

REPUBLIC OF KENYA



**MINISTRY OF PUBLIC SERVICE AND GENDER
STATE DEPARTMENT FOR PUBLIC SERVICE**

**DRAFT POST-RETIREMENT MEDICAL INSURANCE SCHEME FOR
CIVIL SERVANTS**

JUNE, 2020

DEFINITIONS	IIII
SCHEME RULES	IV
POST- RETIREMENT MEDICAL INSURANCE SCHEME FOR CIVIL SERVANTS.....	1
TRUST DEED.....	2
SECTION I.....	3
1.1 NAME OF THE SCHEME	3
1.2 COMMENCEMENT OF THE SCHEME	3
1.3 DECLARATION OF TRUST.....	3
1.4 PATRON OF THE SCHEME.....	3
1.5 MAIN PURPOSE OF THE SCHEME	3
1.6 COMPOSITION OF THE SCHEME.....	3
1.7 REGISTERED OFFICE	4
1.8 TERMINATION AND WINDING UP OF THE SCHEME/TRUST	4
1.9 TERMINATION OF TRUSTS	4
1.10 CONSEQUENCES OF TERMINATION	4
1.11 LAW AND CURRENCY	5
1.12 CLAIMS ONLY IN ACCORDANCE WITH THE DEED	5
1.13 NOTICES	5
1.14 HEADINGS.....	5
1.15 ANNUAL GENERAL MEETING.....	5
PART 2: OBLIGATIONS.....	6
2.1 OBLIGATIONS OF THE EMPLOYER/SPONSOR ARE:.....	6
2.2 OBLIGATIONS OF THE TRUSTEES.....	6
PART 3: ADMINISTRATION AND MANAGEMENT.....	7
3.1 APPOINTMENT OF TRUSTEES.....	7
3.2 NOMINATION OF TRUSTEES BY MEMBERS	8
3.3 REMOVAL OF TRUSTEE BY MEMBERS	8
3.4 NOMINATION AND REMUNERATION OF TRUSTEES	9
3.5 APPOINTMENT OF ADVISORS	9
3.6 TRUSTEES TO KEEP RECORDS.....	10
3.7 TRUSTEES' ADMINISTRATIVE ARRANGEMENTS	10
3.8 ADMINISTRATIVE STAFF	12
3.9 POWERS OF TRUSTEES.....	12
3.10 PROTECTION OF TRUSTEES.....	14
3.11 PROTECTION AGAINST FINANCIAL LOSS.....	14
3.12 POWERS CONFERRED BY LAW.....	14
3.13 PROFESSIONAL CHARGING CLAUSE	15

3.14	ARBITRATION	15
	PART 4: INVESTMENT	16
4.1	SCHEME TO BE NON-PROFIT MAKING.....	16
	SECTION II: SCHEME RULES.....	17
1.	AUTHORITY AND BINDING NATURE OF TRUST DEED AND SCHEME RULES.....	17
2.	ELIGIBILITY FOR MEMBERSHIP	17
3.	REGISTRATION OF MEMBERS	18
4.	ELIGIBLE DEPENDANTS	18
5.	REGISTRATION OF ELIGIBLE DEPENDANTS	18
6.	CONTRIBUTIONS.....	19
7.	REMITTANCE OF CONTRIBUTIONS	19
8.	MEMBERS ENTITLEMENT TO SCHEME BENEFITS	19
9.	ELIGIBLE DEPENDANT’S ENTITLEMENT TO SCHEME BENEFITS.....	20
10.	CONTINUING MEMBERSHIP.....	20
11.	REGISTERS OF BENEFICIARIES	20
12.	SCHEME BENEFITS	21
13	EXCLUDED EXPENSES	21
14	EXCESS OF LOSS	22
16	ANNUAL GENERAL MEETING	22
17.	AMENDMENT OF SCHEME RULES	22

DEFINITIONS

(a) In this Deed and the Rules of the Comprehensive Post-Retirement Medical Scheme for Retired Civil Servants, unless the context otherwise requires, the following words and expressions shall have the following meanings:

Actuary	means a person recognised as such by the Actuarial Society of Kenya.
Administrator	means the person appointed under an instrument by Trustees to manage the administrative affairs of the scheme.
Auditor	means the Auditor to the Scheme appointed under Section, being a person who is a member of the Institute of Certified Public Accountants of Kenya.
Beneficiary	means the member and includes a dependant of the member.
Board	means the Board of Trustees of the Scheme.
Contribution Year	means the period of twelve calendar months starting on and ending on the day of of every year.
Date of Commencement	means day of, 20....., being the date the Scheme was commenced its operations.
Date of Entitlement	means the date on which the member retires from the Civil Service on attainment of the Mandatory Retirement Age, or under the fifty-year rule or Retirement on Medical Grounds.
Trust Deed	means this Deed and to which the Scheme Rules constitute the Schedules (being an integral part of the Deed) and any deed expressed to be supplemental thereto; references to the "Trust Deed" or to "this Deed" shall be deemed to include the Rules.
Trustees	means and includes the survivor or survivors of the Trustees or the Trustee or Trustees for the time being of the trusts of this Trust Deed.

