

**Dated**

29 October 2021

**SUPPLEMENTAL TRUST DEED  
SERIES 10**

**CONTACT ENERGY LIMITED**

**THE NEW ZEALAND GUARDIAN TRUST  
COMPANY LIMITED**

**BUDDLE FINDLAY**

**CONTENTS**

1. DEFINITIONS AND INTERPRETATION	1
2. ISSUE AND TERMS OF CAPITAL BONDS	3
3. STATUS AND RANKING OF THE CAPITAL BONDS	3
4. TRANSACTION DOCUMENTS	6
5. CONDITIONS PRECEDENT	7
6. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS	7
7. MISCELLANEOUS	8
8. DELIVERY	8
SCHEDULE 1 TERMS AND CONDITIONS OF SERIES 10 CAPITAL BONDS	11

This Supplemental Deed is made on

29 October 2021

**BETWEEN**

1. **CONTACT ENERGY LIMITED** (company number 660760) (the **Issuer**)
2. **THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED** (company number 115240) (the **Supervisor**)

**BACKGROUND**

This deed is a supplemental trust deed entered into pursuant to clause 2.4 (*Supplemental Trust Deed*) of the Master Trust Deed to provide for the constitution and issue of the Capital Bonds on the terms and conditions set out in this Supplemental Deed Series 10.

**TERMS OF THIS DEED**

**1. DEFINITIONS AND INTERPRETATION**

1.1 **Master Trust Deed:** The terms of the Master Trust Deed (including, without limitation, the provisions of clauses 1.1 (*Definitions*), 1.2 (*References*) and 1.4 (*Miscellaneous*) of the Master Trust Deed) shall apply in this Supplemental Deed Series 10 and to the Capital Bonds constituted by this Supplemental Deed Series 10 except to the extent modified in this Supplemental Deed Series 10. To that extent, or in the event of any conflict between the provisions of this Supplemental Deed Series 10 and those of the Master Trust Deed, the provisions of this Supplemental Deed Series 10 shall prevail over those of the Master Trust Deed.

1.2 **Definitions:** In this Supplemental Deed Series 10, terms defined in the Conditions and used in this Supplemental Deed Series 10 have the meaning given to them in the Conditions and, unless the context indicates otherwise:

**Capital Bond Amounts** means, in relation to a Capital Bond at any time, the Principal Amount, interest (if any) and other amounts payable on or in relation to the Capital Bond;

**Capital Bonds** means the unsecured, subordinated, redeemable Term Subordinated Notes which are to be issued pursuant to this Supplemental Deed Series 10;

**Conditions** means the terms and conditions set out in Schedule 1 to this Supplemental Deed Series 10, and reference to any **Condition** shall be construed accordingly;

**Event of Default** means the occurrence of any of the following events in respect of the Capital Bonds, whether or not within the control of the Issuer:

(a) **(non-payment):**

- (i) the Issuer fails to pay any Unpaid Interest on a Mandatory Unpaid Interest Payment Date and such default is not remedied within three Business Days;
- (ii) the Issuer fails to pay the amount payable on redemption of the Capital Bonds under Condition 4.6 within two Business Days of the relevant Redemption Date; or

- (iii) the Issuer fails to pay the Repurchase Price for the Capital Bonds in connection with an Election Process within two Business Days of when it is required under Condition 5;
- (b) **(distribution stopper)**: the Issuer fails to comply with Condition 2.5;
- (c) **(insolvency event)**:
  - (i) an order is made, or a resolution is passed, for the dissolution of the Issuer or the deregistration of the Issuer from the Register of Companies, unless the same has been previously approved by resolution of the Holders in accordance with the Master Trust Deed; or
  - (ii) an encumbrancer takes possession or a Liquidator, provisional liquidator, administrator, trustee, receiver, receiver and manager, or similar official, is appointed in respect of the Issuer or the whole or any part of its assets which is material in the context of the total tangible assets of the Issuer and is not removed or discharged within 30 days of such occurrence;
- (d) **(cessation of business)**: the Issuer ceases to carry on all or substantially all of its business or operations unless the same has been previously approved by resolution of the Holders in accordance with the Master Trust Deed; or
- (e) **(invalidity)**: any Capital Bond ceases to constitute, or the Issuer claims that any Capital Bond has ceased to constitute, the legal, valid and binding obligations of the Issuer, enforceable in accordance with its terms;

**Liquidator** means, in relation to the Issuer, any official (including a statutory manager) in whom management of the Issuer may become vested for the purposes of liquidating its assets and repaying its debts and administering to the eventual cessation of its business;

**Master Trust Deed** means the master trust deed dated 23 February 2009 between the Issuer and the Supervisor, as amended from time to time;

**Offer Document** means the product disclosure statement relating to the issue of the Capital Bonds dated on or about the date of this Supplemental Deed Series 10, and includes all supplements and amendments to that product disclosure statement;

**Registrar** means Link Market Services Limited or such person appointed by the Issuer as registrar, calculation agent and paying agent in respect of the Capital Bond from time to time;

**Supplemental Deed Series 10** means this supplemental trust deed and the terms of the Master Trust Deed incorporated by reference in accordance with clause 1.1;

**Transaction Documents** means, in relation to the Capital Bonds, the Master Trust Deed and this Supplemental Deed Series 10; and

**Winding-Up** means, in relation to the Issuer:

- (a) the process of liquidation provided for in Part XVI of the Companies Act; or
- (b) any analogous procedure following which the Issuer will cease to validly exist, or be duly incorporated; or

- (c) the Issuer becoming subject to statutory management under the Corporations (Investigation and Management) Act 1989,

but excludes reconstruction or amalgamation:

- (d) on terms approved by Extraordinary Resolution; or
- (e) under Part 13 of the Companies Act where the successor to the Issuer assumes the obligations of the Issuer under this Supplemental Deed Series 10 and the Capital Bonds.

1.3 **Modification of other terms in Master Trust Deed:** In this Supplemental Deed Series 10, the terms Holder, Capital Bond, Register and Series have the meanings given in the Master Trust Deed (except for Capital Bond which shall have the meaning given to Note in the Master Trust Deed) but, in this Supplemental Deed Series 10, refer only to the Capital Bonds, to the Holders of those Capital Bonds, to the Register in relation to those Capital Bonds and to the Series of Capital Bonds issued under this Supplemental Deed Series 10.

1.4 **Offer Document:** All references in the Master Trust Deed to “Information Memorandum” shall, to the extent that they relate to the Capital Bonds, be read as references to the Offer Document.

## **2. ISSUE AND TERMS OF CAPITAL BONDS**

2.1 **Maximum Principal Amount:** The aggregate Principal Amount of Capital Bonds that may be issued under this Supplemental Deed Series 10 is \$225 million, or such other additional aggregate maximum Principal Amount as is notified in writing by the Issuer to the Supervisor.

