

Deed of Amendment and Restatement

relating to

Master Trust Deed

Contact Energy Limited

Issuer

and

The New Zealand Guardian Trust Company Limited

Trustee

Date 21st August 2015

BELL GULLY

WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX111164, NEW ZEALAND
TEL 64 4 473 7777 FAX 64 4 473 3845

This Deed is made on 21st August 2015

between (1) Contact Energy Limited (Issuer)

and (2) The New Zealand Guardian Trust Company Limited (Trustee)

Introduction

- A. The Issuer and the Trustee are parties to the Master Trust Deed and certain Supplemental Trust Deeds.
- B. The Issuer and the Trustee have agreed to amend the Master Trust Deed on the terms set out in this Deed.
- C. The Issuer is of the opinion that the amendment and restatement of the Master Trust Deed as set out in this Deed can be made without the consent of Holders on the grounds set out in clauses 21.2(a)(i) and/or 21.2(a)(iii) of the Master Trust Deed and will not be materially prejudicial to the interests of Holders of each Series.
- D. The Trustee has agreed that it is within its powers to:
 - (i) amend and restate the Master Trust Deed as set out in this Deed; and
 - (ii) consequentially amend each of the Supplemental Trust Deeds,without the consent of Holders, on the grounds set out in clauses 21.2(a)(i) and/or 21.2(a)(iii) of the Master Trust Deed.

It is declared

1. Interpretation

1.1 Adoption of terms

Unless the context otherwise requires, terms defined or construed in the Master Trust Deed have the same definition or construction when used in this Deed.

1.2 Definitions

In this Deed, unless the context otherwise requires:

Effective Date 3 September 2015.

Master Trust Deed means the master trust deed between the Issuer and the Trustee dated 23 February 2009 (as amended on 12 February 2010 and as amended and restated on 9 November 2011).

Headings are to be ignored in construing this Deed.

2. **Amendment and restatement**

2.1 **Effective Date**

With effect from the Effective Date the Master Trust Deed is amended and restated on the terms set out in Schedule 1.

2.2 **Supplemental Trust Deeds**

With effect from the Effective Date, the terms of the Master Trust Deed (as amended and restated by this Deed) shall be incorporated in each Supplemental Trust Deed (whether entered into on, prior to, or after the date of this Deed), in each case to the extent the terms of the Master Trust Deed are expressed to be incorporated in the Supplemental Trust Deed by that Supplemental Trust Deed.

3. **Confirmation**

Other than as amended by this Deed, the Master Trust Deed remains in full force and effect.

4. **Miscellaneous**

4.1 **Transaction Document**

The parties agree that this Deed is a Transaction Document.

4.2 **Counterparts**

This Deed may be signed in any number of counterparts all of which, when taken together, will constitute one and the same instrument. A party may enter into this Deed by executing any counterpart.

4.3 **Delivery**

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by each of the parties (each a **Delivering Party**) immediately on the earlier of:

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

4.4 **Governing law**

This Deed is governed by and is to be construed in accordance with New Zealand law.

Execution

Executed and delivered as a Deed.

Contact Energy Limited by

D Barnes

Authorised Signatory

DENNIS BARNES

Print Name

In the presence of:

Catherine Thompson

Witness

Name

**Catherine Thompson
General Counsel
Contact Energy Limited**

Occupation

Wellington, NZ.

Address

**The New Zealand Guardian Trust
Company Limited** by:

WCT031

Authorised signatory

John Bernard Sewell

Print Name

Authorised signatory

Garry Robert Hughes

Print Name

In the presence of:

Witness

Margaret von Beckh

Name

Administration

Occupation

Wellington

Address

Schedule 1: Form of Master Trust Deed

Master Trust Deed

Contact Energy Limited

Issuer

and

The New Zealand Guardian Trust Company Limited

Supervisor

Date

BELL GULLY

WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
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This **Master Trust Deed** is made on 23 February 2009, as amended and restated by deed dated 21 August 2015

between (1) **Contact Energy Limited (Issuer)**

and (2) **The New Zealand Guardian Trust Company Limited (Supervisor)**

Introduction

- A. The Issuer proposes to establish a debt programme under which the Issuer may from time to time issue debt securities denominated in New Zealand dollars.
- B. Each series of Notes issued by the Issuer will be constituted by and issued on terms set out in a Supplemental Trust Deed made between the Issuer and the Supervisor. The terms of such Supplemental Trust Deed may modify the terms of this Deed in relation to the relevant Series of Notes.
- C. The Supervisor has agreed, at the request of the Issuer, to act as supervisor for the Holders of each Retail Series and, to the limited extent expressly provided in this Deed, for the Holders of each Wholesale Series, on the terms and conditions of this Deed applicable to that Series.

It is agreed

1. Interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Agency Agreement means, in relation to any Series, the agency agreement between the Issuer and the person appointed as registrar, calculation agent and paying agent for that Series, as specified in the Supplemental Trust Deed for that Series;

Amortisation Date means, in respect of an Amortising Note, each date (other than the Maturity Date) for the repayment of part of the Principal Amount of that Amortising Note, being the dates recorded as such in the Register in respect of that Amortising Note;

Amortising Note means a Note (whether a Fixed Rate Note, Floating Rate Note, Index-linked Note or a Zero Coupon Note) the Principal Amount or part of the Principal Amount of which is repayable on the scheduled Amortisation Dates for that Note;

Approved Issuer Levy means, in relation to any payment of interest (as defined in section 86F of the Stamp and Cheque Duties Act 1971) under any Note, the levy payable by the Issuer in accordance with section 86J of the Stamp and Cheque Duties Act 1971 to enable the payment of such interest to be made to any non-tax resident for tax purposes with a deduction for New Zealand non-resident withholding tax at the rate of zero percent;

Auditor means the qualified auditor for the time being of the Issuer;

Authorised Officers means any person who is a director, chief executive officer, general counsel, chief financial officer or treasurer of the Issuer (or such officer of the Issuer howsoever designated as may from time to time replace or succeed such officer) and any other officer of the Issuer, in each case as formally appointed by the Issuer's directors or their duly authorised delegates and notified to the Supervisor;

Base Rate means, in relation to an Interest Period, either:

(a) Bill rate:

in relation to an Interest Period of one, two, three, four, five or six months:

- (i) the rate per annum (expressed on a percentage yield basis and rounded up to the nearest four decimal places) determined by the Issuer on the first day of that Interest Period to be the average bid rate for the purchase of bank accepted bills of exchange having a tenor of, or of about, that Interest Period as displayed at or about 10.45 a.m. on that day on page BKBM (or its successor page) of the Reuters Monitor Screen (expressed on the date of this Deed as the bank bill bid settlement rate); or
- (ii) if no such rate is displayed or if less than three persons are quoting buying rates for bank bills on the Reuters Monitor Screen, the average bid rate quoted to the Issuer at or about 11.00 a.m. on that day by at least three of the Reference Banks; or
- (iii) if less than three of the Reference Banks quote rates, the rate the Issuer reasonably determines to be the nearest practicable equivalent; or

(b) Other specified rate:

any other reference rate as may be specified in the Supplemental Trust Deed or Conditions for a Series;

Business Day means a day (other than a Saturday or Sunday) on which registered banks are generally open for business in Wellington and Auckland, except that in the context of the Listing Rules, it means a day on which the NZDX Market is open for trading;

Capital Note means a Subordinated Note which, in accordance with its Conditions, may be convertible to an equity security;

Class means Notes which constitute a separate category of Notes with such categories being:

- (a) all Retail Notes;
- (b) all Wholesale Notes;
- (c) in relation to matters affecting a Series only, that Series;
- (d) any Retail Notes which have attached to them identical rights, privileges, limitations and conditions (but which may have a different Maturity Date or Interest Rate or both); or
- (e) any category of Notes having substantially the same rights, privileges, limitations and conditions, which in the reasonable opinion of the Issuer (in consultation with the Supervisor if in relation to a Retail Series and in the event of any dispute from a Holder as to the Notes forming part of that category of Notes, in consultation with the Holders of that category of Notes) at any particular time, for any particular purpose, constitutes a separate class of Notes within either Wholesale Notes or Retail Notes, as the case may be,

and **Class of Holders** means the Holders of those Notes. For the avoidance of doubt, Retail Holders and Wholesale Holders shall (except for the purposes of clause 21.4, section 14.4 of

schedule 1 or section 14.4 of schedule 1A) constitute separate Classes for all purposes under this Deed;

Companies Act means the Companies Act 1993;

Conditions means, in relation to a Series or a Tranche, the terms and conditions applicable to that Series or that Tranche set out in the Supplemental Trust Deed for that Series and this Deed;

Date of Enforcement means the date on which a Holder or the Supervisor makes a declaration pursuant to clause 13.1;

Deed of Negative Pledge and Guarantee means the deed of negative pledge and guarantee entered into by the Issuer and the Guaranteeing Group Companies on 19 May 2005;

Default Interest has the meaning given in clause 7.9;

Director means a director of the Issuer for the time being and includes an alternate director acting as a director of the Issuer;

Dollars and **\$** means the lawful currency of New Zealand;

Event of Default has the meaning given to that term in the Deed of Negative Pledge and Guarantee and includes, in relation to a Series, any additional Event of Default referred to in the Supplementary Trust Deed for that Series, provided that an Event of Default under clause 9.1.1 of the Deed of Negative Pledge and Guarantee will only be an Event of Default in respect of any Holder where it applies to sums due and payable to that Holder;

Extraordinary Resolution has the meaning set out in schedule 1, or, if it relates to a resolution of Wholesale Holders only, schedule 1A;

Financial Reporting Act means the Financial Reporting Act 2013;

Financial Statements means, with respect to a person or group of persons, financial statements within the meaning of section 6 or 7 (as appropriate) of the Financial Reporting Act;

Fixed Rate Note means a Note bearing a fixed rate of interest or interest at a rate that is a margin over a Base Rate and that is not reset during the term of the Note;

Floating Rate Note means a Note bearing interest at a rate that is a margin over the Base Rate and that is reset during the term of the Note;

FMA means the Financial Markets Authority;

FMCA means the Financial Markets Conduct Act 2013;

FMC Regulations means the Financial Markets Conduct Regulations 2014;

FMSA means the Financial Markets Supervisors Act 2011;

Group means the Issuer and its Subsidiaries;

Guaranteeing Group means the Guaranteeing Group Companies, taken as a whole;

Guaranteeing Group Companies has the meaning given to that term in the Deed of Negative Pledge and Guarantee, being, at 20 August 2015, the Issuer and Rockgas Limited;

Holder means, in relation to a Note at any time, the person whose name is recorded in the Register as the holder of that Note at that time;

Index means, in relation to a Note, the index (if any) specified in the Supplemental Trust Deed applicable to that Note by reference to which the Principal Amount of that Note and/or the amount of interest payable in respect of that Note is to be calculated;

Index-linked Note means a Note in respect of which either the Principal Amount of, or the interest payable on, that Note, or both, is to be calculated by reference to an Index;

Information Memorandum means:

- (a) in relation to any Retail Series, the investment statement and registered prospectus, product disclosure statement (including a simplified disclosure product disclosure statement) or other disclosure document required in order to make an offer of financial products under clause 19 of Schedule 1 of the FMCA (as applicable) or such other document required by law which may replace an investment statement and registered prospectus, product disclosure statement (including a simplified disclosure product disclosure statement) or other disclosure document required in order to make an offer of financial products under clause 19 of Schedule 1 of the FMCA relating to that Retail Series; and
- (b) in relation to any Wholesale Series, the information memorandum or other offering document relating to that Wholesale Series,

together with (in each case) all documents to be distributed with or which form part of the relevant document which, in each case, have been prepared by, or on behalf and with the approval of, the Issuer in relation to the relevant Series;

Interest Payment Date means:

- (a) in relation to a Floating Rate Note or an Index-linked Note, the last day of each Interest Period for that Floating Rate Note or Index-linked Note; and
- (b) in relation to a Fixed Rate Note, the quarterly, semi-annual or annual dates (or such other dates) fixed at the time of issue of that Note for the payment of interest in respect of that Note under the applicable Supplemental Trust Deed;

Interest Period means, in relation to a Floating Rate Note, a period determined in accordance with clause 8.1(a) in respect of that Note, and, in relation to an Index-linked Note a period determined in accordance with the applicable Supplemental Trust Deed;

Interest Rate means, in relation to a Note, the rate of interest (if any) payable in respect of that Note (which may be a fixed rate or a margin over the Base Rate) specified at the time of issue of that Note and recorded as such in the Register;

Issue Date means, in relation to a Note, the date on which that Note is issued, being the date recorded as such in the Register in respect of that Note;