SCHEME RULES

RULE 1 - AUTHORITY AND BINDING NATURE OF TRUST DEED AND SCHEME RULES

RULE 2 - ELIGIBILITY FOR MEMBERSHIP

RULE 3 - REGISTRATION OF MEMBERS

RULE 4 - ELIGIBLE DEPENDANTS

RULE 5 - REGISTRATION OF ELIGIBLE DEPENDANTS

RULE 6 - CONTRIBUTIONS

RULE 7 - REMITTANCE OF CONTRIBUTIONS

RULE 8 - MEMBERS ENTITLEMENT TO SCHEME BENEFITS

RULE 9 - ELIGIBLE DEPENDANT'S ENTITLEMENT TO SCHEME BENEFITS

RULE 10 - CONTINUING MEMBERSHIP

RULE 11 - REGISTERS OF BENEFICIARIES

RULE 12 - SCHEME BENEFITS

RULE 13 - EXCLUDED EXPENSES

RULE 14 - TERMINAL EXPENSE FUND

RULE 15 - CLAIMS PROCEDURES

RULE 16 - ANNUAL GENERAL MEETING

RULE 17 - AMENDMENT OF SCHEME RULES

**POST- RETIREMENT MEDICAL INSURANCE SCHEME FOR CIVIL
SERVANTS**

Between

**The Principal Secretary, State Department for Public Service and
The Association of Retired Civil Servants;**

(The Sponsors);

And

.....
.....
.....
.....
.....
.....

(The "Trustees")

Dated Day of2020

DRAFT

TRUST DEED

THIS TRUST DEED is made on the _____ day of _____ 20__

BETWEEN: -

The Ministry of Public Service and Gender, representing Government of the Republic of Kenya, situated at Harambee House, Nairobi and whose postal address is Post Office Box Number 30050-00100 Kenya in the said Republic (hereinafter referred to as the "Sponsor"); and

The Association of Retired Civil Servants; the association representing retired Civil Servants;

(hereinafter together called "the Sponsors") and,

.....;

.....;

.....;

.....;

.....;

.....; and

.....

..... of post office box number in the Republic of

Kenya

(hereinafter together called "The Trustees")

WHEREAS:

(a) The Sponsor has approved the establishment under irrevocable trusts of the Post-Retirement Medical Insurance Scheme for Civil Servants ("the Trust") for the objects hereinafter declared;

(b) The Sponsor has approved incorporation under certificate of the Trust under the provisions of the Trustees (Perpetual Succession) Act to provide post-retirement medical insurance cover and other benefits for eligible retired Civil Servants who are admitted to membership thereof (the "Members") under the provisions of the Scheme Rules.

(c) The Trustees have agreed to act as Trustees of the Trust.

NOW THIS TRUST DEED WITNESSETH AND IT IS HEREBY DECLARED as follows:-

SECTION I

PART 1 : GENERAL PROVISIONS

This section is organized into the following parts; general provisions, obligations, management and administration, investment, Amendment of Deed and Rules

1.1 NAME OF THE SCHEME

The name of the Scheme shall be the "Post-Retirement Medical Scheme for Civil Servants".

1.2 COMMENCEMENT OF THE SCHEME

The Scheme shall be deemed to have commenced on the Commencement Date.

1.3 DECLARATION OF TRUST

The Trustees shall stand possessed of the moneys and investments from time to time forming part of the Scheme and the income thereof respectively as and when received by them upon irrevocable trust out of the capital or the income thereof or both as they think proper to pay for the Members such medical and other benefits payable under in accordance with the Rules.

1.4 PATRON OF THE SCHEME

The patron of the Scheme shall be the Cabinet Secretary responsible for Public Service.

1.5 MAIN PURPOSE OF THE SCHEME

The main purpose of the Scheme is to establish, manage and maintain a viable Medical Insurance Scheme for the benefit of retired members of the Civil Service, their spouse and dependants as this Deed and the Rules define and prescribe.

1.6 COMPOSITION OF THE SCHEME

The Scheme shall consist of all sums paid or contributed to the Scheme by the Members and the Service and the investments for the time being representing the same and the interest, dividends and income derived from such sums and investments and any other sum or sums which may, under this Deed or the Rules, be paid to the Trustees for payment into the Scheme.

1.7 REGISTERED OFFICE

The registered office of the Scheme shall be at the headquarters of the Ministry responsible for Public Service.

1.8 TERMINATION AND WINDING UP OF THE SCHEME/TRUST

The Service intend, and verily believe, that the Scheme hereby established should at all times hereafter subsist and survive into perpetuity or for as long as circumstances shall, as by law permit. However, if this wish shall, by circumstances prove impossible to maintain, it is hereby declared that the Trust may, without prejudice to the generality of Section 16(2) of Cap 167, be wound up.

