDRESS FOR CORRESPONDENCE IS

Christopher Munden
Administration Manager
NZ Local Authority Protection
Programme Disaster Fund
PO Box 5521
Wellington 6145

Phone: 04 978 1251
Facsimile: 04 978 1260
Email: christopher.munden@civicasurance.co.nz

New Zealand Local Authority
Protection Programme Disaster Fund

TRUST DEED

Burrowes and Company
Barristers and Solicitors
P O Box 24515, Wellington 6142
Ph. 04 473 7733: Fax. 04 471 1121

CLAUSE	PAGE	
1	DEFINITIONS AND INTERPRETATION	23
1.1	Definitions	23
1.2	Interpretation	23
2	CONSTITUTION OF THE FUND	24
2.1	New Zealand Local Authority Protection Programme Disaster Fund	24
3	TRUSTEES	24
3.1	Appointment and Removal of Trustees	24
3.2	Meetings of Trustees	25
3.3	Subcommittees	26
3.4	Validity of Acts of Trustees	26
3.5	Resolutions in Writing	26
3.6	Remuneration of Trustees	26
3.7	Indemnity and Limitation of Trustee's Liability	26
4	POWERS OF TRUSTEES	26
4.1	General Powers	26
4.2	Investments Authorised	27
4.3	Exercise of Discretion	27
4.4	Appointment of Auditor	27
5	MANAGEMENT AND ADMINISTRATION	27
5.1	Appointment of Administration Manager	27
5.2	Records to be Kept	27
5.3	Accounts	27
5.4	Annual Report of the Fund	27
5.5	Delegation	27
5.6	Expenses of Administration	28
5.7	Indemnity of Administration Manager	28
5.8	Execution of Deeds	28
6	MEMBERSHIP AND COVERAGE	28
6.1	Admission of Members	28
6.2	Withdrawal from Membership	28
6.3	Suspension or Termination of Membership	28
6.4	Coverage	28
7	GENERAL PROVISIONS RELATING TO CONTRIBUTIONS	28
7.1	Annual Contributions	28
7.2	Method of Payment	29
7.3	Disputes regarding Quantum of Annual Contributions	29
7.4	Extraordinary Contributions	29
8	DISTRIBUTIONS FROM THE FUND	29
9	ALTERATION	29
9.1	Alteration of the Trust Deed	29
9.2	Notice to Members	30
9.3	Alteration of Participation Deeds	30
10	WINDING UP OF THE FUND	30
10.1	Procedures	30
10.2	Allocation of Proceeds	30
11	MISCELLANEOUS	30
11.1	Notices	30
11.2	Succession	30
11.3	Waiver and Precedent	30
11.4	Office	30

THIS DEED is made the 14th day of December 2007

BETWEEN **NEW ZEALAND LOCAL GOVERNMENT ASSOCIATION INCORPORATED**, a society incorporated in Wellington pursuant to the Incorporated Societies Act 1908 ("the Settlor")

AND **ROBERT DAVID RENNIE ELLIOTT** of Gisborne, formerly Chief Executive Officer now retired, **WYNNE ARCHDALL RAYMOND**, formerly Mayor now retired, **IAN ROBERT FLOCKHART MCKELVIE**, Mayor of Manawatu, **KINSLEY NEVILLE SAMPSON** of New Plymouth, formerly General Manager now Company Director, **DALE ALWYN LOTT** of North Shore City, Auckland, Accountant, and **LANGLEY DAVID CAVERS** of Hauraki District, District Manager (together "the Trustees")

WHEREAS

- A The Settlor established a fund for the reinstatement of lost or damaged generally uninsurable local government infrastructure known as the New Zealand Local Authority Protection Programme Disaster Fund, by Deed of Trust dated 29 June 1993 ("the Establishment Trust Deed")
- B Only those Local Authorities that are contributing to the fund are to be eligible for distributions in the event of loss or damage to their infrastructure.
- C The Fund is to be accumulated and applied for the purpose by the Trustees in accordance with this Trust Deed.
- D The Trust Deed provides that the Trustees may amend the Trust Deed by unanimous resolution of the Trustees present at any validly convened meeting, provided such amendment is not inconsistent with the charitable scope of the trusts contained in the Trust Deed.
- E The Trust Deed was amended by Deeds of Variation dated 14 February 1997 and 5 June 2003, both times with the consent of the Settlor as required by the Establishment Trust Deed.
- F At a meeting of the Trustees held on 9 November 2007 the Trustees resolved that:
- (a) the Trust Deed would be further amended, and
 - (b) such amendments would be incorporated into this deed once the consent of the Settlor had been obtained.

NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Each of the following words and expressions shall, unless the context otherwise requires, have the following meanings, as indicated:

"the Act" means the Charitable Trusts Act 1957;

"Administration Manager" means the person appointed to that office;

"Advisory Trustee" means any advisory trustee appointed pursuant to clause 3.1.8;

"Alternate Trustee" means any alternate trustee appointed pursuant to clause 3.1.3;

"Annual Accounts" means statements of income and expenditure and balance sheets of the Fund prepared or to be prepared in accordance with the provisions of this Trust Deed;

"Annual Contribution" means the annual payment to the Fund made by each Member in return for Coverage by the Fund for a Fund Year;

"Asset Value" means the cost of reinstatement of a Member's Infrastructure as determined pursuant to clause 7.1.1(a);

"Auditor" means the office of auditor or auditors to the Fund for the time being;

"Commencement Date" means 1 July 1993;

"Coverage" means protection for the cost of reinstatement of the Members' Infrastructure required as a result of a Damaging Event;

"Damaging Event" includes flooding, earthquake, volcanic eruptions (including the effects of volcanic ash), storm surge, tsunami, wildfire, gas explosion, hail, snow, wind damage, landslide, lahar and any other sudden event or sudden situation causing serious disruption, loss or damage to Infrastructure;

"Deductible" means any uninsured first amount of any loss or damage following a Damaging Event that the Trustees determine shall be borne by the Member;

"Distribution" means payment, made to a Member from the Fund, consequent upon their Coverage;

"Extraordinary Contribution" means any contribution to the Fund which a Member is required to make as:

- (i) a condition of their entry to membership of the Fund at any time after the Commencement Date; or
- (ii) any contribution for Coverage for any part or portion of a year;

"Fund" means the New Zealand Local Authority Protection Programme Disaster Fund, established by the Establishment Trust Deed;

"Fund Year" means each year of the Fund commencing on 1 July and ending on 30 June in the calendar year following;

"Infrastructure" means any asset accepted as such by the Trustees and registered with the Trustees for Coverage for which a Local Authority has an insurable interest and may include reticulation, storage and treatment facilities (water, sewage, stormwater); tunnels other than road tunnels; dams; canals; stopbanks; flood control protection works; drainage works; detention ponds; sea walls; and harbour risks (including buoys, beacons and foreshore lighthouses).