2.2 **Issue Price:** Each Capital Bond shall have an issue price of \$1.00, being the Principal Amount of each Capital Bond.

2.3 **Minimum Subscription Amount:** The minimum subscription amount for each initial Holder of Capital Bonds is a Principal Amount of \$5,000 and in multiples of \$1,000 thereafter.

2.4 **Minimum Principal Amount:** The Minimum Principal Amount for each Holder of Capital Bonds is a minimum of \$5,000 and multiples of \$1,000 thereafter.

2.5 **Status under Master Trust Deed:** The Capital Bonds are Term Subordinated Notes and form a Retail Series that is Listed.

2.6 **Sale restrictions:** The Capital Bonds may only be offered for sale or sold in New Zealand in conformity with all applicable laws and regulations in New Zealand.

2.7 **Terms and Conditions:** The terms and conditions that will apply to the Capital Bonds are set out in Schedule 1.

2.8 **Guaranteeing Subsidiaries:** The Capital Bonds will not be guaranteed by any Subsidiary.

## **3. STATUS AND RANKING OF THE CAPITAL BONDS**

3.1 **Status:** The Capital Bonds constitute direct unsecured subordinated debt obligations of the Issuer, and will rank equally in all respects with all other Capital Bonds. In any distribution of assets by the Issuer in a Winding-Up (including by way of exercise of rights of set-off) the rights of the Supervisor and the Holders to the Capital Bond Amounts are to be subordinated to all moneys payable by the Issuer to its Senior Creditors, so that in any such distribution no payment will be made on account

of the Capital Bond Amounts to the Supervisor or the Holders until the Senior Creditors of the Issuer have been paid in full.

3.2 **Priority:** The Supervisor agrees and (by subscribing for or purchasing a Capital Bond) each Holder will be deemed to agree, that:

- (a) **(agreement to accept lower priority):** in accordance with section 313(3) of the Companies Act, the Holder is accepting a lower priority in respect of the debt represented by the Capital Bond than that which it would otherwise have under section 313; and
- (b) **(deed to take effect in accordance with its terms):** nothing in section 313 of the Companies Act will prevent this Supplemental Deed Series 10 from having effect in accordance with its terms.

3.3 **Subordinated contingent debt:** In the Winding-Up of the Issuer, neither the Supervisor nor any Holder is entitled to prove for the Capital Bond Amounts except as a debt which is subject to, and contingent upon, prior payment of the Senior Creditors of the Issuer in full.

3.4 **Other indebtedness permitted:** Nothing in this Supplemental Deed Series 10 in any way restricts the right of the Issuer to incur indebtedness or issue obligations or securities ranking in priority to, or equally with, or subordinate to, the indebtedness and obligations of the Issuer in respect of any Capital Bonds.

3.5 **No subordination of Supervisor's entitlement:** Nothing in this Supplemental Deed Series 10 subordinates or otherwise affects or prejudices, or defers in priority of payment the payment of the costs, charges, expenses, liabilities, indemnified amounts, remuneration or other moneys payable to the Supervisor (or any officer, employee or agent of the Supervisor) as provided for, or referred to, in the Master Trust Deed, all of which will be payable to the Supervisor at the time and in the manner provided by the Master Trust Deed.

3.6 **Trust:** Any payment, whether voluntarily or in any other circumstances, received by the Supervisor or a Holder from or on account of the Issuer (including by way of credit, set-off or otherwise) or from the Liquidator or any receiver, receiver and manager, administrator, manager or statutory manager of the Issuer in breach of this clause 3 is to be held by the Supervisor or the relevant Holder in trust for and to the order of the Senior Creditors of the Issuer. The trust hereby created will be for a term expiring on the earlier of:

- (A) the date on which all Senior Creditors of the Issuer have been paid in full;
- (B) the date on which the Liquidator determines the Issuer has no further assets with which to satisfy the claims of the creditors; or
- (C) the period determined in accordance with clause 3.11.

3.7 **Privity:** For the purposes of the Contracts and Commercial Law Act 2017, this clause 3 is intended to confer a benefit upon the Senior Creditors and to be enforceable by the Senior Creditors directly but for the avoidance of doubt no consent of any Senior Creditor shall be required to any modification or amendment to all or any part of this Supplemental Deed Series 10.

3.8 **Enforcement:**

- (a) **(claims by Holders):** No Holder may claim or prove in the Winding-Up of the Issuer for any amount owing to him or her under any Capital Bond to the extent that the Supervisor has claimed or proved for, or has determined to claim or prove for, such amount in such Winding-Up on behalf of such Holder, and any claim or proof made contrary to this clause must be withdrawn by such Holder.
- (b) **(enforcement by Holders):** No Holder may proceed against the Issuer or the Supervisor for the enforcement or performance of any provision of this Supplemental Deed Series 10 or the Conditions that is solely for the benefit of the Supervisor.

3.9 **Distribution following Date of Enforcement or on Winding-Up:** Any amount received by the Supervisor under or in respect of this Supplemental Deed Series 10 or the Capital Bonds in or upon the Date of Enforcement or the commencement of Winding-Up of the Issuer (as applicable) and not paid to the Liquidator must be applied, and pending such application must be held by the Supervisor to be applied, in accordance with clause 13.2 (*Distribution of funds in respect of Retail Notes*) of the Master Trust Deed.

3.10 **Reliance on Liquidator:** Following the commencement of Winding-Up of the Issuer, the Supervisor will be entitled and is authorised to call for and to accept as conclusive evidence a certificate from the Liquidator for the time being regarding the amount of indebtedness to Senior Creditors of the Issuer which has not been satisfied or otherwise provided for and the Supervisor shall be entitled to rely upon a statement in writing from the Liquidator to the effect that all such indebtedness has been satisfied or discharged.

3.11 **Termination of trusts:** The trusts contained in this Supplemental Deed Series 10 in favour of the Senior Creditors of the Issuer terminate on the date which is 80 years after the date of execution of this Supplemental Deed Series 10 (unless terminated earlier in accordance with clause 3.6), except to the extent that any interests under such trusts have vested at that date and without affecting the contractual rights and obligations of the Issuer and the Supervisor under this Supplemental Deed Series 10, and any amounts which would, but for this clause, have been held on trust for the Senior Creditors will be held on trust for the Issuer absolutely.

3.12 **Permitted payments and receipts:** Until the commencement of Winding-Up of the Issuer, the Issuer is entitled to pay, and a Holder or the Supervisor or any other person on behalf of a Holder is entitled to receive payment from or on behalf of the Issuer of, any Capital Bond Amounts, and the Supervisor is entitled to pay any amounts to or for the benefit of the Holders or any other person on behalf of any Holders. The payment and receipt prior to the commencement of Winding-Up of the Issuer of any such amount will not constitute a breach of, or be subject to, clause 3.1 and such payment is to be received free of any obligation on the recipient of that payment to refund or return the same, or to hold the same in trust, in accordance with this Supplemental Deed.