1.9 TERMINATION OF TRUSTS

The trusts of the Scheme shall terminate on the occurrence of any of the following events:

- i. If the Service ceases to exist or for any other reason ceases to operate and some other statutory body or organization shall not be empowered to undertake the duties of the Service; or
- ii. If the Trustees decide on receiving actuarial advice that the contributions being paid by the Members and the Service and reasonably expected from them in the future are so low as to prejudice seriously the long term financial position of the Scheme; or
- iii. Occurrence of circumstance stipulated in clause 25.
- iv. Notwithstanding paragraph (a)(i) &(ii) of the Rule, if the Trustees shall think fit and with the approval by a majority of the members, the Scheme shall not be wound up and shall be continued as a closed Scheme subject to the Rules.

1.10 CONSEQUENCES OF TERMINATION

Upon any termination of the trust of the Scheme pursuant to clause 26, the Trustees shall as soon as practicable;

Notify each Member, Retiree and Dependant affected by such determination; and

Appoint a liquidator in terms of clause 15 (a) (iv) of this Deed.

Subject to the retention of such sums as may be necessary to meet the costs and expenses of administration or otherwise, the Trustees (or the liquidator) shall, after obtaining the advice of the Actuary, apply the moneys held under the Scheme in the following manner:

- i. In the first place, in security the payment of reported costs in respect of Beneficiaries of the Scheme;
- ii. In the second place, the costs that are in the due process of being incurred but not reported, payable at the discretion of the Trustees;
- iii. In such amounts as the Trustees (or the liquidator) may determine.

Notwithstanding the provisions of paragraph (b) of this clause the Trustees (or the Liquidator) may in consultation with the Actuary make such variations to the terms hereto (save as respects the law against perpetuities) as may appear to Trustees (or the Liquidator) to be just and equitable as applied to the generality of all entitled to benefit hereunder.

1.11 LAW AND CURRENCY

This Deed shall be interpreted in accordance with the governed by the laws of Kenya and all contributions and benefits payable shall be made in Kenya in Kenya currency.

1.12 CLAIMS ONLY IN ACCORDANCE WITH THE DEED

No person whether a Member or otherwise shall have any claim right or interest upon to or in respect of any lump sum payment or other benefits or any contribution made to the Scheme or any interest therein or any claim upon or against the Trustees except under and in accordance with the provisions of this Deed.

1.13 NOTICES

Any notice which under the provisions of this Deed is required to be given to or served upon the Trustees shall be served in writing and delivered or addressed to the Trust Secretary care of the principal office for the time being of the Service.

1.14 HEADINGS

The headings in this Deed are for convenience of reference only and are not to be constructed as part of the Deed.

1.15 ANNUAL GENERAL MEETING

Members are entitled to an annual general meeting, inspect Scheme Rules and Trust Deed and a copy of the minutes of the AGM.

PART 2: OBLIGATIONS

2.1 Obligations of the Employer/Sponsor are:

- a) To observe the provisions of and perform its obligations under this Deed and the Rules;
- b) To collect all sums contributed by it and the Members in accordance with the Rules and such other payments as and on its behalf are to be made under the Rules and to pay such sums to the Trustees or as they shall direct; and
- c) Subject to clause 19 hereof, to pay all necessary charges and expenses incurred by the Trustees in connection with the management and administration of the scheme.
- d) May make contributions to the Scheme but is not obligated to do so.
- e) To make such contributions in respect of members as may be agreed with the Trustees but such contributions shall not be deemed to be an obligation of the Service.
- f) Not to provide or otherwise encourage any political motivation, inclination or interest within the Scheme.

2.2 Obligations of the Trustees

The obligations of the Trustees are:

- a) To manage, generally supervise and administer the Scheme on behalf of the Service.
- b) Subject always to the assets of the Scheme being sufficient for the purpose, to pay or provide for the payment of the benefits prescribed by the Rules to the persons entitled to them.
- c) To comply with the provisions of this Deed; and
- d) To comply with the provisions of the Income Tax Act and any other legislature for the time being in force relating to the administration and management of the Scheme.

PART 3: ADMINISTRATION AND MANAGEMENT

Except as otherwise agreed with the Service, the Trustees shall pay from the Scheme all remuneration, fees, commission, costs and other expenses of administering and managing the Scheme, including fee for professional services or any levy payable pursuant to any regulations for the time being in force.

3.1 APPOINTMENT OF TRUSTEES

3.1.1 The Trustees of the Scheme shall be:

I. Holders of the following office:

1. The Principal Secretary responsible for Public Service
2. The Secretary, Public Service Commission
3. A representative of the Union of Kenya Civil Servants
4. A representative of the Insurance Regulatory Authority for avoidance of doubts, the representative of the Insurance Regulatory Authority shall not be a member of the Scheme.
5. A representative of the Retirement Benefits Authority for avoidance of doubts, the representative of the Retirement Benefits Authority shall not be a member of the Scheme.
6. The Director of Medical Service – Ministry of Health or his representative for avoidance of doubts, the Director of Medical Services, Ministry of Health (or his representative) shall not be a member of the Scheme.

II. Two retired Civil Servants, who are Beneficiaries, appointed by the Cabinet Secretary responsible for Public Service or nominated/elected by retired Members who are Beneficiaries.

III. Chairpersons of committees formed/appointed by the Trustees.

3.1.2 The appointment of Trustees under clause 11 (a)(i) shall be certified by the the Principal Secretary responsible for Public Service as appropriate.