Issue Notice means a notice relating to an issue of Notes from the Issuer to the Registrar for the relevant Series in such form as the Issuer and the Registrar for the relevant Series may from time to time agree;

Issuer means Contact Energy Limited (or, in relation to a particular Series, any other person which is or becomes an issuer of the Notes of that Series in accordance with clause 24);

Listed means listed and quoted on the NZDX market operated by NZX or any alternative or successor recognised stock exchange and **Listing** has a corresponding meaning;

Listing Rules means the listing rules of NZX in force from time to time applicable to the Issuer and the relevant Notes;

Margin means, in relation to a Floating Rate Note, the margin specified at the time of issue and recorded as such in the Register in respect of that Floating Rate Note;

Maturity Date means, in relation to a Note, the date for the repayment of that Note (if any), being the date recorded as such in the Register in respect of that Note;

Minimum Principal Amount means, in relation to a Note, the minimum Principal Amount of that Note, being the amount specified as such in the relevant Supplemental Trust Deed;

Note means a note (which shall be an Unsubordinated Note or a Subordinated Note and shall form part of a Retail Series or a Wholesale Series) constituted by, and subject to the terms and conditions set out in, this Deed and the Supplemental Trust Deed, and includes Notes that are one or more of an Amortising Note, a Fixed Rate Note, a Floating Rate Note, an Index-linked Note, a Zero Coupon Note or a Capital Note;

NZClear means the securities clearing and settlement facility known as the NZClear System and includes any securities clearing and/or settlement facility which replaces or supersedes it from time to time;

NZ GAAP means generally accepted accounting practice in New Zealand as defined in section 8 of the Financial Reporting Act;

NZX means NZX Limited;

Perpetual Note means any Note issued with no Maturity Date;

Principal Amount means, in relation to a Note, the amount (other than interest) payable on redemption or repayment of that Note, being the amount recorded as such in the Register in respect of that Note, or, as the context may require;

- (a) in relation to an Amortising Note, the principal amount thereof for the time being outstanding, as reduced in accordance with clause 7.4;
- (b) in relation to an Index-linked Note, the principal amount thereof for the time being outstanding, as increased or reduced in accordance with clause 8.3; or
- (c) in relation to a Perpetual Note, the principal amount thereof for the time being outstanding;

Record Date means, in relation to a payment due on a Note, 5.00pm on the tenth day before (or, in the case of a non-interest bearing Note, the day before) the due date for that payment or, if that day is not a Business Day, the next Business Day;

Reference Banks means ANZ Bank New Zealand Limited, ASB Bank Limited, Bank of New Zealand and Westpac New Zealand Limited;

Register means, in relation to a Series, the register of Notes maintained by the Registrar for that Series in accordance with the provisions of this Deed and the Agency Agreement;

Registrar means, in respect of any Series, the person named in the relevant Agency Agreement and specified in the Supplemental Trust Deed for that Series as the registrar,

calculation agent and paying agent for that Series, or any successor agent appointed under the relevant Agency Agreement in relation to that Series;

Retail Series means a Series of Notes which may, in accordance with the relevant Conditions:

- (a) be offered or sold to members of the public in accordance with the Securities Act;
- (b) be offered under a regulated offer; or
- (c) be offered in accordance with clause 19 of Schedule 1 to the FMCA,

or a Series of Notes that is designated as a Retail Series in the Supplemental Trust Deed for that Series, and **Retail Note** means a Note which is part of a Retail Series and **Retail Holder** means a Holder of a Retail Note;

Securities Act means the Securities Act 1978;

Securities Regulations means the Securities Regulations 2009;

Senior Creditors means all the creditors (present and future):

- (a) whose claims are or would be admitted in the Winding-Up of the Issuer; and
- (b) who are not the holders of indebtedness, the right to payment of which by its terms is, or is expressed to be, subordinated in the event of the Winding-Up of the Issuer to the claims of all unsubordinated creditors of the Issuer,

and, for the avoidance of doubt, includes Holders of Unsubordinated Notes;

Series means the Notes issued pursuant to a particular Supplemental Trust Deed (which may be issued in Tranches);

Statement means, in respect of Listed Notes, a statement issued by the Issuer (or the Registrar on its behalf) to a Holder in relation to the Notes held by that Holder, if applicable, in compliance with the Listing Rules;

Subordinated Indebtedness means any present or future indebtedness of the Issuer for or in respect of moneys borrowed or raised which by its terms is expressed to be subordinated in the event of Winding-Up of the Issuer to the claims of Senior Creditors of the Issuer;

Subordinated Note means a Term Subordinated Note or an Undated Subordinated Note;

Subsidiary means, in relation to any person:

- (a) a subsidiary within the meaning of section 5 of the Companies Act (or any other person which would be a subsidiary of that person if that person and the other person were both registered under the Companies Act); or
- (b) an “in substance subsidiary” in accordance with NZ GAAP, of that person;

Supervisor means The New Zealand Guardian Trust Company Limited or any replacement supervisor appointed under this Deed;

Supplemental Trust Deed means a deed supplemental to this Deed entered into by the Issuer and the Supervisor pursuant to clause 2.4 constituting and setting out the terms and conditions of a Series;

Term Subordinated Note means a Note which, in accordance with its Conditions, is Subordinated Indebtedness of the Issuer and which is identified in the Supplemental Trust Deed constituting it and in the Register as a Term Subordinated Note and which has a specified Maturity Date. A Term Subordinated Note may be a Fixed Rate Note, a Floating Rate Note, an Index-linked Note or a Zero Coupon Note. A Term Subordinated Note may also be a Capital Note;

Tranche means Notes of the same Series in respect of which all terms are identical (except as to Issue Date, Maturity Date, Interest Rate and frequency of payment of interest);

Transaction Documents means, in relation to a Series, this Deed, the relevant Supplemental Trust Deed, the Deed of Negative Pledge and Guarantee, and the other documents (if any) specified as such in the relevant Supplemental Trust Deed;

Trust Powers means, in relation to a Series, the trusts, powers, authorities or discretions vested in the Supervisor by this Deed in relation to that Series;

TTA Ratio means the ratio of Total Tangible Assets of the Guaranteeing Group (less amounts equivalent to the Borrowed Money Indebtedness of any Guaranteeing Group Company outstanding in respect of:

- (a) Capital Projects of Guaranteeing Group Companies; and
- (b) Security Interests of Guaranteeing Group Companies as described in clauses 3.1.2(a) to (f) and (h) to (j) and 3.1.3) of the Deed of Negative Pledge and Guarantee,

to the Total Tangible Assets of the Group less an amount equivalent to the Borrowed Money Indebtedness of any member of the Group outstanding in respect of Capital Projects of members of the Group. For the purposes of this definition capitalised terms have the meaning attributed to them in the Deed of Negative Pledge and Guarantee;

Undated Subordinated Note means a Note which, in accordance with its Conditions, is Subordinated Indebtedness of the Issuer and which is identified in the Supplemental Trust Deed constituting it and in the Register as an Undated Subordinated Note and which has no Maturity Date. An Undated Subordinated Note may be a Fixed Rate Note, a Floating Rate Note or an Index-linked Note. An Undated Subordinated Note may also be a Capital Note;

Unsubordinated Note means a Note which is not a Subordinated Note. An Unsubordinated Note may be a Fixed Rate Note, a Floating Rate Note, an Index-linked Note or a Zero Coupon Note;

Wholesale Series means a Series of Notes which are not permitted, in accordance with the relevant Conditions, to be offered or sold to members of the public for the purposes of the Securities Act or to any retail investors for the purposes of the FMCA or a Series of Notes that is designated as a Wholesale Series in the Supplemental Trust Deed for that Series, and **Wholesale Note** means a Note which is part of a Wholesale Series and **Wholesale Holder** means a Holder of a Wholesale Note;

Winding-Up means any procedure, whether brought or instigated by a Holder or any other person, for the winding up, liquidation or dissolution of the Issuer otherwise than for the purposes of, and followed by, an amalgamation or solvent reconstruction on terms previously approved by an Extraordinary Resolution of each Class of Holders; and

Zero Coupon Note means a Note in respect of which no interest is payable and that is issued or to be issued by the Issuer at a discount to its Principal Amount.

1.2 References

Except to the extent that the context otherwise requires, any reference in this Deed to:

an **authorisation** includes:

- (a) any consent, authorisation, registration, filing, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a governmental agency; or
- (b) in relation to anything which will be proscribed or restricted in whole or part by law if a governmental agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of such period without such intervention or action;

a **clause** or **Schedule** is a reference to a clause of, or schedule to, this Deed and a **section** is a reference to a section of a Schedule;

Deed means this deed and, where the context requires in relation to a Series, means this Deed as modified and supplemented by a Supplemental Trust Deed;

the **dissolution** of any person includes the bankruptcy, winding up or liquidation, removal from the register of that person, and any equivalent or analogous procedure under the law of any jurisdiction in which that person is incorporated, domiciled or resident or carries on business or has assets, but excludes:

- (a) the voluntary administration of a person;
- (b) a change in the jurisdiction of incorporation of a person;
- (c) an amalgamation under Part XIII of the Companies Act between two or more companies comprising the Subsidiaries of the Issuer; or
- (d) in respect of the Issuer an amalgamation under Part XIII of the Companies Act in accordance with clause 12.1(i);

any **governmental agency** includes any government or any governmental, semi-governmental or judicial entity or authority, or legislative body, or any person or body charged with the administration of any law. It also includes any self-regulatory organisation established under statute or any stock exchange;

indebtedness includes any obligation (whether present or future, actual or contingent, secured or unsecured, as principal, surety or otherwise) relating to the payment or repayment of money;

issuer obligation has the meaning set out in the FMCA, being an obligation imposed on the Issuer under this Deed in respect of the relevant Retail Series, the terms of the offer of that Retail Series, the FMCA or any court order relating to that Retail Series;

a **law** includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute or other legislative measure, in each case of any jurisdiction whatsoever and **lawful** and **unlawful** shall be construed accordingly;

non-tax resident means not resident in New Zealand for tax purposes and not engaged in business in New Zealand through a fixed establishment in New Zealand;

outstanding means, in relation to Notes, all Notes other than those which have been:

- (a) redeemed or repaid in full in accordance with the Conditions applicable to those Notes; or
- (b) purchased and cancelled in accordance with the Conditions applicable to those Notes;

payment includes satisfaction of a monetary obligation;

person includes an individual, firm, company, corporation or unincorporated body of persons, organisation or trust, and any state, government or governmental agency, in each case whether or not having a separate legal personality;

public and **member of the public** shall be construed in accordance with the Securities Act;

qualified auditor has the meaning set out in the FMCA;

regulated offer has the meaning set out in the FMCA;

security includes any security interest, charge, mortgage, lien, pledge, finance lease, sale and lease-back, deferred purchase arrangement, title retention, or other encumbrance or security arrangement of any nature but does not include any retention of title or security interest in assets purchased in the ordinary course of trading where the purchase price is payable within 90 days of supply of the relevant assets and is not overdue, and **unsecured** means not subject to a security;

tax includes any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature and whatever called (including, for the avoidance of doubt, Approved Issuer Levy), imposed or levied by any governmental agency, together with any interest, penalty, charge, fee or other amount imposed or made on or in respect of any of the foregoing;

tax resident means resident in New Zealand for tax purposes or engaged in business in New Zealand through a fixed establishment in New Zealand; and

written and **in writing** includes all means of reproducing words in a tangible and permanently visible form.

1.3 Cross-references

In relation to any Series, a cross-reference to any clause of this Deed shall, where that clause is amended or substituted by the Supplemental Trust Deed in relation to that Series, be deemed to be a cross-reference to that clause as so amended or substituted.

1.4 Miscellaneous

- (a) The introduction to and headings in this Deed are inserted for convenience only and shall be ignored in construing this Deed.
- (b) Unless the context otherwise requires:
 - (i) words denoting only the singular number shall include the plural and vice versa and words denoting any gender shall include all genders;
 - (ii) words denoting individuals include companies and other corporations and vice versa.
- (c) References to any legislation or to any provision of any legislation shall be deemed to be references to that legislation or provision as from time to time amended, re-enacted

or substituted and, unless the context otherwise requires, shall also include any statutory instruments issued under any such legislation or provision.

- (d) References to any document (however described) shall include references to such document as modified, novated, supplemented, varied or replaced from time to time.
- (e) References to any party to this Deed or any other document or any Holder shall include its successors or permitted assigns.
- (f) References to a time of day are references to New Zealand time unless otherwise stated.
- (g) Unless the context otherwise requires anything which may be done at any time may also be done from time to time.