3.13 **Permitted proceedings:** Nothing in this Supplemental Deed Series 10 excludes, limits, defers or otherwise affects:

- (a) **(proceedings seeking directions from court):** the right of the Supervisor to seek directions from a court in accordance with the FMCA or to take any other proceedings seeking the

directions of, or guidance by, any court or other authority as to the performance of its functions and duties hereunder or otherwise in relation to this Supplemental Deed; or

- (b) **(proceedings seeking declaratory judgment)**: any proceedings taken by the Supervisor or any Holder at any time seeking a judgment or order declaratory of the rights or obligations of any Holder or any party to this Supplemental Deed Series 10; or
- (c) **(other proceedings)**: the right of the Supervisor or a Holder, in the circumstances expressly permitted by this Supplemental Deed Series 10 and the Conditions, to take any action permitted by this Supplemental Deed Series 10.

3.14 **Interest payable following commencement of Winding-Up**: Nothing in this Supplemental Deed Series 10 limits the application of section 311 of the Companies Act 1993, and the Supervisor and each Holder may, notwithstanding any provision in this Supplemental Deed, claim for interest payable thereunder (such interest to form part of the Capital Bond Amounts).

#### 4. TRANSACTION DOCUMENTS

4.1 **No application of Deed of Negative Pledge and Guarantee**: The Deed of Negative Pledge and Guarantee shall not apply to the Capital Bonds or to any Principal Amount, Capital Bond Amount, interest or other amount represented by the Capital Bonds. Neither Holders nor the Supervisor (on behalf of Holders only) shall have any rights or entitlements under the Deed of Negative Pledge and Guarantee, including under clause 25 (*Deed of Negative Pledge and Guarantee*) of the Master Trust Deed.

#### 4.2 **Master Trust Deed**:

- (a) clause 6 (*Subordinated Notes*) of the Master Trust Deed shall not apply as between Holders of Capital Bonds and Senior Creditors, but for the avoidance of doubt, shall continue to apply as between Holders of Capital Bonds and Holders of Undated Subordinated Notes (with the intent that all claims of Senior Creditors and Holders of Term Subordinated Notes (including Capital Bonds) are paid in full before any claims of the Holders of Undated Subordinated Notes are paid);
- (b) clause 11.3(a) (*Repetition*) of the Master Trust Deed shall not apply to the Capital Bonds;
- (c) Clause 12.3(c) (*Reports*) of the Master Trust Deed shall not apply to the Capital Bonds;
- (d) the definition of Event of Default in the Master Trust Deed shall not apply to the Capital Bonds or to the Capital Bond Amounts and shall be replaced, for the purposes of the Capital Bonds, with the definition of Event of Default set out in clause 1.2;
- (e) the definition of Winding-Up in the Master Trust Deed shall not apply to the Capital Bonds and shall be replaced, for the purposes of the Capital Bonds, with the definition of Winding-Up set out in clause 1.2; and
- (f) the definition of Transaction Documents in the Master Trust Deed shall not apply to the Capital Bonds and shall be replaced, for the purposes of the Capital Bonds, with the definition of Transaction Documents set out in clause 1.2.



## 5. CONDITIONS PRECEDENT

5.1 **Conditions precedent:** The Issuer is not entitled to issue any Capital Bonds until the Supervisor has confirmed to the Issuer in writing that it has received the following in form and substance satisfactory to it:

- (a) a duly executed original of this Supplemental Deed Series 10;
- (b) a copy of the Offer Document lodged by the Issuer with the Registrar of Financial Service Providers;
- (c) evidence that this Supplemental Deed Series 10 and the Master Trust Deed has been lodged with the Registrar of Financial Service Providers; and
- (d) legal opinions from the Issuer's solicitors regarding:
  - (i) due execution and enforceability of this Supplemental Deed Series 10;
  - (ii) the adequacy of the due diligence process used in the preparation of the Offer Document;
  - (iii) the compliance of the Offer Document, this Deed and the Master Trust Deed with the requirements of the FMCA, the Financial Markets Conduct Regulations 2014 and the Listing Rules; and
  - (iv) the compliance of the Offer Document with the Financial Market Authority's Disclosure Framework for Integrated Financial Products.

5.2 **Representations, warranties and undertakings:** In addition to the requirements set out in clause 5.1, the Issuer shall not issue any Capital Bonds unless the representations and warranties contained in clause 11.1 (*Representations and Warranties*) of the Master Trust Deed and 6.1 of this Supplemental Deed Series 10 are true and correct in all material respects by reference to the facts and circumstances existing as at the Issue Date for those Capital Bonds.

5.3 **Issue Notice:** Promptly after the issuance of Capital Bonds on the Issue Date, the Issuer agrees to send to the Supervisor a copy of the communication(s) it sends to the Registrar with the particulars of the Capital Bonds issued on that Issue Date.

## 6. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

6.1 **No Event or Default:** Pursuant to clause 11.2 (*Supplemental Trust Deed*) of the Master Trust Deed, the Issuer represents and warrants to the Holders and the Supervisor, as at the date of this Supplemental Deed Series 10, that:

- (a) **(no event of default):** no Event of Default has occurred and is continuing; and
- (b) **(status):** it is a company validly incorporated, organised and subsisting under the laws of New Zealand with full power and capacity to own its assets and carry on its business.

6.2 **Quotation:** The Issuer undertakes to use its best endeavours to ensure that the Capital Bonds are quoted on the NZX Debt Market within a reasonable time after the final date on which the Capital Bonds are issued, and that they remain quoted on the NZX Debt Market until redeemed in accordance with the Conditions.

**6.3 Provision of information:** The Issuer must:

- (a) promptly notify the Supervisor in writing if it has determined to defer payment of interest in accordance with Condition 2.2;
- (b) promptly after its occurrence, notify the Supervisor in writing of any downgrade of its credit rating or the credit rating assigned to the Capital Bonds; and
- (c) promptly notify the Supervisor in writing of any non-payment of any amount payable in respect of the Capital Bonds when due.

**7. MISCELLANEOUS**

**7.1 Counterparts:** This Supplemental Deed Series 10 may be signed in any number of counterparts (including electronic copies) each of which is deemed an original, and all of which, when taken together, will constitute one and the same instrument. A party may enter into this Supplemental Deed Series 10 by executing any counterpart.

**7.2 Governing law:** This Supplemental Deed Series 10 and the Capital Bonds shall be governed by and construed in accordance with New Zealand law.

**7.3 Submission to jurisdiction:** The Issuer submits to the non-exclusive jurisdiction of the New Zealand courts for the purpose of any legal proceedings arising out of this Supplemental Deed Series 10.