- 3.1.3 The Trustees may co-opt a knowledgeable person to assist in its deliberations provided that such person shall not have a vote and shall not constitute part of the quorum at the Board of Trustees meeting.
- 3.1.4 Each Trustees appointed under clause 11 (a)(i) &(iii) shall hold office for the duration they hold offices/positions mentioned therein.
- 3.1.5 Each Trustee appointed under clause 11(a)(ii) shall be appointed for a term of three years and may be re-appointed for a further term of three years. Subject to Clause 12 herein, nomination/election of Trustees by retired members shall be certified by the Trust Secretary. A copy of such resolution certified by the Trust Secretary shall be sufficient evidence thereof.
- 3.1.6 Upon such appointment or removal of a Trustee, any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are continuing trustees shall be executed or done.

3.2 NOMINATION OF TRUSTEES BY MEMBERS

The nomination or election of the requisite number of Trustees by retired members pursuant to clause 11 (a)(ii) and the removal of such Trustee or Trustees shall be conducted in such manner and in accordance with any procedures or regulations laid down or issued by the Principal Secretary responsible for Public Service from time to time and notified to the Members.

3.3 REMOVAL OF TRUSTEE BY MEMBERS

A Trustee shall vacate office as such if:

- i. He becomes bankrupt or makes an arrangement or composition with his creditors generally; or
- ii. He becomes of unsound mind; or
- iii. He fails, without reasonable cause and without the consent of the other Trustees, to attend three (3) consecutive meetings of the Trustees and the other Trustees resolve that, by reason of such failure, he cease to be a trustee; or
- iv. He resigns by notice in writing to the Trust Secretary; or
- v. He is forbidden to act as a trustee pursuant to any written law; or

- vi. He is removed (in case of a Trustee appointed pursuant to a nomination of the Members) under clause 12; or
- vii. Ceases to hold office specified under clause 11(a)(i) (in case of a Trustee appointed pursuant to clause 11(a)(i).
- viii. Is convicted of fraudulent activities whether affecting the Scheme or otherwise; or
- ix. He ceases to be resident in Kenya.

3.4 NOMINATION AND REMUNERATION OF TRUSTEES

A Trustee shall be nominated as follows:-

- i. A professional trustee in accordance with clause 23 hereof;
- ii. Any other trustee in such manner as may be agreed in writing from time to time between such trustees and the Council.
- iii. A reimbursement of all charges and expenses incurred personally by any Trustee in connection with the administration and management of the Scheme.

3.5 APPOINTMENT OF ADVISORS

3.5.1 The Trustees:

- i. Shall appoint the writing a Fund Manager and ensure that all times the Fund Manager is carrying out his work competently.
- ii. Shall appoint in writing a Custodian who shall, inter alia, have custody of the funds of the Scheme, documents of title and other securities belonging to the Scheme;
- iii. Shall appoint the Auditor to the Scheme. No person shall be eligible for appointment as the Auditor unless he is a member of the Institute of Certified Public Accountants of Kenya with a valid practicing certificate.
- iv. Shall appoint a liquidator in the event of winding-up the Scheme;

- v. Shall appoint in writing an in-house Administrator (in-house being an employee of the Service or of the scheme) to manage the administrative affairs of the Scheme on behalf of the Trustees;
- vi. May appoint as necessary legal and other appropriate advisers.

3.5.2 The terms and conditions for each appointment shall be set out in the relevant written instrument.

3.5.3 The Trustees may remove any adviser appointed under his Rule, and on the removal of any advisor, the Trustee shall advise he removed advisor in writing and appoint a replacement.

3.6 TRUSTEES TO KEEP RECORDS

3.6.1 The Trustees shall have the responsibility for general management and administration of the Scheme and they shall keep all proper books and record of account showing the position in respect to contributions, other income, expenditure, liabilities and assets of the Scheme and all other matters relevant to its management and shall prepare or cause to be prepared and furnish to the Council with an audited account of all such transactions and matters as required under the Rules or as the Council may from time to time determine.

3.6.2 The Trustees shall keep at the registered office of the Scheme a register of the Members of the Scheme showing particulars of all such Members and of the contributions made from time to time in respect of each Member and of the investment and disposition thereof and of the Normal Pension Date in respect of each Member and the method of disposal of the benefits payable out of the Scheme to or in respect of each such Member.

3.6.3 The account of each Member shall be kept separate and distinct from the account of every other Member.

3.6.4 Every Member of the Scheme shall have a right to inspect his own account in the register during usual business hours on giving reasonable notice to the Trustees.