"Investment Manager" means any person to whom the Trustees have contracted the investment of some or all of the assets of the Fund pursuant to clause 4.1.1(b);

"Local Authority" means any New Zealand Local Authority or Territorial Authority or Regional Council as defined in section 5 of the Local Government Act 2002, and includes any Council-Controlled Organisation as defined by section 6 of that Act.

"Member" means any Local Authority admitted as a member of the Fund, the membership of which has not been terminated.

"Participation Deed" means the agreements so called entered into by Local Authorities on admission to membership of the Fund;

"Stated Value" means the Member's estimate of the reinstatement value of its Infrastructure.

"the Trustees" means the trustees named in this Trust Deed (until removed from office), any new trustees appointed either pursuant to clause 3.1.2 or clause 3.1.6, any Alternate Trustees appointed pursuant to clause 3.1.3 and any Advisory Trustees appointed pursuant to clause 3.1.8 collectively.

"written" or "in writing" includes printing, engraving, lithography, telegraphy, facsimile or any other communication by written word.

1.2 Interpretation

1.2.1 Words importing any one gender shall include the other.

1.2.2 Plurals shall include the singular and vice versa.

1.2.3 Reference to persons shall include body corporates.

- 1.2.4 Reference to any Act of Parliament shall be deemed to include every amendment or re-enactment of it and every Act of Parliament substituted for it, and any regulations made under the Act.
- 1.2.5 All references in this Trust Deed, or to provisions or clauses of this Trust Deed, shall be deemed to be references to this Trust Deed and to those provisions or clauses as altered from time to time pursuant to the provisions of this Trust Deed.
- 1.2.6 Except as otherwise defined in this Trust Deed, the terms used in this Trust Deed which have been defined in the Act shall have the same meaning as ascribed to those terms in the Act.

2 CONSTITUTION OF THE FUND

2.1 New Zealand Local Authority Protection Programme Disaster Fund

- 2.1.1 A fund is hereby established by the New Zealand Local Government Association Incorporated, with the charitable purposes set out in clause 2.1.3.
- 2.1.2 The name of the fund shall be the New Zealand Local Authority Protection Programme Disaster Fund.
- 2.1.3 The charitable purposes of the Fund shall be:
- (a) To assist New Zealand local government to carry out its responsibilities under central government's disaster recovery policies and plans; and
 - (b) To provide funds for Members for the purpose of reinstatement of lost or damaged Infrastructure as a result of Damaging Events; and
 - (c) To facilitate effective programmes to enable New Zealand local government to identify and manage risks to their Infrastructure by minimising and reducing the exposure, limiting the risks and diminishing the potential for loss or damage; and
 - (d) To provide Members with the capacity for self-help to recover from consequences of Damaging Events; and
 - (e) To do anything else which the Trustees may think is conducive or incidental to the attainment of the above charitable purposes.
- 2.1.4 There are no non-charitable purposes for the Fund.
- 2.1.5 The Fund shall consist of all property for the time being held by or on behalf of the Trustees, derived from:
- (a) Any gifts or donations;
 - (b) Extraordinary Contributions;
 - (c) Annual Contributions;
 - (d) Income from investments;
 - (e) Proceeds of realisation of investments;
 - (f) Any policies or contracts of re-insurance;
 - (g) Any recoveries;
 - (h) Any other source.
- 2.1.6 The Fund shall be held in trust by the Trustees upon the trusts and for the charitable purposes contained in this Trust Deed and shall be managed, administered and applied by the Trustees, in accordance with the powers contained in this Trust Deed, in order to attain those charitable purposes.
- 2.1.7 The Trustees are and shall remain responsible for the safe custody of all money, policies, certificates and other documents of title and value in connection with the Fund and for the safe custody, realisation and distribution of all of the assets from the Fund, from time to time vested in them.

3 TRUSTEES

3.1 Appointment and Removal of Trustees

- 3.1.1 The number of Trustees shall be not less than four nor more than six. The Trustees shall be one or two appointees of the Settlor; one or two appointees of the New Zealand Local Government Insurance Corporation Limited; and one or two appointees of the NZ Society of Local Government Managers Incorporated (together called the "Appointors").
- 3.1.2 The power of appointing new Trustees shall be vested in the Appointors each of which shall have the power to appoint two persons as Trustees and they having been appointed as Trustees to remove and/or replace them, by notice in writing given to the Administration Manager.
- 3.1.3 The Appointors shall be entitled to appoint any person as an Alternate Trustee in place of any Trustee appointed by them, by notice in writing given to the Administration Manager, either for a specified period, or for a specified meeting or any part of a meeting, or for any particular subject matter at any meeting, or generally during the absence of any such Trustee, and from time to time, in the same manner, to remove any Alternate Trustee.
- 3.1.4 An Alternate Trustee appointed pursuant to clause 3.1.3 shall:
- (a) not be remunerated otherwise than out of the remuneration of the Trustee in whose place the Alternate Trustee acts;
 - (b) be deemed to have automatically vacated office when the Trustee in whose place the Alternate Trustee acts vacates office;
 - (c) unless otherwise provided by the terms of appointment of the Alternate Trustee, have the same rights, powers and privileges (including without limitation, the right to receive notice of meetings of Trustees, the power to sign resolutions of Trustees and the power to witness the affixing of the common seal) as the Trustee in whose place the Alternate Trustee is appointed;
 - (d) discharge all the duties of, and be subject to the same provisions in this Trust Deed as the Trustee in whose place the Alternate Trustee acts.
- 3.1.5 The Administration Manager shall within seven days of it being notified in writing of the appointment, removal or resignation of a Trustee give to every Member and Appointor (other than an Appointor exercising its powers of appointment or removal) written notice of the appointment, removal or resignation of the Trustee.
- 3.1.6 Notwithstanding the provisions of clause 3.1.2 of this Trust Deed, if any Appointor shall fail at any time to exercise its power of appointment and notify the Administration Manager in writing accordingly, within fourteen days of:
- (a) it being notified in writing of the removal or resignation of their appointee; or
 - (b) it becoming aware of the occurrence of another event which creates a vacancy (as provided for in clause 3.1.7); and
 - (c) the number of Trustees falls below four – then the Trustees shall forthwith appoint further or additional Trustees on behalf of any Appointors so failing, so as to ensure there are not less than four nor more than six Trustees and every Trustee then appointed may thereafter only be removed by unanimous resolution of the Trustees.
- 3.1.7 A vacancy in the office of Trustee shall arise if:
- (a) a Trustee is adjudged bankrupt; or
 - (b) a Trustee resigns by notice in writing to the Administration Manager; or
 - (c) a Trustee refuses to act; or