**8. DELIVERY**

**8.1 Delivery:** Without limiting any other mode of delivery, this Supplemental Deed Series 10 will be delivered by each of the parties on the earlier of:

- (a) unconditional physical delivery of an original of this Supplemental Deed Series 10, executed by that party, to the other party, or to that respective party's solicitors; or
- (b) unconditional transmission by each party of an electronic copy of an original of this Supplemental Deed Series 10, executed by that party, to the other party, or to that respective party's solicitors.


**BUDDLE FINDLAY**

**EXECUTION**

**EXECUTED** as a **DEED** for and on behalf )  
of **CONTACT ENERGY LIMITED** by )

in the presence of )

  
\_\_\_\_\_  
Director

  
\_\_\_\_\_  
Witness signature

Jede David Neale  
Full name

Wellington  
Address

Lawyer  
Occupation

**Note:** Director's signature must be witnessed

**BUDDLE FINDLAY**

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EXECUTED as a DEED for and on behalf )  
of THE NEW ZEALAND GUARDIAN )  
TRUST COMPANY LIMITED by )

  
\_\_\_\_\_  
Authorised Signatory

John Bremner Sewell

  
\_\_\_\_\_  
Authorised Signatory

Garry Robert Hughes

in the presence of

  
\_\_\_\_\_  
Witness signature

  
\_\_\_\_\_  
Full name

  
\_\_\_\_\_  
Address

  
\_\_\_\_\_  
Occupation

**SCHEDULE 1**  
**TERMS AND CONDITIONS OF SERIES 10 CAPITAL BONDS**

**1. GENERAL**

- 1.1 The Capital Bonds are subject to the provisions of the Trust Documents. Holders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Trust Documents.
- 1.2 Words and expressions defined in the Trust Documents and used in these Conditions have the meanings given to them in the Trust Documents, as applicable, unless otherwise defined. In addition, unless the context otherwise requires:

**Benchmark Rate** means, for a Calculation Period:

- (a) the rate per annum expressed on a percentage yield basis (adjusted to a quarterly equivalent rate as necessary), and rounded up to the nearest two decimal places (if necessary, with 0.005 being rounded up), which is the 5-year mid-market NZD Swap Rate calculated by the Issuer according to market convention, with reference to Bloomberg page 'ICNZ4' (or any successor page), determined on the Rate Set Date (in consultation with the Joint Lead Managers) and at or around 11:00am New Zealand time on each subsequent Reset Date; and
- (b) if such rate does not appear on page 'ICNZ4', the relevant Benchmark Rate shall be the average of the mid point of the bid and offered swap rates quoted by three registered banks in New Zealand which usually quote rates on the relevant screen page (as selected by the Issuer) determined on the Rate Set Date and at or around 11:00am New Zealand time on each Reset Date for an interest rate swap with a tenor equal to the period from the applicable date to the next Reset Date (adjusted to a quarterly equivalent rate as necessary) rounded up to the nearest two decimal places;

**Calculation Period** means the period from (and including) a Reset Date (or the Issue Date in the case of the first Calculation Period) to (but excluding) the next Reset Date;

**Conditions** means these conditions;

**Credit Rating** means, in relation to the Issuer at any time, the issuer credit rating assigned by the Rating Agency at that time to the Issuer;

**Deferral Date** has the meaning given in Condition 2.3;

**Deferred Interest Payment** means a payment of interest which has been deferred in accordance with Condition 2.2;

**Election Notice** means a notice given by the Issuer pursuant to Condition 5.1;

**Election Process** means the process described in Condition 5;

**First Interest Payment Date** means the date three months after the Issue Date;

**First Reset Date** means the date five years after the Issue Date;

**Interest Payment** means an interest payment under Condition 2.1 or, as the case may be, Condition 2.7;

**Interest Payment Date** means in relation to a Capital Bond each date that is the numerically corresponding date to the Issue Date and which falls at quarterly intervals from the Issue Date until (but excluding) the Redemption Date;

**Interest Period** means, in relation to a Capital Bond:

- (a) the period from (and including) the Issue Date to (but excluding) the First Interest Payment Date; and
- (b) thereafter, the period from (and including) an Interest Payment Date until (but excluding) the next Interest Payment Date (or, if the Capital Bond is Redeemed on a date that is not an Interest Payment Date, until (but excluding) the Redemption Date);

**Interest Rate** (expressed as a percentage per annum) means:

- (a) for each Interest Period during the first Calculation Period the higher of
  - (i) the minimum interest rate determined by the Issuer (in its sole discretion) and specified in the Offer Document; and
  - (ii) the sum of the:
    - (1) Benchmark Rate; and
    - (2) Margin; and
- (b) for each Interest Period during any subsequent Calculation Period, the sum of:
  - (i) the Benchmark Rate; and
  - (ii) the Margin;

**Issue Date** means the date on which the Capital Bonds are issued;

**Issue Price** means \$1.00 per Capital Bond;

**Joint Lead Managers** means Bank of New Zealand, Craigs Investment Partners Limited and Forsyth Barr Limited;

**Mandatory Unpaid Interest Payment Date** means, in relation to a Deferred Interest Payment, the earlier of the Maturity Date and the fifth anniversary of the relevant Deferral Date;

**Margin** (expressed as a percentage per annum) means in respect of each Interest Period:

- (a) during the first Calculation Period, the initial Margin as determined by the Issuer in consultation with the Joint Lead Managers and announced on or around the Rate Set Date;
- (b) during any subsequent Calculation Period which commences on a Reset Date in respect of which a Successful Election Process has been undertaken, such other percentage (if any) as may be specified by the Issuer in the applicable Election Notice as the Margin; and
- (c) during any subsequent Calculation Period which commences on a Reset Date in respect of which a Successful Election Process has not occurred, the Margin that applied in the final Interest Period of the immediately preceding Calculation Period (as calculated in accordance with paragraphs (a), (b) or this paragraph (c) above (as applicable)) plus the Step-up

Percentage (provided the Step-up Percentage has not been added to the Margin since the last Successful Election Process);

**Maturity Date** means the date that is the thirtieth anniversary of the Issue Date;

**New Conditions** means the new conditions applicable to the Capital Bonds set out in an Election Notice;

**New Zealand Holder** means a Holder who has:

- (a) a valid New Zealand IRD number;
- (b) a valid New Zealand bank account number; and
- (c) a New Zealand address;

**Notification Date** means the date by which a duly completed Election Notice must be returned to the Issuer;

**NZX Minimum Holding** in relation to the Capital Bonds, has the same meaning as "Minimum Holding" in the Listing Rules;

**Rate Set Date** means the date specified as such in the Offer Document;

**Rating Agency** means S&P Global Ratings Australia Pty Ltd or its successors;

**Rating Agency Event** means:

- (a) the receipt by the Issuer of notice from the Rating Agency that, as a result of a change of criteria, the Capital Bonds will no longer have the same equity content classification from the Rating Agency as it had immediately prior to the change in criteria; or
- (b) the Issuer ceasing to hold a Credit Rating;