3.7 TRUSTEES' ADMINISTRATIVE ARRANGEMENTS

- 3.7.1 The Trustees shall together for the dispatch of business, adjourn and otherwise regulate their meetings. Trustees may determine the quorum necessary for the transaction of business, and in the absence of any such determination, any three of the Trustees shall constitute a quorum.
- 3.7.2 The Trustees shall appoint a chairman as they shall decide (provided always that the Administrator of the Scheme shall not be eligible for appointment as chairman).
- 3.7.3 The Trustees shall appoint and remove a Secretary (the "Trust Secretary").
- 3.7.4 A Trust Secretary may resign by giving notice to the Chairman of the Trustees.
- 3.7.5 Questions arising at any meeting of the Trustees shall be decided by a majority of votes on a show of hands of those present and in case of any equality of votes the chairman shall have a second or casting vote.
- 3.7.6 The Trustees shall hold regular meetings at such intervals that they may agree provided that no period of more than three consecutive months shall elapse without the Trustees holding a meeting. At each regular meeting the Trustees shall undertake a review of those contributions received, the benefits paid and the investments of the Scheme and discuss such other pertinent issues relating to the Scheme.
- 3.7.7 The Trustees may hold adhoc meetings on the request of any Trustee or Trustees at any time.
- 3.7.8 The Trust Secretary shall convene a regular or adhoc meeting of the Trustees upon seven days' written notice to the Trustees. However, the Trust Secretary may convene an adhoc meeting within such shorter but reasonable period of notice if there is such urgency as to the matter to be discussed or agreed upon.
- 3.7.9 A resolution in writing signed by all the Trustees shall be as valid and effectual as a resolution properly passed at a fully convened meeting of the Trustees.
- 3.7.10 The Trust Secretary shall keep minutes of all meetings of the Trustees and the exercise by the Trustees of all powers and discretions vested in them and the passing of resolutions shall be recorded in such minutes.

- 3.7.11 A document certified by the chairman of the Trustees or the Trust Secretary to be a true copy of a resolution of the Trustees shall be sufficient evidence of the resolution.
- 3.7.12 The Trustees shall have power to act notwithstanding any vacancy in their number.
- 3.7.13 The Trustees shall make such banking arrangements as they shall think fit provided always that no cheque drawn on the moneys of the Scheme or other documents relating thereto may be signed by less than two trustees.
- 3.7.14 All incomes received by or on account of the Scheme shall be banked in the Scheme account and all financial transactions involving the Scheme shall be transacted in the correct name of the Scheme.
- 3.7.15 Contracts and other documents shall be signed by all the Trustees (unless resolved otherwise by a resolution of the Trustees).

3.8 ADMINISTRATIVE STAFF

- 3.8.1 The Trustees shall appoint an in-house Administrator pursuant to clause 15 (v) and shall define the roles and responsibilities of the Administrator in the instrument of appointment.
- 3.8.2 The Trustees shall make the necessary administrative arrangements for the efficient and effective operation of the Scheme.
- 3.8.3 The Trustees shall appoint such members of staff on such terms as they deem necessary to work under the supervision of the in-house Administrator.

3.9 POWERS OF TRUSTEES

The Trustees shall in addition and without prejudice to all powers conferred upon trustees by law, have the following powers:-

- 3.9.1 From time to time to delegate any of their functions or any business relating to the Scheme (including the receipt or payment of money) to any one or more of their number and may delegate any matters relating to the collection of contributions and the administration and investment of the assets from time to time comprising the Scheme and of the income generated by such assets to such agents, administrators, advisers, custodians and fund managers or other professional advisers (whether remunerated or not) as they may determine and the Trustees may register or vest any of the assets from time to time comprised in the Scheme in the names of any other person as nominee of the Trustees;
- 3.9.2 To determine whether or not any person is entitled from time to time to any benefit under the Scheme and to pay such benefits and may waive the strict enforcement of the provisions of the Deed or the rules;
- 3.9.3 To lease, mortgage, exchange, sell or otherwise deal with any interest in land forming part of the assets of the Scheme;
- 3.9.4 To commence, carry on or defend proceedings relating to the Scheme or the determination of any rights of the Members and other therein;
- 3.9.5 To raise or borrow any sum or sums of money and to secure the repayment thereof in such manner and upon such terms as the Trustees may deem advisable and to charge the sums so raised or borrowed or any part thereof on all or any part of the Scheme;
- 3.9.6 To invest any moneys forming part of the Scheme in the purchase of or at interest upon the security of such stocks, shares, securities, properties or other investments of whatever nature and whosoever as the Trustees shall in their absolute discretion think fit to the intent that the Trustees shall have the same full and unrestricted powers of investing and transposing investments in all respects as if they were absolutely entitled thereto beneficially;
- 3.9.7 To underwrite or sub-write and to enter into any agreement or agreements for underwriting or sub-underwriting any investments or securities whether on issue or sale and whether jointly with other persons or not and to do all things incidental thereto;
- 3.9.8 To apply any moneys forming part of the Scheme in effecting or maintaining any insurance which in the opinion of the Trustees is suited for the purposes of the Scheme and to vary the terms of surrender, sell or otherwise dispose of any such insurance or exchange the same for a substituted insurance;

- 3.9.9 Generally, to execute and do all such acts and things as the Trustees may consider necessary or expedient for the maintenance and preservation of the Scheme and of the rights of the Members and others therein.