2. Issue and form of notes

2.1 Power to issue Notes

Notes may be issued by the Issuer under this Deed at the times, in the amounts, to the persons, on the terms and conditions and at the prices from time to time determined by the Issuer.

2.2 Form of Notes

Without limitation to clause 2.1, Notes may be issued on terms such that the Principal Amount is a fixed amount or a reducing amount or an amount to be calculated by reference to an Index and/or that interest (if the Note is interest-bearing) will be calculated by reference to a specific interest rate (which may be a fixed rate or a margin over the Base Rate) or by reference to an Index or both. In addition, Notes shall be Subordinated or Unsubordinated Notes, as specified in the Supplemental Trust Deed applicable to those Notes.

2.3 Wholesale Notes and Retail Notes

Notes shall be issued on the basis that the relevant Series may be a Retail Series or a Wholesale Series, in each case as specified in the relevant Conditions.

2.4 Supplemental Trust Deed

- (a) Notes shall be constituted and issued in Series which may be separated into Tranches. Each Series and Tranche shall be subject to the terms and conditions set out in a Supplemental Trust Deed for that Series and Tranche and (as modified by that Supplemental Trust Deed) this Deed.
- (b) To the extent that the Supplemental Trust Deed for a Series modifies this Deed, or in the event of any conflict between the provisions of that Supplemental Trust Deed and those of this Deed, that Supplemental Trust Deed shall prevail over this Deed in relation to that Series.
- (c) The provisions of the relevant Supplemental Trust Deed and this Deed read together in accordance with this clause 2.4 shall constitute the Conditions for the Notes of the relevant Series.
- (d) For the avoidance of doubt, the Holders of a Series will not receive any benefit in respect of the Notes of that Series from the obligations of the Issuer in respect of Notes issued pursuant to another Series.

2.5 Creation and issue

- (a) Notes of a Series are constituted when the Supplemental Trust Deed for that Series has been signed by the Issuer and the Supervisor.
- (b) Notes are issued and created by the Registrar entering in the Register the particulars of that Note, substantially as specified in the Issue Notice relating to those Notes under the heading "Note Details".

2.6 Provisions applicable to Notes

The Notes shall be issued and held with the benefit of and subject to the applicable Conditions, all of which are binding upon the Issuer, the Supervisor and the Holders. The Holders shall be deemed to have notice of the applicable Conditions, the provisions of this Deed and each other Transaction Document in relation to the relevant Series.

2.7 Enforcement of Holders' rights

- (a) The Supervisor holds its rights and benefits under this Deed and the relevant Supplemental Trust Deed (including the right to enforce the issuer obligations in relation to the Retail Notes and, if applicable, any charge or security for repayment of the Notes) in trust for, and for the benefit of, the Retail Holders and (only to the extent expressly set out in this Deed and the Supplemental Trust Deed) the Wholesale Holders. No Retail Holder shall be entitled to enforce any of its rights or remedies under the applicable Transaction Documents directly against the Issuer unless the Supervisor fails to enforce such rights or remedies after having become bound to do so in accordance with this Deed.
- (b) Wholesale Holders may enforce any of their rights or remedies under this Deed and the relevant Supplemental Trust Deed directly against the Issuer.

2.8 Form of Notes

- (a) Each Note:
 - (i) shall be in uncertificated book entry form; and
 - (ii) shall have a tenor of one year or longer.
- (b) In respect of each Series, there may be a Minimum Principal Amount for holdings of Notes of that Series and a minimum multiple of that amount for such holdings, in each case as specified in the relevant Supplemental Trust Deed.

2.9 Listing

Notes may be Listed or unlisted as specified in the relevant Supplemental Trust Deed or Information Memorandum or as otherwise provided in respect of any Series.

3. Status of notes

3.1 Status of Notes generally

- (a) The Notes are and will at all times be direct, unsecured and (except in relation to Subordinated Notes) unconditional indebtedness of the Issuer.

- (b) Except where the Notes are expressed in the Supplemental Trust Deed for the relevant Series to be Term Subordinated Notes or Undated Subordinated Notes, the Notes shall be Unsubordinated Notes and nothing in clause 6 shall apply in respect of them.

3.2 Status of Unsubordinated Notes

Unsubordinated Notes rank and will at all times rank equally without any preference or priority among themselves and at least equally with all present and future unsubordinated and unsecured indebtedness of the Issuer (except indebtedness preferred solely by operation of law and subject to laws affecting creditors' rights generally and equitable principles of general application).

3.3 Status of Term Subordinated Notes

Term Subordinated Notes rank and will at all times rank equally without any preference or priority among themselves and at least equally with all other present and future unsecured Subordinated Indebtedness of the Issuer having a fixed maturity date (subject to laws affecting creditors' rights generally and equitable principles of general application).

3.4 Status of Undated Subordinated Notes

Undated Subordinated Notes rank and will at all times rank equally without any preference or priority among themselves and at least equally with all other present and future unsecured Subordinated Indebtedness of the Issuer having no fixed maturity date (subject to laws affecting creditors' rights generally and equitable principles of general application).

4. Title and transfer

4.1 Certificates

At the request of a Holder, or otherwise as required by the FMCA or any other applicable law, the Issuer shall procure the Registrar of the relevant Notes to issue to that Holder a confirmation, certificate or notice of registration in relation to the Notes held by that Holder, such confirmation, certificate or notice to include all information required under the FMCA (if applicable), be provided in the manner required by the FMCA (if applicable) and to be in the form agreed between the Issuer and the Registrar of the relevant Notes and to comply with law or, in respect of any Listed Notes, a Statement complying with the Listing Rules (if applicable). A confirmation, certificate, notice of registration or Statement issued in respect of a Note will not constitute a document of title. Entitlement will be determined solely by entry in the Register and, in the case of the beneficial interest in Notes lodged in NZClear, the records of NZClear.

4.2 Transfer

Title to a Note may be transferred by a transfer in any commonly used form which complies with all applicable laws and the standard form and procedures of the Registrar of the relevant Notes and which is produced to the Registrar of the relevant Notes.

4.3 Partial transfers

A Holder may transfer part of its interest in a Note. However, no transfer of any part of its interest may be effected if such transfer would result in the transferor or the transferee holding or continuing to hold a Note with a Principal Amount of less than the applicable Minimum Principal Amount (or minimum multiple thereof).

4.4 Fees

The Issuer and each Registrar shall make no service charge to the Holders for:

- (a) the registration of any holding of Notes; or
- (b) the transfer of registered title to any Notes.