**Record Date** means:

- (a) in relation to an Election Process, the date which is two Business Days prior to the date on which the applicable Election Notice is given; and
- (b) in relation to any other payment due on a Capital Bond, the date which is ten calendar days before the due date for the payment,

and if that date is not a Business Day, the preceding Business Day, or such other date as may be required by NZX;

**Redemption** means the redemption of a Capital Bond in accordance with Condition 4 and **Redeem** or **Redeemable** have corresponding meanings;

**Redemption Date** means the Maturity Date or such earlier date on which Redemption is to occur in accordance with Condition 4;

**Repurchase Price** means, in relation to a Capital Bond and a Reset Date, an amount equal to the sum of:

- (a) the Issue Price;
- (b) any Unpaid Interest on that Capital Bond; and

(c) any Interest Payment scheduled to be paid on the applicable Reset Date;

**Resale Facility** means a facility for the resale of the Capital Bonds that may be established by the Issuer and as referred to in Condition 5.6;

**Reset Date** means:

- (a) the First Reset Date; and
- (b) either:
  - (i) if an Election Notice is given for a Reset Date and if the applicable Election Process is a Successful Election Process, the date so specified in any Election Notice; or
  - (ii) if no Election Notice is given for a Reset Date, or if the applicable Election Process is not a Successful Election Process, the fifth anniversary of that Reset Date;

**Step-up Percentage** means 0.25%;

**Successful Election Process** means, in relation to an Election Process, the Issuer notifying Holders (or being deemed to have notified Holders) that it has agreed to purchase, or procure the purchase of, all Capital Bonds which Holders have elected to sell as part of that Election Process either directly from the Holder or through a Resale Facility in accordance with Condition 5.6;

**Tax Event** occurs if the Issuer (having taken appropriate legal or tax advice) determines that there has been, or there will be, a change in New Zealand law applying after the Issue Date, as a result of which any interest payable on the Capital Bonds is not, or will not be, fully deductible for income tax purposes;

**Trust Documents** means the Master Trust Deed and the Supplemental Trust Deed dated 29 October 2021 and entitled "Supplemental Trust Deed Series 10"; and

**Unpaid Interest** has the meaning given to that term in Condition 2.3.

## 2. INTEREST

### 2.1 Interest Payments:

(a) Subject to Condition 2.2, each Capital Bond entitles the Holder on a Record Date to receive in respect of an Interest Period an Interest Payment calculated according to the following formula:

(i) when the relevant Interest Period ends on an Interest Payment Date:

$$\text{Interest Payment} = \frac{\text{Interest Rate} \times \text{Issue Price}}{4}$$

(ii) when the relevant Interest Period ends on the Redemption Date and that date is not also an Interest Payment Date:

$$\text{Interest Payment} = \frac{\text{Interest Rate} \times \text{Issue Price} \times N}{365}$$

where "N" means the number of days from (and including) the immediately preceding Interest Payment Date to (but excluding) the Redemption Date.



- (b) A Holder is not entitled to an Interest Payment in respect of an Interest Period until the relevant date specified in Condition 2.7, and then only subject to Condition 2.2.

2.2 **Deferral of Interest:** Subject to Condition 2.4, the Issuer may, at any time prior to an Interest Payment Date, notify the Holders and the Supervisor that the Interest Payment due on the Interest Payment Date shall be deferred (and where an Interest Payment has not been paid on its due date, notice of its deferral shall be deemed to have been given), in which case that Interest Payment shall be deferred. This Condition 2.2 does not apply to an Interest Payment scheduled to be made on the Redemption Date for a Capital Bond or the interest component of the Repurchase Price payable on a Reset Date.

2.3 **Accrual of interest on Deferred Interest Payments:** If an Interest Payment has been deferred in accordance with Condition 2.2, that Deferred Interest Payment shall itself accrue interest at a rate equal to the prevailing Interest Rate from (and including) the Interest Payment Date on which that Interest Payment was deferred (**Deferral Date**) until (but excluding) the day on which that Deferred Interest Payment together with all accrued interest on that Deferred Interest Payment (**Accrued Interest**, and together with the Deferred Interest Payment, **Unpaid Interest**), is paid in full in accordance with Condition 2.4 or 2.7. Neither the Supervisor nor any Holder shall be entitled to take any action (including for the avoidance of doubt, any action to liquidate the Issuer) to recover that Unpaid Interest until the Mandatory Unpaid Interest Payment Date relating to that Unpaid Interest. This is without prejudice to the right of the Supervisor or any Holder to prove in respect of such Unpaid Interest in the Winding-Up of the Issuer subject to the provisions of clause 3 of the Supplemental Trust Deed Series 10. Accrued Interest will be calculated on a daily basis and, in respect of Unpaid Interest, compound on each Interest Payment Date. For the avoidance of doubt, clause 7.9 (*Default Interest*) of the Master Trust Deed shall not apply in respect of any Unpaid Interest for so long as it is deferred in accordance with this Condition and Condition 2.4.

2.4 **Maximum Deferral Period:** If an Interest Payment has been deferred in accordance with Condition 2.2, the Issuer shall, if any Unpaid Interest has not been paid in full by the Mandatory Unpaid Interest Payment Date, pay all Unpaid Interest on that date, in each case to those persons registered as Holders on the Record Date in respect of that payment of Unpaid Interest.

2.5 **Restrictions in the case of deferral:** The Issuer covenants with the Supervisor and each Holder that at any time while any Unpaid Interest remains outstanding, it shall not,

- (a) pay any dividend on, or make any other distribution in respect of, or pay any interest on, any shares or securities ranking, in a Winding Up, after the Capital Bonds; or
- (b) acquire, redeem, or repay any of its shares or other securities ranking, in a Winding Up, after the Capital Bonds (or provide financial assistance for the acquisition of such shares or securities),

in each case, unless approved by Holders by way of an Extraordinary Resolution: or

- (c) pay any dividend on, or make any other distribution in respect of, or pay any interest on, any of its other securities ranking pari passu with the Capital Bonds; or
- (d) acquire, redeem, or repay any of its other securities ranking pari passu with the Capital Bonds (or provide financial assistance for the acquisition of such other securities),

in each case, other than on a pro-rata basis or unless approved by Holders by way of an Extraordinary Resolution;

2.6 **No default:** The deferral of an Interest Payment under Condition 2.2 will not constitute a breach of these Conditions or the Trust Documents, an Event or Default or a default by the Issuer for any purpose.

2.7 **Interest Payment Dates:** Interest Payments will be payable on:

- (a) each Interest Payment Date (other than in relation to Deferred Interest Payments); and
- (b) (if the Redemption Date is not an Interest Payment Date) the Redemption Date in respect of any Bonds to be Redeemed on that date.