3.10 PROTECTION OF TRUSTEES

- 3.10.1 None of the Trustees shall be liable for the act, neglect, default, fraud or misconduct of any agent, officer, servant or other person employed by them or otherwise engaged or occupied in connection with the Scheme notwithstanding that it may not have been strictly necessary or expedient for any person to be so employed, engaged or occupied or by reason of any mistake or omission made in good faith or by reason of any other matter or thing except wilful fraud or wrong-doing on the part of an of the Trustees.
- 3.10.2 No decision of an exercise of a power by the Trustees shall be invalidated or questioned on the ground that the Trustees or any of them had a direct or indirect interest in such decision or in the exercise of such power provided the Trustees would have declared their interest before the decision is taken.
- 3.10.3 A Trustee who is or has been a Member shall be entitled to retain for himself any benefit to which he is entitled by virtue of such membership.

3.11 PROTECTION AGAINST FINANCIAL LOSS

The Trustees may take such steps as they deem appropriate to protect the Scheme and the individual assets comprising the same against any manner of insurable risk or financial loss which might arise out of the negligence or default (willful or otherwise) of the Scheme's trustees, officers, administrator, fund manager or custodian or other professional advisers either by way of guarantee provided by the Service or by way of such insurance and in such amount as the Trustees shall determine.

3.12 POWERS CONFERRED BY LAW

It is declared that, in addition to any powers or provisions for the indemnity or otherwise for the protection of the Trustees conferred by or contained in the Deed, the Trustees shall be entitled to exercise any powers conferred by law on trustees if and in so far as a contrary intention is not expressed in this Deed and to have the benefit of any indemnity or other protection given by law to trustees.

3.13 PROFESSIONAL CHARGING CLAUSE

Any of the Trustees being a person engaged in any profession or business shall be entitled to charge and be paid all usual professional or other charges for business done by him or his firm in relation to the Scheme and also his reasonable charges in addition to disbursements for all other work and business done and all time spent by him or his firm in connection with the administration of the Scheme including matters which might or should have been attended to in person by a trustee not being a professional person but which might or should have been attended to in person by a trustee not being professional person but which such trustee might reasonably require to be done by a professional person.

3.14 ARBITRATION

Save where the decision of the Trustees is made final under the provisions of this Deed, if at any time hereafter any dispute, difference or question shall arise between the Service, the Trustees, the Members, the Members' Dependants or other persons or their person representatives or any of them respectively touching the construction, meaning or effect of the Deed or any cause or thing therein contained or the rights or liabilities of any of them under this Deed or otherwise howsoever in relation to the Scheme then every such dispute or question shall be referred to arbitration by a single arbitrator appointed by agreement between the parties and be referred to such agreement by the Chairman for the time being of the Chartered Institute of Arbitrators of the United Kingdom (Kenya Branch) and the result of which arbitration shall be final and binding upon all parties and the proceedings shall be regulated by the provisions of the Arbitration Act 1995 or any law or instrument amending, extending or replacing such Act.

PART 4: INVESTMENT

4.1 SCHEME TO BE NON-PROFIT MAKING

The Scheme shall not operate with the objective of making profits to distribute to Members or to the Service. Any surpluses arising from the operations of the Scheme shall be used to improve benefits to the Members or reduce contributions payable into the Scheme.

DRAFT

SECTION II: SCHEME RULES

This Section is organised into various sub sections that include membership, contributions, benefits package, exclusions and excess of loss as stipulated in the following seventeen (17) rules.

1. AUTHORITY AND BINDING NATURE OF TRUST DEED AND SCHEME RULES

- 1.1 Each person (member and/or eligible dependant) admitted to membership and any other person whose claim upon the Scheme is derived from such membership shall be bound by the Trust Deed and these Scheme Rules.

2. ELIGIBILITY FOR MEMBERSHIP

- 2.1 Every employee of the National Government in the Civil Service shall be eligible to be a member of the Scheme provided that:
- (i) Every Civil Servant who elects to join the Scheme by the commencement date shall become a member of the Scheme with effect from the commencement date;
 - (ii) Each Civil Servant who on the commencement date has not elected to join the Scheme by the commencement date shall be offered the opportunity to make such an election within the first year following the commencement date, and shall become a member of the Scheme with effect from the date of receipt of the notice of the election to join the Scheme, provided that the opportunity to make such an election shall be lost if not made before the first anniversary of the commencement date;
 - (iii) A person who retired from the Civil Service before the commencement date shall be offered the opportunity of joining the Scheme subject to such conditions and restrictions imposed by the Board of Trustees;
 - (iv) Every person joining the Civil Service after the commencement date shall as a condition of employment become a member of the scheme with effect from the date of employment;
 - (v) Membership of the Scheme shall not prejudice membership to any statutory medical scheme(s).
- 2.2 Each person who joins or becomes a member of the Scheme shall make voluntary contributions into a Retirement Medical Fund established by this scheme at the prevailing rates prescribed by the Board of Trustees with effect from the date of his membership of this Scheme.
- 2.3 Every member shall be required to fill a Membership Enrolment Form prescribed by the Board of Trustees.
- 2.4 The Board of Trustees may issue membership cards and certificates to members.
- 2.5

3. REGISTRATION OF MEMBERS

- 3.1 Registration of members shall be manual, electronic and biometric.
- 3.2 Each member shall submit himself and his information for registration at the time of joining the Scheme in terms of rule number 2.