- (d) a Trustee becomes of unsound mind; or becomes subject to a property order under the Protection of Personal and Property Rights Act, 1988; or
 - (e) a Trustee is removed by their Appointor in accordance with the provisions of this Trust Deed; or
 - (f) a Trustee is otherwise removed by operation of law.
- 3.1.8 The Trustees shall have power to appoint any person at any time as an Advisory Trustee to the Fund, and to prescribe the function of such Advisory Trustee. An Advisory Trustee shall not be counted in the number of Trustees required by clause 3.1.1, or in the quorum required for meetings of the Trustees, nor be entitled to vote thereat.
- 3.2 Meetings of Trustees**
- 3.2.1 The Trustees shall from time to time meet for the despatch of business of the Fund, and subject to the provisions of this Trust Deed and particularly this clause 3.2 shall have the power to adjourn or otherwise regulate their meetings and proceedings, and vary the regulation and procedure of such meetings and proceedings, as the Trustees think fit.
- 3.2.2 Questions arising at any meeting of the Trustees shall be determined by a majority of the votes of those present and voting.
- 3.2.3 (a) The Trustees shall at their inaugural meeting and again before the end of each Fund Year elect one of their number to be the chairman of Trustees for the ensuing Fund Year. The person so elected shall hold office as chairman of Trustees during the ensuing Fund Year, and shall be eligible for re-appointment.
- (b) The person so appointed shall chair all meetings of the Trustees at which they are present. If at any meeting the chairman is not present within fifteen minutes of the appointed time for holding the meeting the Trustees present shall then choose one of their number to be the chairman of that meeting.
- (c) A chairman shall not be entitled to a second or casting vote.
- 3.2.4 Every meeting of the Trustees shall be called by giving not less than seven days notice in writing to the Trustees provided that a meeting of the Trustees shall be deemed to have been duly called if it is so agreed by all the Trustees entitled to attend and vote thereat.
- 3.2.5 Upon the written request of three Trustees giving notice of the subject matter of that meeting, the Administration Manager shall summon a special meeting of the Trustees, within seven days of that request.
- 3.2.6 Every notice of a meeting of the Trustees shall;
- (a) be given in writing by the Administration Manager to each Trustee at their last known address;
 - (b) be exclusive of the day on which it is served and of the day of the meeting;
 - (c) specify the place, day and hour of the meeting;
 - (d) specify, in the case of special business, the general nature of that business.
- 3.2.7 The accidental omission to give notice of a meeting to, or the non receipt of notice of a meeting by, any Trustee shall not invalidate the proceedings at the meeting.
- 3.2.8 (a) No business shall be transacted at any meeting of the Trustees unless a quorum is present at the time when the meeting proceeds to business. The quorum for meetings of the Trustees shall be as fixed by resolution of the Trustees and until so fixed any number of the Trustees more than one-half of the total number of the Trustees entitled to vote thereat shall constitute a quorum. Where one-half in number of the Trustees so entitled to vote is a fraction it shall be rounded-up to the next whole number and such number shall be the quorum for a meeting of the Trustees.
- (b) If within half an hour from the time appointed for a meeting of the Trustees a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Trustees present shall constitute a quorum.
- (c) Every Trustee present shall, notwithstanding their conflict between interest and duty (if any), be counted in a quorum present.
- 3.2.9 A validly called meeting of the Trustees at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under this Deed vested in or exercisable by the Trustees.
- 3.2.10 Any Trustee who is in any way, whether directly or indirectly;
- (a) personally interested in a contract or arrangement or any proposed contract or arrangement with the Trustees or with any Member; or
 - (b) is an elected member, office or employee of any Member or proposed Member which is interested –
- shall declare the nature of the interest and unless the interest is no greater than or any different from –
- (c) in the case of an interest to which subclause (a) of this clause applies, that of the other Trustees present; or
 - (d) on the case of an interest to which subclause (b) of this clause applies, that of the Members generally, they shall thereafter take no further part in the deliberations in respect of that matter.
- 3.2.11 The foregoing rule shall not operate to prevent any Trustee taking part in discussions and decisions regarding rules, guidelines, or policies regarding Annual Contributions.
- 3.2.12 All disclosures of interest by any Trustee, and whether or not they took part in discussion on or voted on the matter before the meeting, shall be recorded in the minutes of the meeting.
- 3.2.13 (a) The Trustees may meet by means of a Telephone Meeting, the Trustees having been given notice of the meeting as required by the provisions of this Trust Deed.
- (b) In this clause:
 “Telephone Meeting” means the contemporaneous linking together by telephone of Trustees comprising a quorum (whether or not any one or more of those persons is outside New Zealand);
 “Telephone” means and indicates any instant electronic means of communication.
- (c) Before a Telephone Meeting proceeds to business:
- (i) each of the Trustees taking part must be able to hear each of the other Trustees taking part;
 - (ii) the chairman shall ask each Trustee taking part in turn to respond by way of confirmation that they are in fact linked to and are taking part in the Telephone Meeting;
 - (iii) the chairman shall thereupon announce to the Telephone Meeting the names of those Trustees who have so responded.
- (d) The Trustees so named by the chairman shall be conclusively deemed to be present at the Telephone Meeting and, unless given permission to leave under subclause (e) of this clause, to have been present all the time during the Telephone Meeting.
- (e) No Trustee may leave a Telephone Meeting by disconnecting their telephone unless the chairman has first granted that Trustee permission to leave.
- (f) A minute of the proceedings at a Telephone Meeting shall be conclusive evidence of the proceedings and the regularity of the meeting if certified as a correct minute by the chairman.

3.3 Subcommittees

- 3.3.1 (a) The Trustees may at any time, for any specified purpose, appoint such of their number as they think fit to be members of any one or more subcommittees.
- (b) Each such subcommittee shall have such powers and duties as are delegated to it by the Trustees.
- (c) Each such subcommittee shall have power to co-opt such person or persons whether or not Trustees as the Trustees think fit, provided that:
- (i) in relation to each subcommittee the number of co-opted members shall not exceed the number of Trustees who are members of the subcommittee; and
 - (ii) such co-option shall be subject to the approval of the Trustees at the first meeting of the Trustees following the co-option.
- (d) The Trustees may appoint a chairman of each subcommittee. If no such chairman is appointed or if at any meeting the chairman is not present within 15 minutes after the time appointed for holding the same, the members of the subcommittee present shall then choose a chairman of the meeting.
- (e) Each subcommittee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of all those present and voting. In the case of an equality of votes the chairman shall have a second or casting vote.

3.4 Validity of Acts of Trustees

- 3.4.1 All acts done in good faith at any meeting of the Trustees or any subcommittees of the Trustees, or by any person acting as a Trustee, shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Trustee or that such Trustee was disqualified, be as valid as if every such Trustee had been duly appointed, and was qualified to be a Trustee.