2.8 **Payment mechanics:** All payments in relation to a Capital Bond may be satisfied by direct credit to any New Zealand bank account nominated in writing (prior to 5:00pm on the Record Date) by the Holder entered in the Register as at 5:00pm on the Record Date. Such direct credit will occur prior to 5:00pm on the relevant Interest Payment Date (or, if that date is not a Business Day, the next Business Day after that date) or other date on which payment is required to be made.

### **3. GREEN BORROWING PROGRAMME FRAMEWORK AND USE OF PROCEEDS**

3.1 **No Event of Default:** For the avoidance of doubt:

- (a) failure by the Issuer to comply with any green borrowing framework, green bond principles or standards or similar (in relation to the Capital Bonds or otherwise) (together referred to in this Condition 3 as **green bond standards**), any matters set out in the Offer Document relating to the use of proceeds of the Capital Bonds, or the undertaking by the Issuer of any projects (whether or not in line with any green bond standards) outside of any green borrowing framework, is not an Event of Default and does not have the result of requiring, or permitting Holders to require, any Capital Bonds to be repaid; and
- (b) the application of any green label or similar designation in relation to the Capital Bonds and any green bond standards do not affect the Issuer's obligations under the Trust Documents, and any breach of those deeds (including in relation to non-compliance with any laws, directives and consents, whether environmental or otherwise) is to be determined without regard to any such green label or green bond standards.

3.2 **No compliance requirement:** This means there is no legal obligation on the Issuer to comply with any green borrowing framework, green bond standards or similar on an ongoing basis.

### **4. REPAYMENT AND REDEMPTION**

4.1 **Mandatory Redemption by Issuer:** The Issuer must Redeem all of the Capital Bonds then outstanding:

- (a) on the Maturity Date; or
- (b) immediately if an Event of Default occurs and the Supervisor (in its discretion or upon being directed by the Holders by Extraordinary Resolution) declares the Capital Bonds to be due and payable by notice in writing to the Issuer.

4.2 **Redemption at election of Issuer:** The Issuer may elect to Redeem:

- (a) all or some of the Capital Bonds on a Reset Date;
- (b) all or some of the Capital Bonds on any Interest Payment Date after a Reset Date if a Successful Election Process has not been undertaken in respect of that Reset Date;
- (c) all of the Capital Bonds then outstanding at any time if a Tax Event; or
- (d) all of the Capital Bonds then outstanding at any time if a Rating Agency Event occurs; or
- (e) all of the Capital Bonds then outstanding if there are less than 100,000,000 Capital Bonds outstanding.

4.3 **Issuer Notice:** If the Issuer elects to Redeem Capital Bonds under Condition 4.2, it must give a notice (**Issuer Notice**) in accordance with this Condition 4.3. The Issuer Notice must:

- (a) be sent to all Holders and to the Supervisor;
- (b) be given no less than 10 Business Days before the relevant Redemption Date; and
- (c) if less than all Capital Bonds are being redeemed, state the proportion of Capital Bonds to be Redeemed for each Holder.

4.4 **Effect of Issuer Notice:** An Issuer Notice is irrevocable and, once given, constitutes a promise by the Issuer to Redeem the Capital Bonds as stated in that notice.

4.5 **Partial Redemption:** If some but not all Capital Bonds are Redeemed at any time:

- (a) the Issuer must use its best endeavours to treat all Holders on a proportionate basis; and
- (b) there must remain at least 100,000,000 Capital Bonds outstanding after the partial Redemption.

4.6 **Payment on Redemption:**

- (a) If Capital Bonds are to be Redeemed other than in accordance with Condition 4.2(b) or (d), on the Redemption Date the Issuer must pay to the Holder in respect of each Capital Bond which is Redeemed the sum of:
  - (i) the Principal Amount;
  - (ii) any Unpaid Interest on that Capital Bond; and
  - (iii) any Interest Payment scheduled to be paid on that date in accordance with Conditions 2.1 and 2.7,(the sum of sub-paragraphs (i) – (iii) above being the **Redemption Amount**).
- (b) If the Capital Bonds are to be Redeemed in accordance with Condition 4.2(b) or (d), the Issuer must pay to the Holder in respect of each Capital Bond which is Redeemed the greater of:
  - (i) the Redemption Amount; and
  - (ii) the market price of the Capital Bonds, being:

- (1) the average price, weighted by volume, of all trades of Capital Bonds through the NZX Debt Market over the 10 Business Days prior to the 15th day before the announcement date of an early Redemption, plus any accrued interest from the end of that period up to (but excluding) the relevant Redemption Date; or
- (2) where the Capital Bonds have not traded on the NZX Debt Market for at least half of the 10 Business Days specified in Condition 4.6(b)(ii)(1), the average price of those Capital Bonds for that period will be determined by an independent adviser. If an independent adviser is required, the Supervisor shall select an appropriately qualified investment banker, chartered accountant or other professional adviser. The Issuer shall, within 5 Business Days thereafter, advise the Supervisor whether or not it approves that adviser. The Issuer shall not unreasonably withhold its approval of any such adviser. If the Issuer does not approve an adviser, the Supervisor shall select another until a suitable adviser is approved.

## **5. ELECTION PROCESS**

**5.1 Notification of Election Process:** No earlier than six months and not later than 30 Business Days before a Reset Date, the Issuer may issue a notice to Holders entered on the Register at the close of business on the Record Date for the Election Process that it intends to undertake an Election Process. The applicable Election Notice (including any explanatory notes accompanying that notice) will include:

- (a) the Notification Date;
- (b) the timing of the next Reset Date (which must coincide with the beginning of an Interest Period); and
- (c) the New Conditions that are proposed to apply to the Capital Bonds with effect from the applicable Reset Date.

**5.2 Supervisor Confirmation:** The Issuer shall seek the Supervisor's confirmation that it is prepared to continue to act as Supervisor in respect of the Capital Bonds as modified by the New Conditions (such confirmation not to be unreasonably delayed or withheld, and not being required where the New Conditions differ from the previous terms and conditions of the Capital Bonds only as to Interest Payment Dates, Interest Rate, Margin, Reset Dates or Step-up Percentage).