4. ELIGIBLE DEPENDANTS

- 4.1 Eligible dependants of a member include:
 - (i) Declared spouse by the principal member;
 - (ii) Two (2) declared children up to 21 years of age or 25 years for a child enrolled in a full time formal education;
 - (iii) Without prejudice to Rule number 4.1 (ii) above, there is no age limit for dependants with Disability. The Board of trustees shall require proof of registration with the National Council for Persons with Disability;
 - (iv) Any additional eligible dependants, who may be covered subject to payment of additional premiums as determined by the Board of Trustees on the advice of the actuary.

5. REGISTRATION OF ELIGIBLE DEPENDANTS

- 5.1. A member shall apply to register his eligible dependants within thirty (30) days of the date that the person(s) he wishes to register became eligible to be recognised as dependant on him in terms of the meaning attached to 'eligible dependant' in these scheme rules.
- 5.2. A member shall submit his eligible dependant or biometric information of his eligible dependant together with relevant information for registration in accordance with Rule number 4.1 provided that all new members of the scheme shall apply to register their eligible dependants within thirty (30) days of joining the Scheme.
- 5.3. The Board of Trustees shall require copies and original (which shall be returned to the bearers) birth, marriage, death and adoption certificates or such credible alternative evidence as they may require to establish the eligibility of a dependant.
- 5.4. The Board of Trustees shall require and maintain up to date records of Scheme members and their eligible dependants. Accordingly, the Board of Trustees shall cause members and their eligible dependants to update their records at least quarterly every year.

6. CONTRIBUTIONS

- 6.1 With effect from his date of joining the Scheme, each member shall contribute to the Scheme an amount at the rate of 1.5% of the employees of basic salary or its equivalent, or other such amount determined by the Board of Trustees on the advice of the actuary, provided that the deductions shall not exceed 2.1% of the employees basic salary or its equivalent.
- 6.2 A member who register additional eligible dependants subject to rule number 4.1 (iv) shall pay additional contributions in respect of each additional dependant.
- 6.3 A member may pay additional voluntary contributions in excess of the rates determined in accordance with Rule 5.1 to access additional medical benefits under the scheme.
- 6.4 A member who exits his employment for any reason other than exit on medical grounds, and who wishes to make claims to the Scheme benefits shall make monthly payments in accordance with Rule 7 up to and until his date of entitlement to Scheme benefits.
- 6.5 A member who defaults on contributions shall pay the defaulted amount plus interest on the defaulted amount at the rate of determined by the Board of Trustees on the advice of the actuary for the entire duration of such default.

7. REMITTANCE OF CONTRIBUTIONS

- 7.1 Contributions by and in respect of the members shall be paid to the Board of Trustees on or before the tenth (10th) day of every calendar month or on any other day as may be notified and approved by the Board of Trustees.
- 7.2 Any amount not remitted within the stipulated period shall attract interest at the rate determined by the Board of Trustees on the advice of the actuary and shall be payable on the Board of Trustees' demand or otherwise recoverable as civil debt owed to the Scheme.

8. MEMBERS ENTITLEMENT TO SCHEME BENEFITS

- 8.1 A member and his eligible dependants shall be admitted to the Register of Beneficiaries and become entitled to claim benefits with effect from his date of entitlement to Scheme benefits.
- 8.2 A member's date of entitlement to Scheme benefits shall be the date on which the member retires from the Civil Service in the following circumstances:
 - i. Attainment of Mandatory retirement age; or
 - ii. First fifty (50) year rule - means on or after attaining the age of fifty (50) years or such other age (below the mandatory retirement age) at which a member may be allowed to retire voluntarily from the service; or

- iii. Second fifty (50) year rule - means on or after attaining the age of fifty (50) years for a member who was -
 - a) Placed on compulsory retirement or retirement in public interest,
 - b) Retired on re-organisation or abolition of office, or
 - c) Transferred service to another organisation; or
 - iv. Medical grounds - means on retirement due to medical grounds subject to credible evidence that the person is no longer capable of working by reason of permanent or terminal infirmity.
- 8.3 Without prejudice to Rules number 8.1 and 8.2, a member shall not be entitled to claim any Scheme benefits except after completing payment of all such contributions as contemplated in Rule number 6.

9. ELIGIBLE DEPENDANT'S ENTITLEMENT TO SCHEME BENEFITS

- 9.1 An eligible dependant of a member and his eligible dependants shall be admitted to the Register of (Eligible) Beneficiaries and become entitled to claim benefits with effect from the member's date of entitlement to Scheme benefits.
- 9.2 In the unfortunate event that a member dies before his date of entitlement to Scheme benefits as contemplated in Rule number 8.2, his eligible dependant(s) shall be admitted to the register of junior continuing members and shall remain a member till attainment of the age contemplated in Rule number 4.2(ii).