3.5 Resolutions in Writing

- 3.5.1 A resolution in writing, signed by all of the Trustees entitled to vote thereon shall be as valid as if it had been passed at a meeting of the Trustees duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more of the Trustees so entitled. Any such document sent by a Trustee by telegram, cable, facsimile, copier, telex or other electronic means of communication shall be deemed to have been signed by the Trustee.

3.6 Remuneration of Trustees

- 3.6.1 The Trustees shall not make any private pecuniary profit from the Fund, except that the Trustees shall be entitled to reasonable fees for their services in respect of the management and administration of the Fund. The amount of the fees shall be determined from time to time by the Administration Manager after consultation with the Settlor and the Trustees.

3.7 Indemnity and Limitation of Trustee's Liability

- 3.7.1 The Trustees shall be indemnified and shall be entitled to reimburse themselves out of the Fund in respect of all costs, charges and expenses which they incur in or about management or administration of the Fund.
- 3.7.2 No Trustee acting or purporting to act in execution of the trusts created by this Trust Deed shall be liable for any loss not attributable to their own dishonesty or their wilful commission of or omission to do any act known by them to be a breach of trust, and in particular (without limitation) no Trustee shall incur any liability in respect of:
- (a) Any act done or not done in the exercise of or in respect of any discretion vested in them.
 - (b) Anything done or suffered by them in good faith in reliance upon any advice or opinion (whether or not obtained by the Trustees)

of any professional person, or upon any advice the Trustees may obtain directly or indirectly from any company, firm or person as shall, in the opinion of the Trustees, be qualified to provide advice.

- (c) Any failure or refusal to perform or do any act or thing which by reason or provision of any law of New Zealand they are hindered or prevented from doing or performing.

- 3.7.3 No Trustee shall be bound to or be liable for any failure to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by the co-Trustee.

4 POWERS OF TRUSTEES

4.1 General Powers

- 4.1.1 In addition to the powers conferred by law and elsewhere in this Trust Deed the Trustees shall have the power:
- (a) Subject to clause 5.1.3, from time to time to appoint and remove the Administration Manager and, subject to the specific duties imposed on the Administration Manager by this Trust Deed, define the duties and responsibilities of the Administration Manager, on terms to be agreed in writing between the Trustees and the Administration Manager.
 - (b) From time to time to appoint and remove one or more investment managers. The Investment Managers shall have such powers and duties in relation to the investment of the fund as the Trustees shall determine and agree in writing between the Trustees and the Investment Managers.
 - (c) To appoint and remove a custodian trustee to hold in safe custody all policies, certificates and other documents of title in connection with the whole or any part of the Fund, on terms to be agreed in writing between the Trustees and the custodian trustee.
 - (d) To otherwise retain the services of professional advisors and managers in relation to the management, administration and investment of the Fund, to delegate powers and discretions to professional advisors and managers as the Trustees see fit, and to determine and to pay out of the Fund, any fees payable to those professional advisors and managers.
 - (e) To make rules or guidelines, and to adopt procedures, consistent with the provisions of this Trust Deed, including, without limitation, in relation to membership; calculating and fixing Asset Values, Deductibles, Extraordinary Contributions, Annual Contributions and Distributions; determining from time to time which of a Member's assets can be registered with the Trustees as Infrastructure; and to make rules or guidelines and to adopt procedures as shall be appropriate for the convenient administration of the Fund.
 - (f) To borrow money for the purpose of providing Distributions where the assets of the Fund are not immediately realizable, or if realizable are only realizable at a material loss to the Fund, and to secure the repayment of such moneys in any manner and upon any terms the Trustees consider advisable, whether by charge over all or any portion of the Fund or any particular property or otherwise, provided however the Trustees shall first have had and obtained the consent in writing of the Settlor thereto and provided further that in no event shall the amount borrowed exceed the then estimated values of the assets of the Fund, less any existing liabilities of the Fund, contingent or otherwise.
 - (g) To seek reinsurance protection in support of the Fund.
 - (h) Generally to do all such acts and things as the Trustees may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in performance of their obligations under this Trust Deed.

4.2 Investments Authorised

4.2.1 All moneys belonging to the Fund and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

4.3 Exercise of Discretion

4.3.1 The Trustees may exercise or enforce all of the authorities, discretions and powers vested in them from time to time, and at any time and may refrain from exercising all or any such powers.

4.4 Appointment of Auditor

4.4.1 The Trustees shall from time to time appoint an Auditor (being the holder of a certificate of public practice issued by the Institute of Chartered Accountants of New Zealand) of the Fund at a remuneration to be fixed, and payable, by the Administration Manager, out of the Fund.

5 MANAGEMENT AND ADMINISTRATION

5.1 Appointment of Administration Manager

5.1.1 The Trustees shall appoint an Administration Manager which shall, in addition to other duties or responsibilities conferred on the Administration Manager elsewhere in this Trust Deed, and as from time to time agreed by the Administration Manager with the Trustees:

- (a) Receive applications for membership of the Fund;
- (b) Ascertain and audit the infrastructural assets of Members;
- (c) Issue debit notes for and maintain records of all Annual Contributions and Extraordinary Contributions paid to the Fund;
- (d) Use its best endeavours to secure economic reinsurance support of the Fund;
- (e) Facilitate effective programmes to enable Members to identify and manage risks to their Infrastructure by minimising and reducing the exposure, limiting the risks and diminishing the potential for damage by Damaging Events;
- (f) Receive and process applications for Distributions, within the scope of guidelines laid down by the Trustees;
- (g) Furnish the Trustees with full and complete reports of all losses by and of all payments made out of the Fund;
- (h) Liaise with local government agencies with respect to the application of their appropriate disaster recovery and emergency plans;
- (i) Make recommendations to the Trustees regarding any matters pertaining to the administration and management of the Fund;
- (j) Undertake such services as may be required by the Trustees or as may be reasonably necessary for the management, administration and investment of the Fund, and the operation of the trusts contained in this Trust Deed.

5.1.2 The Administration Manager shall be responsible to the Trustees for the proper management, and administration of the Fund and the trusts contained in this Trust Deed.

5.1.3 The first Administration Manager shall be the New Zealand Local Government Insurance Corporation Limited which shall hold office for an initial term of six years from the Commencement Date (unless removed earlier) on such terms (including terms relating to performance) as may be agreed in writing with the Trustees.

5.2 Records to be Kept

5.2.1 The Administration Manager shall keep or cause to be kept a complete record of:

- (a) The membership of the Fund including the dates on which Members were admitted to membership and when they ceased to be or were suspended as Members of the Fund.
- (b) Proper records of all meetings, resolutions and decisions of the Trustees.
- (c) The affairs, matters and transactions of the Fund.
- (d) All other matters, information and data necessary or expedient for the proper and effective working of the Fund and the operation of this Trust Deed.