**5.3 Holder's election to retain or sell:**

- (a) The Notification Date must fall no earlier than 15 Business Days after the Election Notice is given and no later than 15 Business Days prior to the applicable Reset Date.
- (b) Each Holder may, on or prior to the Notification Date, complete and sign the Election Notice and return it to the Issuer in the manner described in the Election Notice.
- (c) The Election Notice will provide for a Holder to indicate:
  - (i) **(retain Capital Bonds):** the Capital Bonds in respect of which the Holder accepts the New Conditions (which may include some or all of the Capital Bonds held by that Holder as at the Record Date for the Election Process);

- (ii) **(sell Capital Bonds)**: the Capital Bonds which the Holder wishes to sell through the Election Process; and
  - (iii) **(other)**: such other information that the Issuer might require.
- (d) If:
- (i) the Issuer receives an Election Notice but the Election Notice does not indicate whether or not the Holder elects to retain or sell all or part of their Capital Bonds through the Election Process;
  - (ii) the Issuer does not receive a properly completed Election Notice from the Holder on or before the Notification Date;
  - (iii) the Issuer receives an Election Notice, but implementation of the election made by the Holder would result in that Holder holding Capital Bonds of less than the Minimum Holding; or
  - (iv) the Issuer receives an Election Notice and the Holder has elected to retain some of its Capital Bonds, but the number to be retained is not an integral multiple of 1,000,
- then:
- (v) in the case of (i) above the Holder will, subject to Condition 5.8, be deemed to have elected to retain such number of Capital Bonds subject to the New Conditions in respect of which no election is given;
  - (vi) in the case of (ii) above, the Holder will, subject to Condition 5.8, be deemed to have elected to retain all of the Capital Bonds held by it subject to the New Conditions;
  - (vii) in the case of (iii) above, the Holder will be deemed to have elected to sell the remainder of the Capital Bonds through the Election Process; and
  - (viii) in the case of (iv) above, the Issuer will, subject to Condition 5.8, round the number of Capital Bonds being retained down to the nearest integral multiple of 1,000.

**5.4 Successful Election Process:**

- (a) Within five Business Days of the Notification Date, the Issuer may (at its discretion) notify the Holders and the Supervisor whether or not it has elected to purchase (or procure the purchase of) all Capital Bonds which Holders have elected to sell as part of the relevant Election Process and, accordingly, whether or not a Successful Election Process has occurred in relation to that Election Process.
- (b) If no confirmation or declaration has been made by the time specified in Condition 5.4(a), a Successful Election Process will be deemed to have occurred.

**5.5 Repurchase Price:**

- (a) If a Successful Election Process is declared or is deemed to have been declared, the Issuer must on the Reset Date purchase (or procure the purchase of) any Capital Bond that a Holder has elected to sell in connection with the Election Process for the Repurchase Price.

- (b) No deductions or withholdings on account of commissions, brokerage or otherwise will be made from any payment of the Repurchase Price made to the relevant Holder in accordance with Condition 5.5(a), other than deductions or withholdings required by law.
- (c) For the avoidance of doubt, payment of the Repurchase Price by the Issuer on the Reset Date shall satisfy the Issuer's obligation to pay interest on any Capital Bonds that a Holder has elected to sell pursuant to Condition 5.3.
- (d) If a Holder has elected to retain some or all of its Capital Bonds, the Issuer shall pay all interest due on those retained Capital Bonds on the Reset Date to the Holder whose name is on the Register on the Record Date for that Reset Date.

**5.6 Process:**

- (a) The Issuer may, prior to the Reset Date, establish a resale facility which the Issuer may conduct itself or may involve the use of one or more investment banks, stockbrokers or other similar professional organisations whereby Capital Bonds are sold for value on the Reset Date.
- (b) The Issuer may itself purchase or sell Capital Bonds through the Resale Facility.
- (c) Each Capital Bond purchased by the Issuer as part of an Election Process may either be (at the Issuer's discretion):
  - (i) cancelled by the Issuer by notice in writing to the Supervisor and Registrar (in which case neither the Issuer nor the Supervisor will have any further liabilities or obligations in respect of that Capital Bond); or
  - (ii) held by the Issuer as treasury stock.

**5.7 Acceptance of New Conditions:** As from the Reset Date applicable to a Successful Election Process, the Capital Bonds shall be deemed to be amended by incorporation into the Conditions of the New Conditions applicable thereto as if such New Conditions were expressly set out in the Conditions.

**5.8 Overseas Holders:** The Issuer will have an absolute discretion to treat any Holder that has not provided, or is unable to provide, the Issuer with the evidence required to satisfy the Issuer that the Holder is a New Zealand Holder as having elected in an Election Notice to sell all Capital Bonds held by it.

**5.9 Step-up Percentage to apply:** If in respect of a Reset Date a Successful Election Process has not occurred or if no Election Notice has been issued, then, with effect from the Reset Date, the Margin will be an amount which is determined in accordance with paragraph (c) of the definition of Margin and otherwise the terms and conditions applicable to the Capital Bonds immediately prior to the Reset Date will continue to apply.

**5.10 Power of attorney:** Each Holder irrevocably appoints the Issuer and any director or person from time to time nominated by the Issuer severally to be the attorney of the Holder and the agent of the Holder with power in the name and on behalf of the Holder to do all such acts and things including signing all documents or transfers as may in the opinion of the Issuer be necessary or desirable to

be done in order to record or perfect the purchase of the Capital Bonds by the Issuer in accordance with this Condition 5.

## 6. EVENT OF DEFAULT

At any time after the occurrence of an Event of Default, provided the Event of Default is continuing unremedied, the Supervisor at its discretion may, or upon being directed to do so by an Extraordinary Resolution passed by the Holders must, declare the Capital Bonds to have become immediately due and payable by notice in writing to the Issuer, whereupon the Principal Amount of such Capital Bonds, together with any Accrued Interest, shall forthwith become immediately due and payable.

## 7. WITHHOLDING TAXES

- 7.1 **Deduction for Withholding:** Subject to Condition 7.2, all payments or credits to, or to the account of, Holders (including payments of, and credits in respect of, interest) will be made net of any tax or levy in respect thereof required by law to be withheld, deducted or paid by the Issuer, except to the extent that the Registrar is satisfied that the Holder is exempt from any such tax or levy, is a person in respect of whom any such withholding, deduction or payment is not required to be made or is a person who is entitled for the tax or levy to be deducted or withheld at a lower rate. Any Holder claiming any such exemption or to be such a person must provide the Registrar with such evidence as the Registrar may from time to time require to satisfy itself in respect of the validity of that claim.
- 7.2 **Approved Issuer Levy:** The Issuer will register the Capital Bonds with Inland Revenue for approved issuer levy (within the meaning of section 86F of the Stamp and Cheque Duties Act 1971) (**AIL**). Unless otherwise agreed, the Issuer will, where it is lawfully able, pay AIL at the minimum rate permitted by law on payments made or credited to Holders who are not New Zealand tax residents and do not engage in business in New Zealand through a fixed establishment in New Zealand (**Non-Resident Holders**). The amount of AIL will be reimbursed by the Non-Resident Holder to the Issuer by the Issuer deducting the amount from the Interest otherwise to be paid or compounded to or for the benefit of the Non-Resident Holder. At the written request of a Non-Resident Holder, to be made to the Registrar, the Issuer will not deduct AIL and will deduct non-resident withholding tax, at the rate required by law (as reduced by any applicable double tax agreement) from payments made or credited to that Non-Resident Holder. Where Capital Bonds are held jointly by a New Zealand tax resident and a Non-Resident Holder, the Issuer will deduct resident withholding tax at the rate required by law. The Issuer or the Registrar may require satisfactory evidence as to a Holder's tax and residency status before agreeing to apply any particular withholding regime in respect of that Holder.
- 7.3 **No gross-up:** The actual amount of interest payable to each Holder on each Interest Payment Date will be the gross amount of interest calculated and payable in accordance with Condition 2 less any amount deducted or paid by the Issuer under Condition 7.1 or 7.2. The Issuer is not liable to increase any payment to a Holder on account of any deduction or payment made under Condition 7.1 or 7.2.
- 7.4 **Taxation Indemnity from Holder:** If, in relation to any Capital Bond, the Supervisor or the Issuer becomes liable to make any payment of or on account of tax payable by the Holder or in relation to any Capital Bonds, the Supervisor and the Issuer is each indemnified by the Holder and the