The Issuer and each Registrar may, however, require the payment of any taxes and other governmental charges payable as a result of any transfer.

4.5 Selling restrictions

- (a) Each Holder shall only offer for sale or sell any Note in conformity with all applicable laws and regulations in any jurisdiction in which it is offered, sold or delivered.
- (b) Without limitation to the generality of clause 4.5(a), Notes shall not be offered or sold by the Issuer or any Holder in breach of the selling restrictions contained in the relevant Conditions or the relevant terms of the offer.
- (c) No Information Memorandum or any advertisement, prospectus or other offering material in respect of any Note may be published, delivered or distributed in or from any country or jurisdiction except under circumstances which will result in compliance with all applicable laws and regulations.

5. Register

5.1 Register

The Issuer shall at all times while Notes are outstanding cause the Registrar for each Series to maintain the Register for that Series in New Zealand, which must record in respect of each Note the information specified in the Issue Notice relating to those Notes under the heading "Note Details" plus the following information:

- (a) the name, address and (where known) tax residency of the Holder;
- (b) details of the account to which payments in respect of the Notes are to be made;
- (c) Issue Date of the Note;
- (d) transfers of the Note and the date on which the Note was transferred to the Holder;
- (e) nature of the Note;
- (f) Principal Amount of the Note;
- (g) Maturity Date;
- (h) details of any resident withholding tax exemption certificate(s) held by the Holder; and
- (i) any other information required by law or the applicable Supplementary Trust Deed, or which the Issuer considers may be desirable in relation to the Notes.

5.2 Disclosure and inspection

The Issuer shall ensure that the Registrar of the relevant Notes discloses to a Holder who so requests, any information held on the Register which relates to the Note(s) registered in the name of that Holder. Subject to the terms of the Agency Agreement and all applicable laws, the Issuer and the Supervisor may at all reasonable times inspect and take extracts (including electronic copies) from each Register without payment of any fee. The Issuer:

- (a) in respect of a Retail Series, shall ensure that the Registrar makes available for inspection, and provides copies of, or extracts from, the Register to the extent required by, and in accordance with, the FMCA, the FMC Regulations and any other applicable law; and
- (b) in respect of a Wholesale Series, will procure that the Register is available for inspection to the extent required by law.

5.3 Register conclusive

Except as ordered by a court of competent jurisdiction, the Issuer, the Supervisor and each Registrar are each entitled to recognise the Holder of a Note as the absolute owner of the Note and shall not be bound by any actual or constructive notice of any trust (express, implied or constructive), encumbrance, security or other adverse interest to which any Note may be subject. No recognition of any trust (express, implied or constructive), encumbrance, security or other adverse interest shall be entered on the Register. In the event of any conflict between any certificate or notice of registration issued in respect of a Note and the Register, the Register shall prevail.

5.4 Correction of errors

Each Registrar may, on such evidence as appears to it to be sufficient, correct errors and remedy omissions in the relevant Register.

5.5 Co-ownership Notes

- (a) Where two or more persons are registered as Holders of the same Note(s) by virtue of any application for Notes, memorandum of transfer or other instrument, then, unless the contrary is expressed in the application, memorandum, or other instrument, those persons will be deemed to hold the Note(s) as joint tenants with right of survivorship.
- (b) If two or more persons apply (on an application for any Notes or by memorandum of transfer or other instrument), to be registered as Holders as tenants in common, the Registrar for the relevant Series may, after notifying the persons of its intention to do so, divide the Notes into parcels which represent each such person's share. If the Notes cannot be divided into shares each of which share would comply with the applicable Minimum Principal Amounts (and any minimum multiples thereafter), the Registrar of the relevant Notes may refuse to accept the application, memorandum of transfer or other instrument (as the case may be).

5.6 Acquisition of Notes by operation of law

When the right to any Note is acquired by any person in any manner other than by way of a transfer under this Deed or the relevant Supplemental Trust Deed (whether on the dissolution or death of the relevant Holder, or under a writ of execution, or otherwise) the Registrar of the relevant Notes, on application by or on behalf of that person and on being satisfied that such person is legally entitled to be registered as the Holder of that Note, will enter that person's name in the Register as the Holder of that Note accordingly.

5.7 Notification by Holders

Any change of name or address of any Holder or any change in any other information required to be inserted in any Register in respect of any Holder shall immediately be notified to the Registrar of the relevant Notes in writing by the Holder, or if a joint holding by all the joint Holders.

5.8 Compliance with law

The Issuer shall comply with, and shall use all reasonable endeavours to ensure that each Registrar complies with, all statutory requirements and the requirements of this Deed and the applicable Supplemental Trust Deed relating to the keeping of the Register and the details entered in the Register. Without limitation to the generality of the foregoing, the Issuer shall ensure that the Register in respect of any Retail Series is audited in accordance with applicable auditing and assurance standards (as defined by reference to section 6 of the FMCA) by the Auditor (or such other qualified auditor that is acceptable to the Supervisor) annually within 4 months of the Issuer's balance date and at such other times as the Supervisor may request in writing if the Supervisor has reasonable grounds for believing that the requirements of this clause 5.8 are not being complied with in relation to the Register for any Retail Series.

6. Subordinated notes

6.1 Issue of Subordinated Notes

The Issuer may, if it expressly so provides in the Supplemental Trust Deed for any Series, issue Notes which are subordinated in the event of the Winding-Up of the Issuer to the claims of Senior Creditors of the Issuer, in which case this clause 6 (as it may be modified by the relevant Supplemental Trust Deed) shall apply to that Series.

6.2 Term Subordinated Notes

The rights and claims of Holders of Term Subordinated Notes are, in a Winding-Up of the Issuer, subordinated to the claims of the Senior Creditors of the Issuer (with the intent that all claims of Senior Creditors shall be paid in full before any claims of the Holders of the Term Subordinated Notes are paid), and prior to the commencement of a Winding-Up of the Issuer:

- (a) the obligation of the Issuer to make any payment in respect of the Term Subordinated Notes is conditional upon the Issuer being solvent at the time the relevant payment falls due and, in the event that the Issuer is not solvent at that time, such obligation shall remain conditional until such time as the Issuer becomes solvent; and
- (b) no payment shall be made in respect of the Term Subordinated Notes except to the extent that the Issuer may make such payment and still be solvent immediately thereafter.