5.3 Accounts

5.3.1 The Administration Manager shall ensure that:

- (a) All assets of the Fund are kept separate and apart from any assets or funds of the Administration Manager, with all moneys received by the Administration Manager to be banked in a separate bank account in the name of the Fund;
- (b) Proper books of account are kept in respect of the Fund;
- (c) Annual Accounts are prepared in respect of the Fund, presenting a true and fair view of the Fund's financial affairs at the end of each Fund Year; and
- (d) The Auditor appointed in accordance with the provisions of this Trust Deed examines and reports upon the Annual Accounts.

5.4 Annual Report of the Fund

5.4.1 The Administration Manager shall within six months after the end of each Fund Year:

- (a) Prepare an Annual Report for the Fund for the previous Fund Year.
- (b) Provide each Member with a copy of the Annual Report.

5.4.2 The following matters shall be contained in the Annual Report:

- (a) A statement of numerical changes in the membership of the Fund during the Fund Year;
- (b) The Annual Accounts for the Fund in respect of the previous Fund Year;
- (c) The Auditor's report on the Annual Accounts;
- (d) A statement by the Administration Manager as to whether all the Annual Contributions and Extraordinary Contributions required to be made to the Fund in accordance with the Participation Deeds and this Trust Deed have been made by the Members, and if not the amount or amounts outstanding;
- (e) A summary of any amendments to this Trust Deed that have been made during the Fund Year;
- (f) The names of and any changes since the last Annual Report in the Trustees, the Administration Manager, re-insurers, and changes in any actuaries, auditors and solicitors to the Fund (either by reference to their own names or the names of their firms);
- (g) The name and address of the person to whom all correspondence from the Members to the Trustees should be sent.

5.5 Delegation

5.5.1 Subject to this clause, the Administration Manager may at any time with the consent of the Trustees and from time to time, delegate any of its powers to any person.

5.5.2 A delegation pursuant to this clause may be:

- (a) Subject to such conditions and on such terms for the protection and convenience of persons dealing with the delegate as the person making the delegation thinks fit; and
- (b) Amended or revoked at any time.

5.5.3 If the Trustees or the Administration Manager exercise a power that is for the time being delegated that shall not revoke the delegation.

5.5.4 The Trustees shall not be liable for any act or defaults of any delegatee of the Administration Manager.

5.6 Expenses of Administration

5.6.1 The Administration Manager may pay from the Fund such costs, charges and expenses of management, administration and investment of the Fund as are properly payable by the Administration Manager on behalf of the Fund.

5.6.2 The Administration Manager shall be paid from the Fund such fees or charges for its administration of the Fund and the trusts contained in this Trust Deed, as shall from time to time be authorised by the Trustees.

5.7 Indemnity of Administration Manager

5.7.1 The Administration Manager shall not be liable for any loss which is not attributable to the Administration Manager's own dishonesty and the Trustees shall indemnify and keep indemnified the Administration Manager from the Fund against all claims demands and liabilities from Members or persons not parties to this Trust Deed, howsoever arising.

5.8 Execution of Deeds

5.8.1 If the Trustees are incorporated as a Board the Trustees shall obtain and adopt a common seal of the Board. The common seal of the Board shall be kept in the safe custody of the Administration Manager. The common seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that behalf, and every instrument to which the common seal is affixed shall be signed by a member of the Board and shall be countersigned by a second member of the Board or by some other person appointed by the Board for the purpose.

6 MEMBERSHIP COVERAGE

6.1 Admission of Members

6.1.1 Only Local Authorities shall be eligible for admission as Members of the Fund.

6.1.2 A Local Authority shall not be admitted to membership without first entering into a Participation Deed with the Fund in the form and on the terms acceptable to the Trustees.

6.1.3 In executing a Participation Deed the Local Authority shall agree to be bound by the terms of this Trust Deed.

6.2 Withdrawal from Membership

6.2.1 Any Member may withdraw from membership of the Fund by giving notice in writing to the Trustees of its desire to withdraw from membership, on or before the end of any Fund Year, and their membership shall terminate at the end of the Fund Year following.

6.2.2 Any notice in writing of a Member's desire to withdraw from membership may itself be withdrawn at any time prior to the termination of its membership.

6.2.3 Members who have given notice of their desire to withdraw from the Fund shall pay their Annual Contributions due for the following Fund Year.

6.3 Suspension or Termination of Membership

6.3.1 Membership of the Fund may be terminated or membership rights suspended, by resolution of the Trustees, in the event that a Member:

- (a) Refuses or fails to comply with the reasonable directions of the Trustees given for the purpose of minimizing or reducing the exposure, limiting the risks and diminishing the potential for loss or damage to its Infrastructure; or
- (b) Refuses or fails to allow an audit of the Member's management of the risk to its Infrastructure; or

(c) Omits to make or unduly delays payment of its Annual Contribution; or

(d) Commits any breach of the provisions of this Trust Deed or its Participation Deed which in the opinion of the Trustees warrants the termination or suspension of membership.

6.3.2 A former Member may if so desiring re-apply for membership, but if successful shall not thereby gain any benefit credit or entitlement accruing consequent upon their former membership.

6.3.3 The action or decision of the Trustees in any matter relating to membership or suspension or termination of membership shall be final and binding.

6.4 Coverage

6.4.1 Coverage of Members shall commence from the later of the date of payment of the initial Annual Contribution (or part thereof if so agreed) and the Extraordinary Contribution (if any, or part thereof if so agreed) as required by the Trustees or such other date as may be agreed in writing by the Trustees.

6.4.2 There shall be no Coverage of Local Authorities that are not Members.

6.4.3 Upon termination or suspension of membership all Coverage shall cease from the date of termination or suspension as the case may be, and the Member shall not be eligible for Coverage until re-admission to membership (in the case of termination) or (in the case of suspension) the lifting of the suspension by further resolution of the Trustees, or the satisfaction of any pre-condition imposed for the automatic lifting of the suspension of the Member.

6.4.4 On termination of membership all claim, right, title or interest or benefit in the assets of the Fund shall forthwith cease.

7 GENERAL PROVISIONS RELATING TO CONTRIBUTIONS

7.1 Annual Contributions

7.1.1 The Trustees shall before the end of each Fund Year:

(a) Fix the Asset Value of each Member's Infrastructure, having regard to:

- (i) their Stated Value;
- (ii) any actual valuation made of a Member's Infrastructure, or any parts of it;
- (iii) any other measure (including valuations) which may enable or assist the Trustees to assess the value of Members' Infrastructure;
- (iv) any appropriate method or principles of valuation whether or not they are the same as those applied in any other valuation of the Members' Infrastructure or parts of it.