10. CONTINUING MEMBERSHIP

- 10.1 Continuing membership shall be open to a person who joined membership of the Scheme in the circumstances contemplated in Rule number 2 and Rule number 9.2.
- 10.2 Junior continuing membership shall be open to an eligible dependant whose parents have died before attaining their date of entitlement to Scheme benefits.
- 10.3 A continuing member other than a former eligible dependant shall subject to Rule number 10.4 contribute to the Scheme in the manner contemplated in Rule number 7.
- 10.4 Pursuant to Rule number 10.3, a continuing member shall contribute to the Scheme at a rate determined by the Board of Trustees provided that such a rate shall not be lower than the rates specified in Rule number 6.1.

11. REGISTERS OF BENEFICIARIES

- 11.1 The Board of Trustees shall cause to be established a register of members, a register of eligible dependants, a register of continuing members, and, a register of junior continuing members.

- 11.2 The Board of Trustees shall cause the registers in 11.1 to be well maintained with up-to-date records.
- 11.3 The Board of Trustees shall ensure de-activation and archival of records pertaining to a person whose membership or eligible dependence of the Scheme is terminated.

12. SCHEME BENEFITS

- 12.1 A beneficiary shall be entitled to out-patient, in-patient, specialized and terminal benefits subject to annual benefit limits as determined by the Board of Trustees on the advice of the Actuary.
- 12.2 Out-patient services shall be understood to include such preventive and curative services as medical consultation, nutritional clinic, laboratory investigations, drugs administration and dispensing, radiological examinations, nursing services, minor surgical procedures, annual medical check-up, ambulance services and other such medical and surgical services.
- 12.3 In-patient services shall be understood to include such therapeutic and curative services that require admission for medical and surgical intervention, and covers Hospital accommodation charges, nursing care, prescribed Diagnostic investigations, prescribed rehabilitation services, surgical fees, specialist consultations and other such services.
- 12.4 Specialized benefits shall be understood to include ophthalmic, dental, renal, audiological and oncological services.
- 12.5 Terminal benefits shall be understood to mean a final benefit is an amount determined and reviewed by the Board of Trustees and paid in case of death of a beneficiary or his/her declared spouse.

13 EXCLUDED EXPENSES

- 13.1 Expenses incurred in connection with the following will not be paid by the Scheme:
- a) Elective medical and surgical manoeuvres
 - b) Cosmetic and/or beauty treatment, products and/or surgery;
 - c) Massage (except where certified as a necessary part of physiotherapy following an accident or illness);
 - d) Treatments for self-inflicted injuries or self-induced conditions
 - e) Injuries due to participation in crime
 - f) Un-prescribed medicines and drugs including home remedies, alternative medicine and substances not registered and approved by the Pharmacy and Poisons Board
 - g) Toiletries and personal effects
 - h) Expenses incurred in non-accredited health facilities and/or unauthorized referrals;
 - i) Expenses recoverable under any other insurance/scheme;

Treatment by chiropractors, acupuncturists and herbalists or stays and /or maintenance or treatment received in nature cure clinics or similar establishments or private beds registered within a healthcare provider, convalescent and /or rest homes with 'cures' attached to such establishments;

- (i) Accommodation in old age homes
- (ii) Medical or surgical expenses outside Kenya unless prior approval of the Board of Trustees was obtained
- (iii) Any other exclusions expressed under a relevant contract

14 EXCESS OF LOSS

14.1 The Board of Trustees shall establish a Terminal Expenses Fund.

14.2 No payments out of the Terminal Expense Fund shall be authorized except in the following circumstances:

- a) The beneficiary has exhausted his/her Annual Benefits Limits;
- b) The amount paid does not exceed the amount the beneficiary would be entitled to if his/her Terminal Benefits were to be paid;
- c) The beneficiary has not previously sought payment from the Terminal Expenses Fund more than once.

14.3 The Board of Trustees may impose additional restrictions on payment out of the Terminal Expense Fund except in the event of death of a beneficiary.

15 CLAIMS PROCEDURES

15.1 Claims together with authentic evidence shall be submitted in the manner prescribed by the Board of Trustees.

15.2 Fraudulent claims shall not be entertained by the Board of Trustees.

16 ANNUAL GENERAL MEETING

16.1 Members are entitled to an annual general meeting.

16.2 Members are entitled to inspect Scheme Rules and Trust Deed

16.3 Members are entitled to a copy of the minutes of the AGM.

17. AMENDMENT OF SCHEME RULES

17.1 The Board of Trustees may amend the Scheme Rules in accordance with the provisions of the Trust Deed and with the approval of members at an Annual General Meeting.

IN WITNESS WHEREOF the Common Seal of the Sponsor has been hereunto affixed and the Trustees have set their hands the date and year first written.

SEALED with the Common Seal of the Sponsor)

in the presence of: -)

MANAGING DIRECTOR)

SECRETARY)

SIGNED AND DELIVERED)

by the said)

in the presence of:-)

Name:)

Address:)

Signature:)

SIGNED AND DELIVERED)

by the said)

in the presence of:-)

Name:)

Address:)

Signature:)

SIGNED AND DELIVERED)

by the said XXXXXXXXXXXXXXXXXXXX)
in the presence of:-)

Name:)

Address:)

Signature:)

SIGNED AND DELIVERED)
by the said XXXXXXXXXXXXXXXXXXXX)
in the presence of:-)

Name:)

Address:)

Signature:)