6.3 Undated Subordinated Notes

The rights and claims of Holders of Undated Subordinated Notes are, in a Winding-Up of the Issuer, subordinated to the claims of the Senior Creditors of the Issuer and Holders of Term Subordinated Notes (with the intent that all claims of Senior Creditors and Holders of Term Subordinated Notes are paid in full before any claims of the Holders of the Undated Subordinated Notes are paid), and prior to the commencement of a Winding-Up of the Issuer:

- (a) the obligation of the Issuer to make any payment in respect of the Undated Subordinated Notes is conditional upon the Issuer being solvent at the time the relevant payment falls due and, in the event that the Issuer is not solvent at that time, such obligation shall remain conditional until such time as the Issuer becomes solvent; and
- (b) no payment shall be made in respect of the Undated Subordinated Notes except to the extent that the Issuer may make such payment and still be solvent immediately thereafter.

6.4 Solvency

- (a) For the purposes of clauses 6.2 and 6.3, the Issuer shall be considered to be solvent at any time if at that time it is able to meet the solvency test in section 4 of the Companies Act.
- (b) A certificate as to whether the Issuer is solvent signed by two Authorised Officers of the Issuer or by two authorised signatories of the Auditor shall be prima facie evidence of the information contained therein.

6.5 Contingent debt

On a Winding-Up of the Issuer, the Supervisor and the Holders of Subordinated Notes shall only be entitled to prove for any sum payable in respect of the Subordinated Notes as a debt which is subject to and contingent upon prior payment in full of, in the case of Holders of Term Subordinated Notes, the Senior Creditors, or in the case of Holders of Undated Subordinated Notes, the Senior Creditors and the Holders of Term Subordinated Notes. The Supervisor agrees, and by purchasing, or otherwise becoming entered on the Register as a Holder of a Subordinated Note, each Holder of Subordinated Notes will be deemed to agree, that:

- (a) in accordance with section 313(3) of the Companies Act, it is accepting a lower priority in respect of the debt represented by such Note than that which it would otherwise have under section 313; and
- (b) nothing in section 313 will prevent this Deed or any Supplemental Trust Deed from having effect in accordance with its terms.

6.6 No set-off

No Holder of a Subordinated Note shall be entitled to net or set off against any amounts due in respect of the Subordinated Notes held by that Holder any amount held by the Holder to the credit of the Issuer or otherwise to reduce the amount due to such Holder in respect of a Subordinated Note by merger of accounts or lien or the exercise of any other rights of like effect. To the extent any netting, set-off, merger, lien or other right is required by law to be exercised that exercise shall be subject to clause 6.7.

6.7 Trust

Any payment, whether voluntarily or in any other circumstances, received by a Holder of Subordinated Notes or by the Supervisor on its behalf from or on account of the Issuer (including by way of credit, netting, set-off or otherwise) or from any liquidator, receiver, manager or statutory manager of the Issuer in breach of this clause 6 will be held by the Supervisor or the relevant Holder in trust for and to the order of the Senior Creditors (and, in the case of payments received by the Holders of Undated Subordinated Notes, payments will also be held in trust for and to the order of the Holders of Term Subordinated Notes). Any such trust hereby created shall be for a term expiring on the earlier of the date on which all Senior Creditors (and, in the case of any payment held in trust by a Holder of Undated

Subordinated Notes, the Holders of Term Subordinated Notes) have been paid in full or eighty years from the date of this Deed. Neither the Supervisor nor any Holder shall have any obligation under this clause 6 in respect of any payment received by anyone other than itself.

6.8 Performance of trust

Any trust mentioned in clause 6.7 may be performed by a Holder or the Supervisor by paying or repaying the amount so received or recovered, or so much thereof as shall be necessary to ensure that all of the Senior Creditors (and, in the case of any payment held in trust by a Holder of Undated Subordinated Notes, the Holders of Term Subordinated Notes) are fully paid or repaid, on trust to the liquidator of, or other person charged with or responsible for the making of distributions on behalf of, the Issuer or, where there is no such person, the Issuer, for distribution to the appropriate Senior Creditors (and, in the case of any payment held in trust by a Holder of Undated Subordinated Notes, the Holders of Term Subordinated Notes). The receipt of the liquidator or other such person or the Issuer, shall be a good discharge to the Holder or the Supervisor for the performance by it of the trust mentioned in clause 6.7. Any amount which becomes subject to the trust mentioned in clause 6.7 and which is paid or repaid by any Holder, as the case may be, or the Supervisor pursuant to this clause 6.8 shall thereafter be treated as between the Issuer and the Supervisor or the Holder as if it had never been received or recovered in the first place.

6.9 Contracts Privity Act

For the purposes of the Contracts (Privity) Act 1982 the provisions of this clause 6 are intended to confer a benefit upon the Senior Creditors and, subject to clause 2.7(a) to be enforceable by the Senior Creditors directly, but no consent of the Senior Creditors shall be required to any modification or amendment to this clause 6 in accordance with clause 21.

6.10 No subordination of Supervisor's entitlement

The provisions of this clause 6 apply only to payments or repayments by way of Principal Amount or interest on the Subordinated Notes and nothing in this clause 6 shall subordinate, defer in priority or point of payment, or otherwise affect or prejudice the payment or reimbursement of the fees, expenses, indemnities or other moneys payable to the Supervisor pursuant to this Deed or any relevant Supplemental Trust Deed, or the rights and remedies of the Supervisor in respect thereof.

6.11 Exercise of Supervisor's duties

Subject to clause 16.2, the Supervisor owes no duties to Holders of Subordinated Notes which are issued as part of a Wholesale Series. In respect of Subordinated Notes issued as part of a Retail Series, the duties of the Supervisor shall be construed and interpreted to recognise and take into account the subordinated nature of the Notes including the following characteristics:

- (a) the subordination and the postponement in priority of the Notes to indebtedness to all Senior Creditors (and also, in the case of Undated Subordinated Notes, to Holders of Term Subordinated Notes);
- (b) the Issuer may freely incur further indebtedness to Senior Creditors and further Subordinated Indebtedness; and
- (c) the Issuer may, in the circumstances set out in this Deed and any relevant Supplemental Trust Deed, suspend payment on the relevant Notes;

and the duties of the Supervisor, including the duties set out in the FMCA, shall to the extent permitted by law be limited and construed by reference to the special features of the

Subordinated Notes. All Holders of Subordinated Notes are deemed to have agreed to and accept and are bound by the foregoing limitations.