(b) Determine the approximate amount of total Annual Contributions to be sought from Members for the ensuing Fund Year having regard to:

- (i) the combined Asset Values of Members as determined in clause 7.1.1(a) above; and
- (ii) the risk or exposure of the Members' Infrastructure to Damaging Events; and
- (iii) possible Deductibles; and
- (iv) any other factors that seem relevant:

7.1.2 The Trustees shall after determining the approximate amount of the total Annual Contributions to be sought from Members for the ensuing Fund Year fix the Annual Contributions to be paid by individual Members, and in fixing the Annual Contributions to be paid by individual Members the Trustees shall have regard to:

- (a) The risk or exposure of the Member to a Damaging Event in its region compared with the risk or exposure of Members to Damaging Events generally;
- (b) The Asset Value of the Member, as determined by the Trustees pursuant to clause 7.1.1(a);
- (c) The likely availability to the Member of other monies by way of compensation, indemnity, replacement or subsidy for the loss or damage to its Infrastructure, including any payment from central government, from insurance claims, and any rights against persons not party to this Trust Deed;
- (d) The quantum of any Deductible for the Member which the Trustees may fix;
- (e) The state of repair, maintenance and condition generally of the Member's Infrastructure or parts of it;
- (f) The nature of any particular risks affecting the Member's Infrastructure;
- (g) Any refusal or persistent failure by the Member to comply with any reasonable directions given by the Administration Manager for the purpose of identifying and managing risk.

7.1.3 Members shall then be advised of the Annual Contribution payable by them, and the amount of any Deductible.

7.1.4 Notwithstanding anything hereinbefore contained the Trustees may adopt or determine such methods of setting Annual Contributions or Extraordinary Contributions as they in their absolute discretion think fit.

7.2 Method of Payment

7.2.1 Payment of the Annual Contributions shall be effected by the Members in accordance with any provisions of the Participation Deed for payment, or in the absence of any such provisions as from time to time determined by the Trustees.

7.2.2 Any unpaid Annual Contribution as determined by the Administration Manager shall be recoverable by the Fund as a debt with associated interest and recovery costs.

7.3 Disputes regarding Quantum of Annual Contributions

7.3.1 If the Member disputes the quantum of any Annual Contribution it shall give written notice to the Administration Manager within twenty-one days of receipt of advice of the quantum, following which the quantum of the Annual Contribution payable by the Member shall be reviewed by the Trustees, whose decision as to the appropriate quantum to be paid shall be final and binding.

7.3.2 Where the quantum of the Annual Contribution is not determined until after the date on which payment of the Annual Contribution was due, the Member shall have ten days following receipt of advice in writing of the determination of the dispute in which to pay the Annual Contribution.

7.3.3 Except as otherwise provided above the action or decision of the Trustees in fixing the Annual Contributions shall be final and binding.

7.4 Extraordinary Contributions

7.4.1 The Trustees may fix Extraordinary Contributions.

7.4.2 Subject to clause 7.1.4 in determining the quantum of any Extraordinary Contribution as a condition of entry to membership the Trustees shall have regard to:

- (a) The number of Fund Years completed since the Commencement Date;
- (b) The net value of the assets of the Fund had there been no Distributions from the Fund;
- (c) The current value of the assets, and the amount of any liabilities of the Fund;
- (d) Any other factors which seem relevant to the Trustees.

7.4.3 In determining the quantum of any Extraordinary Contribution being fixed for Coverage of a part or portion of a Fund Year the Trustees shall have regard to the Annual Contribution that would have been payable by the Member for Coverage for the full Fund Year and, that part or portion of the Fund Year for which Coverage is being provided.

7.4.4 Any decision of the Trustees regarding the quantum of any Extraordinary Contribution shall be final and binding.

7.4.5 Any Extraordinary Contribution fixed by the Trustees that is not paid may be recovered in the same way as an Annual Contribution including associated interest and recovery costs.

8 DISTRIBUTIONS FROM THE FUND

8.1 A Member may at any time within nine calendar months (time being of the essence) of a Damaging Event apply to the Trustees for a Distribution from the Fund in respect of any loss or damage caused to the Member's Infrastructure by that Damaging Event.

8.2 Upon receiving an application for a Distribution in respect of a Damaging Event, the Trustees shall satisfy themselves that:

- (a) the loss or damage is to Infrastructure;
- (b) the loss or damage was caused by the Damaging Event.

8.3 Once the Trustees have satisfied themselves as to the matters specified in clause 8.2, they may make a Distribution to the Member in respect of its application, subject to:

- (a) any Asset Value or Stated Value of the Member's Infrastructure;
- (b) the state of repair, maintenance and condition generally of the Infrastructure or of any particular parts of the Infrastructure before and after the Damaging Event for which the Distribution is claimed;
- (c) the Member's Deductible;
- (d) the expected availability when the Annual Contribution was set and the actual availability to the Member of other monies by way of compensation, indemnity, replacement or subsidy for the loss or damage to its Infrastructure, including any payment from central government, from insurance claims, and any rights against persons not party to this Trust Deed;
- (e) the desirability of the Fund maintaining reserves for future Damaging Events;
- (f) the length of time that the Member has been a Member of the Fund;
- (g) any other factors which seem relevant to the Trustees.

The Trustees at their sole discretion will determine what if any Distribution will be made in any situation where in the Trustees' opinion the damage is a consequence of an act of war or terrorism.

8.4 Without being bound to see or being liable for not seeing to the application of any Distributions from the Fund, the Trustees shall take reasonable steps to ensure each Distribution from the Fund is applied by its Members for the reinstatement of their Infrastructure, and for that purpose, the Trustees may require from the Member reasonable evidences of the expenditure, and may make progress payments.

8.5 The Trustees may also pay the whole or any part of the Fund to any other charity that is charitable under New Zealand law and has purposes similar or related to those of the Fund.

9 ALTERATION

9.1 Alteration of the Trust Deed

9.1.1 The Trustees may amend this Trust Deed in any way, subject to this clause 9.

9.1.2 The Trustees may by unanimous resolution of the Trustees present at any validly convened meeting revoke, vary or add to any of the provisions of this Trust Deed provided no such revocation, variation or addition may be made if it would result in the Fund ceasing to qualify for registration as a charitable entity under the Charities Act 2005 or would vary the terms of this proviso or would otherwise be inconsistent with the general charitable scope of the trusts contained in this Trust Deed.

9.1.3 Every amendment shall be conditional upon and come into effect upon the Settlor giving its consent in writing.

9.1.4 Amendments shall not be retrospective in effect.

9.2 Notice to Members

9.2.1 The Trustees shall notify Members forthwith in writing of every amendment to this Trust Deed made pursuant to these provisions.