personal representatives or successor of that Holder (and, as concerns the Supervisor, also by the Issuer who shall in turn be indemnified by the relevant Holder) in respect of any such liability, and any moneys paid by the Supervisor and the Issuer in respect of any such liability may be recovered by action from such Holder and the personal representatives or successor of the such Holder (as the case may be) as a debt due to the Supervisor or the Issuer. Nothing in this Condition prejudices or affects any other right or remedy of the Supervisor or the Issuer.

## **8. ISSUE, TRANSFERS AND REPLACEMENTS OF CAPITAL BONDS**

### **8.1 Form of Capital Bonds:**

- (a) The Capital Bonds will be issued in denominations of \$1 and in minimum initial parcels of \$5,000 (and thereafter in multiples of \$1,000) and entered onto the Register. No certificates of title in respect of the Capital Bonds will be issued to Holders. Title to the Capital Bonds passes by transfer and registration.
- (b) The Issuer and the Registrar will rely on the Register for the purpose of determining entitlements to Interest Payments on each Interest Payment Date and for the repayment of the Principal Amount of the Capital Bonds when they are Redeemed.

**8.2 Transfers:** The Capital Bonds may be transferred subject to and in accordance with this Condition 8 (including (without limitation) Condition 8.6) and clauses 2.6 and 2.7 of the Supplemental Deed Series 10.

**8.3 Form of Transfer:** Subject to these Conditions and the Trust Documents, a Holder may transfer any Capital Bond held by him or her by:

- (a) **(written instrument):** a written instrument of transfer in the usual or common form signed by the transferor and the transferee; or
- (b) **(NZX Debt Market):** if the Capital Bonds are quoted on the NZX Debt Market, any method of transfer permitted by the NZX for securities quoted on that market; or
- (c) **(other method):** any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with any Listing Rules, and which is approved by the Issuer.

**8.4 Registration process:** The following provisions apply to instruments of transfer other than any transfer under Condition 8.3(b):

- (a) the instrument of transfer must be left with the Registrar along with such other evidence as the Registrar or the Supervisor requires to prove the transferor's title to, or right to transfer, the Capital Bonds, together with evidence that any applicable duties and taxes required to be paid by any relevant legislation in order for the Capital Bonds to be transferred have been paid; and
- (b) on registration of a transfer of a Capital Bond, a Statement will be issued to the transferee of such Capital Bond.

**8.5 Transfers must be Registered:** Subject to this Condition 8, the Issuer must direct the Registrar not to refuse to register, or fail to register, or give effect to, a transfer of Capital Bonds.



- 8.6 **Refusal to Register Transfers:** The Issuer may direct the Registrar to refuse to register any transfer of Capital Bonds where these Conditions, the Trust Documents, any applicable legislation or the Listing Rules permit (but do not require) the Issuer to do so.
- 8.7 **Notice of Refusal to Register:** Where registration of a transfer of Capital Bonds is refused under Condition 8.6, the Issuer must direct the Registrar to give written notice of the refusal and the precise reasons for the refusal to the party lodging the transfer, if any, within five Business Days after the date on which the transfer was lodged. The failure to give such a notice will not invalidate the decision not to register the transfer.
- 8.8 **Retention of Transfers:** The Issuer will direct the Registrar to retain all instruments of transfer of Capital Bonds which are registered, but any instrument of transfer of Capital Bonds the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.
- 8.9 **Powers of Attorney:** Any power of attorney granted by a Holder empowering the donee to deal with, or transfer Capital Bonds, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Issuer, the Supervisor, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received at the Registry.
- 8.10 **Transmission by Operation of Law:** Any person becoming entitled to any Capital Bond by operation of law (including the death or bankruptcy of any Holder) may, upon producing such evidence of entitlement as is acceptable to the Issuer, obtain registration as the Holder of such Capital Bond or execute a transfer of such Capital Bond. This provision includes any case where a person becomes entitled as a survivor of a person registered as joint Holder.
- 8.11 **Notices:**
- (a) All notices given by Holders in accordance with these Conditions will be irrevocable.
  - (b) In addition to the notice provisions set out in clause 27 (*Notices*) of the Master Trust Deed, each notice or other communication to be given or made under this Supplemental Deed Series 10 to any Holder may also be given by email to the email address designated for that purpose and last entered in the Register.
  - (c) Any notice or communication given or made under this Supplemental Deed Series 10 to any Holder by email will be deemed to be received one hour after the time it is sent provided that no error message or out of office message was received to indicate that the email did not reach its intended destination or that the intended recipient is out of the office. In the event that the intended recipient is out of the office, the email will be deemed to be received by the addressee on the date that the addressee intends to return to the office as indicated in the out of office response.
- 8.12 **Sale of less than Minimum Holding:** The board of the Issuer may at any time give notice to any Holder holding less than the NZX Minimum Holding of Capital Bonds that if, at the expiration of three months after the date the notice is given, the Holder still holds Capital Bonds which are less than the NZX Minimum Holding, the board may exercise the power of sale of those Capital Bonds set out in this Condition 8.12. If that power of sale becomes exercisable:

- (a) the board may arrange for the sale of those Capital Bonds through the NZX Debt Market or in some other manner approved by NZX;
- (b) the Holder shall be deemed to have authorised the Issuer to act on the Holder's behalf and to execute all necessary documents for the purposes of that sale;
- (c) the Issuer shall account to the Holder for the net proceeds of sale of the Capital Bonds (after deduction of reasonable sale expenses), which shall be held on trust for the Holder by the Issuer and paid to the Holder for the Capital Bonds sold; and
- (d) the title of a purchaser of any Capital Bonds sold pursuant to this Condition 8.12 shall not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.

8.13 **Indemnity:** By its purchase of Capital Bonds, each Holder agrees to indemnify the Issuer in respect of any loss, cost, liability or expense sustained or incurred by the Issuer as a result of a breach by the Holder of the selling restrictions contained in the Offer Document or clause 4.5 (*Selling Restrictions*) of the Master Trust Deed.