9.2.2 Any accidental failure or omission on the part of the Trustees to give a Member notice as required by this clause, or its non-receipt by a Member, shall not affect the validity of the amendment.

9.3 Alteration of Participation Deeds

9.3.1 The Trustees, with the agreement of a Member, may from time to time:

- (a) Amend any of the provisions of the Participation Deed relating to the Member; or
- (b) Cancel any Participation Deed and in substitution, enter into a new Participation Deed with a Member.

10 WINDING UP OF THE FUND

10.1 Procedures

10.1.1 The Trustees shall wind up the Fund and shall apply the provisions of this Clause in relation to every Member:

- (a) If the Trustees unanimously resolve that the Fund shall be wound up, and advise the Settlor accordingly, and the Settlor consents thereto; or
- (b) Upon the determination of the trusts hereof; or
- (c) Upon any insolvency of the Fund; or
- (d) Upon any order of the Court that the Fund be wound up.

10.1.2 The Trustees shall within fourteen days after they have resolved to wind up the Fund, lodge a copy of that resolution with the Settlor and (the Settlor consenting thereto) with the Registrar of Incorporated Societies.

10.1.3 The Trustees shall for the purpose of winding up the Fund:

- (a) Ensure that final accounts of the Fund are prepared showing the financial position of the Fund as at the date on which the winding up commenced; and
- (b) Ensure that those final accounts are audited; and
- (c) As soon as practicable after the final accounts have been audited send a copy of those accounts to the Settlor and all the Members as at the date the winding up commenced.

10.2 Allocation of Proceeds

10.2.1 Members shall have no right or claim against the Fund on winding up except in respect of any application for a Distribution made prior to the commencement of the winding up.

10.2.2 The Trustee shall apply the proceeds of the Fund in accordance with the following priority:

- (a) First, in providing for the payment of the costs of the winding up;
- (b) Secondly, in providing for the payment of all liabilities and debts of the Fund;

(c) Thirdly, paying any outstanding Distributions which the Trustees have resolved to pay any Member prior to the commencement of the winding up and remain unpaid at that date;

(d) Fourthly, in providing for payment of any Distributions for which applications have been made immediately prior to the commencement of the winding up;

(e) Finally, payment of any balance in the Fund is to be made or transferred to another organisation as decided by the Trustees that is charitable under New Zealand law and has purposes similar or related to those of the Fund, or in default of a decision by the Trustees, as directed by the Court pursuant to section 27 of the Act.

11 MISCELLANEOUS

11.1 Notices

11.1.1 Any notice or document shall be deemed to have been served upon the Trustees if left at the registered office of the Fund or if sent through the post in a registered letter addressed to the Administration Manager at that office. Any notice or document shall be deemed to have been duly given to a Member, if given generally or sent to the Member at the address of the Member last known to the Administration Manager.

11.1.2 Any notice or document delivered by post shall be deemed to have been delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the envelope or wrapper containing it was properly addressed and posted. A statement signed by the Administration Manager that a notice was so addressed and posted to a Member and when, shall be conclusive evidence of those facts.

11.2 Succession

11.2.1 If the activities of any of the Appointors are assigned to or succeeded by any other undertaking (whether a corporation, association partnership or natural person) then that other undertaking may, with the written approval of the Trustees as from the date of the assignment or succession, take the place of that Appointor for the purposes of the Fund, and assume all rights and obligations of that Appointor under the Trust Deed.

11.2.2 If the Trustees do not give their written approval of such other undertaking taking the place of that Appointor, then the Fund shall either be wound up in accordance with the provisions of this Trust Deed, or the Trustees may appoint another body to take over the role of that Appointor.

11.3 Waiver and Precedent

11.3.1 No failure by the Trustees to enforce any breach of any obligation or provision contained or implied in by this Trust, in one, or more instances shall constitute a waiver of the right of the Trustees to enforce any other provision, or any subsequent breach, whether against the same Member or another.

11.3.2 No action on the part of the Trustees or the Administration Manager whether taken in accordance with any specific provisions contained in this Trust Deed or otherwise shall be taken as a precedent for any like or similar action on either part and neither the Trustees nor the Administration Manager may thereafter be compelled to take similar or identical action consequent thereupon.

11.4 Office

11.4.1 The office of the Fund shall be at the offices of the New Zealand Local Government Insurance Corporation Limited, 9th Floor, Civic Assurance House, 114 Lambton Quay, Wellington, or at such other place as the Trustees may from time to time by resolution determine.

IN WITNESS WHEREOF this Deed has been executed on the day and year first hereinbefore written.

THE COMMON SEAL of the)
NEW ZEALAND LOCAL GOVERNMENT)
ASSOCIATION INCORPORATED was)
hereunto affixed in the presence of:)

Signed by)
ROBERT DAVID RENNIE ELLIOTT)
in the presence of:)

Signed by)
WYNNE ARCHDALL RAYMOND)
in the presence of:)

Signed by)
DALE ALWYN LOTT)
in the presence of:)

Signed by)
KINSLEY NEVILLE SAMPSON)
in the presence of:)

Signed by)
IAN ROBERT FLOCKHART MCKELVIE)
in the presence of:)

Signed by)
LANGLEY DAVID CAVERS)
in the presence of:)

PARTICIPATION DEED

ADMITTING

.....

**TO MEMBERSHIP OF
THE NEW ZEALAND LOCAL AUTHORITY PROTECTION
PROGRAMME DISASTER FUND**

THIS DEED is made the ___ day of _____ 200__.

BETWEEN NEW ZEALAND LOCAL AUTHORITY PROTECTION PROGRAMME DISASTER FUND ("the Fund") and NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED ("the Administration Manager") (together called "the Administration")

AND being a Local Authority as defined in the Trust Deed ("the Member")

BACKGROUND

- A. The Trustees of the New Zealand Local Authority Protection Programme Disaster Fund are incorporated as a Board pursuant to the Charitable Trusts Act, 1957 ("the Board").
- B. The Fund is also registered as a charitable entity under the Charitable Trusts Act 1957.
- C. The Settlor of the Fund is the New Zealand Local Government Association Incorporated. The Settlor established the Fund as a self funding disaster protection scheme for the purposes of and for the objects set out in the original trust deed dated 29 June 1993. The trust deed was amended by deeds of variation dated 14 February 1997 and 5 June 2003. The trust deed was further amended and all amendments consolidated by a new trust deed dated 14 December 2007 ("the Trust Deed").
- D. The New Zealand Local Government Insurance Corporation Limited is the Administration Manager of the Fund.
- E. The Trust Deed contains provision for Local Authorities to apply for membership of the Fund, and for their admission to membership of the Fund, on the terms required by the Board.
- F. The Member has applied to become a member of the Fund, and is being admitted as a member on the terms and conditions contained herein.

NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED

as follows:

1 MEMBERSHIP

Admission to Membership

1. The Member hereby covenants and agrees with the Administration to be bound by
 - (a) the terms of the Trust Deed, as if it were a party to the Trust Deed; and
 - (b) this Participation Deed;and acknowledges and accepts the powers, discretions and authorities of the Board, and the Administration Manager appointed pursuant to the Trust Deed, as provided in the Trust Deed.
2. In consideration of the Member agreeing to be bound by the terms of the Trust Deed, and of this Participation Deed, the Member is hereby admitted as a Member of the Fund.

Withdrawal, Suspension or Termination of Membership

Withdrawal from, termination and suspension of membership shall be effected in accordance with the provisions of the Trust Deed.

2 COVERAGE AND DEDUCTIBLE

Coverage

Coverage of the Member shall commence on the date appearing in the First Schedule and shall continue until the Member's membership of the Fund is either terminated, or the Member is suspended, as provided in the Trust Deed.

Deductible

The level of any deductible shall be fixed by the Board and the first such deductible shall be as provided in the First Schedule.

3 CONTRIBUTIONS AND DISTRIBUTIONS

Payment of Annual Contributions

1. The Member shall pay to the Fund its Annual Contribution as determined by the Board, within 14 days of the commencement of each Fund Year, or as otherwise agreed by the Administration in writing.
2. The Member shall pay the sum set out in, and in the manner provided in the First Schedule, as its first Annual Contribution.

Payment of Extraordinary Contributions

The Member shall forthwith pay to the Fund the Extraordinary Contribution set out in the First Schedule.

Distributions

1. The Member shall in making an application for a Distribution use any form of application which the Administration may prescribe, and shall from time to time provide such information as the Administration may reasonably require to enable it to consider the Member's application.
2. Any Distribution from the Fund shall be at the sole and absolute discretion of the Board, which shall, having regard to the factors set out in the Trust Deed, act in accordance with the objectives of the Fund and in the interests of all members.
3. The amount of the Deductible applying at the time of any Natural Disaster or Emergency or event shall be deducted from any Distribution from the Fund in respect of the same.

4 ASSET VALUES

Information Regarding Assets

1. The Member shall within 3 months of the commencement of each Fund Year or such lesser period as the Administration may from time to time advise:
 - (a) supply the Administration with any information regarding categories, details and condition of its Infrastructure, including any list of or register of its Infrastructure, both insured and uninsured, and any insurance particulars, which the Administration may reasonably require;
 - (b) state to the Administration in writing its estimate of the cost of reinstatement of its Infrastructure;
2. The Member shall advise the Administration of any additions or deletions to its Infrastructure, during the Fund Year.

5 RISK MANAGEMENT AND AUDIT

Risk Management

The Member agrees to:

- (a) introduce and maintain such programs to identify, assess and control risks applicable to its Infrastructure, as may from time to time be reasonably required by the Administration; and

- (b) notify the Administration of any matters, events or things which might be reasonably considered relevant to the assessment and management of the risk or exposure of the Member's Infrastructure to Natural Disasters and Emergencies.

Audit of Infrastructure

The Member agrees that the Administration Manager may from time to time inspect and audit the Member's Infrastructure and all records and information pertaining thereto.

6 ALTERATION

Alteration of the Trust Deed

- 1 The Member acknowledges that every alteration or amendment to the Trust Deed shall upon the consent of the Settlor being given in writing, be binding on the Member as to its terms and conditions, as if it were a party thereto.
- 2 This Participation Deed shall be deemed to be amended to the extent and in the manner (if any) required as a consequence of the amendment of the Trust Deed.

7 MISCELLANEOUS

Co-operation

The Member agrees to take all such other actions and supply such information and assistance as the Administration may reasonably require from time to time in order to give effect to the provisions and purposes of the Trust Deed and this Participation Deed, including (without limitation) following any rules or guidelines or prescribed procedures required by the Administration, not being rules guidelines or procedures inconsistent with this Participation Deed or the Trust Deed.

No Assignment

The Member may not assign its rights under this Participation Deed or any of its rights or obligations as a member of the Fund to any other person, or encumber, charge or otherwise dispose of any of its right, entitlement or interest in the Fund.

Notices

- 1 Any notice or document shall be deemed to have been served upon the Administration if left at the registered office of the Fund or if sent through the post in a letter addressed to that office.
- 2 Any notice or document shall be deemed to have been duly served on the Member, if delivered personally to the Member's chief executive officer, or if sent through the post to the Member at the address of the Member last known to the Administration.
- 3 Any notice or document delivered by post shall be deemed to have been delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the envelope or wrapper containing it was properly addressed and posted.

8 DEFINITIONS AND INTERPRETATION

Definitions

- 1 Each of the following words and expressions shall, unless the context otherwise requires, have the following meanings:
"the Trust Deed" means the consolidated Trust Deed dated 14 December 2007;
"the Board" means the Trustees of the Fund and vice versa.
- 2 The words and expressions used in this Participation Deed shall unless the context otherwise requires have the same definitions as given them in the Trust Deed.

Interpretation

- 1 Unless the context otherwise requires the same interpretations shall be placed on words and phrases used in this Participation Deed as contained in the Trust Deed.
- 2 In the event of any conflict between the terms and conditions of this Deed and the provisions of the Trust Deed, the provisions of the Trust Deed shall prevail.
- 3 Nothing in this Participation Deed shall be taken to excuse the failure of the Member to perform any and each of its obligations as a Member of the Fund, nor the commission of any act in breach of its obligations as a Member of the Fund, as set out in the Trust Deed.

FIRST SCHEDULE

Annual Contribution:

The Annual Contribution for the period 30 June 200_ to 30 June 200_ is assessed at \$_____ plus GST, less full member discount. This is the Member's first annual contribution.

Extraordinary Contribution:

The Extraordinary Contribution is assessed at \$_____ plus GST.

In consideration of the payment of the Extraordinary Contribution Council shall immediately be entitled to full rights of Fund Membership including any discount on the assessed Annual Contribution for future years that the Fund Trustees may declare from time to time.

Deductible:

The Deductible shall be ___% of the asset value declared to the Fund for coverage.

IN WITNESS WHEREOF this Deed has been executed on the day and year first herein before written.

THE COMMON SEAL of the **NEW ZEALAND LOCAL AUTHORITY**)
PROTECTION PROGRAMME DISASTER FUND was hereunto affixed)
in the presence of:-)

THE COMMON SEAL of **NEW ZEALAND LOCAL GOVERNMENT**)
INSURANCE CORPORATION LIMITED was hereunto affixed)
in the presence of:-)

THE COMMON SEAL of the **COUNCIL**)
was hereunto affixed pursuant to a resolution of the Council,)
in the presence of:-)