6.12 Notes paramount

In the execution of the trusts under this Deed in connection with Retail Notes, the Supervisor shall at all times:

- (a) regard the interests of the Retail Holders of Unsubordinated Notes as paramount to the interests of the Retail Holders of Subordinated Notes; and
- (b) regard the interests of the Retail Holders of Term Subordinated Notes as paramount to the interests of the Retail Holders of Undated Subordinated Notes,

and the Supervisor shall be entitled to act accordingly taking into account the ranking of interests of Retail Holders set out in this Deed and the relevant Supplemental Trust Deeds.

7. Payment of principal amount and interest

7.1 Determination of Principal Amount

The Principal Amount of each Note shall be the amount recorded as such in the Register in respect of that Note, which may be the par or face value or the amount calculated by the Registrar for that Note by reference to the formula recorded in the Register in respect of that Note.

7.2 Principal Amount of Wholesale Notes

The Issuer shall, on the Maturity Date of each Wholesale Note, unconditionally pay or cause to be paid to, or to the order of, the relevant Holder the Principal Amount of that Wholesale Note in accordance with the Conditions applicable to that Note.

7.3 Principal Amount of Retail Notes

- (a) Subject to clause 7.3(b), the Issuer shall, on the Maturity Date of each Retail Note, pay or cause to be paid to, or to the order of, the Supervisor the Principal Amount of that Retail Note in accordance with the Conditions applicable to that Note.
- (b) Notwithstanding clause 7.3(a), the Issuer shall, on the Maturity Date of each Retail Note (other than a Perpetual Note), unless and until otherwise requested by the Supervisor, pay or cause to be paid to, or to the order of, the relevant Holder the Principal Amount of that Retail Note in accordance with the Conditions applicable to that Retail Note. Such payment shall operate as a payment to the Supervisor in satisfaction (to the extent of the amount paid) of the Issuer's obligations under clause 7.3(a).

7.4 Principal Amount of Amortising Notes

The Issuer shall, on each Amortisation Date of each Amortising Note, unconditionally pay, or cause to be paid to, or to the order of, the relevant Holder, the portion of the Principal Amount of that Amortising Note as set out in respect of that Amortisation Date in the Register in respect of that Amortising Note in accordance with the Conditions applicable to that Note.

7.5 Interest

The Issuer shall pay interest on each Interest Payment Date:

- (a) on each Floating Rate Note for each Interest Period, at the rate per annum equal to the aggregate of the Base Rate for that Interest Period (as determined by the Registrar for the relevant Series) and the Margin for that Floating Rate Note;
- (b) on each Fixed Rate Note, at the Interest Rate for that Fixed Rate Note; and
- (c) on each Index-linked Note, in accordance with the formula or at the Interest Rate (as the case may be) recorded in the Register in respect of that Index-linked Note.

7.6 Interest on Wholesale Notes

The Issuer shall, as and when due and payable in accordance with the Conditions applicable to each Wholesale Note, unconditionally pay or cause to be paid to, or to the order of, the relevant Holder all interest and other amounts payable in respect of that Note in accordance with the Conditions applicable to that Note.

7.7 Interest on Retail Notes

- (a) Subject to clause 7.7(b), the Issuer shall, as and when due and payable in accordance with the Conditions applicable to each Retail Note, unconditionally pay or cause to be paid to, or to the order of, the Supervisor all interest and other amounts payable in respect of that Note in accordance with the Conditions applicable to that Note.
- (b) Notwithstanding clause 7.7(a), the Issuer shall, as and when due and payable in accordance with the Conditions applicable to each Retail Note, unless and until otherwise requested by the Supervisor and without the need for any Holder or the Supervisor on its behalf to give notice that payment is required, pay or cause to be paid to, or to the order of, the relevant Holder all interest and other amounts payable in respect of that Note in accordance with the Conditions applicable to that Note. Such payment shall operate as a payment to the Supervisor in satisfaction (to the extent of the amount paid) of the Issuer's obligations under clause 7.7(a).

7.8 Non-payment

Each Note will cease to bear interest from its Maturity Date unless payment of the Principal Amount is improperly withheld or refused (or, in the case of a Subordinated Note, if its repayment is suspended under clause 6). In such event, interest will continue to accrue (after, as well as before, any judgment) up to but excluding the date on which payment in full of the Principal Amount is made.

7.9 Default interest

If any amount payable in respect of a Note or any other amount due to any person under this Deed or a Supplemental Trust Deed is not paid on its due date interest (**Default Interest**) shall accrue on the unpaid amount (net of any interim or progress payments made) (after, as well as before, judgment) at the rate determined by the Registrar for the relevant Series to be (in the case of a Floating Rate Note) the aggregate of 2%, the Base Rate and the Margin or (in the case of a Fixed Rate Note) the aggregate of 2% and the relevant fixed rate, or (in the case of an Index-Linked Note) the aggregate of 2% and the one month Base Rate, as the case may be, which on the due date would apply to an Interest Period of one month, shall be determined at monthly intervals thereafter until the unpaid amount (net of any interim or progress payments) is paid and shall be compounded monthly until paid. For the

avoidance of doubt, this clause 7.9 shall not apply in respect of payments suspended in accordance with this Deed or any applicable Supplemental Trust Deed.

8. Calculation of interest

8.1 Floating Rate Notes

(a) Interest Periods

Each Interest Period in relation to a Floating Rate Note shall be a period of one, two, three, four, five or six months duration (as specified by the Issuer at the time of issue of that Note and entered in the Register) and:

- (i) the first Interest Period will commence on (and include) the Issue Date and end on (but exclude) the next Interest Payment Date and each subsequent Interest Period will commence on (and include) the Interest Payment Date of the previous Interest Period and end on (but exclude) the next Interest Payment Date;
- (ii) if an Interest Period would otherwise end on a day which is not a Business Day, it will be extended to the next Business Day, unless that day falls in the next calendar month, in which case that Interest Period will end on the first preceding day that is a Business Day; and
- (iii) if the final Interest Period would otherwise extend beyond the Maturity Date, it will end on the Maturity Date.

(b) Basis for calculation

Interest shall be calculated on the Principal Amount of each Floating Rate Note, on the basis of the number of days in the relevant Interest Period and a year of 365 days. Interest shall accrue from day to day and shall be paid to the Holder in arrears on the Interest Payment Date for that Interest Period.

8.2 Fixed Rate Notes

Interest shall be calculated on the Principal Amount of each Fixed Rate Note and shall be payable in arrears in equal quarterly, semi-annual, annual or other instalments on each Interest Payment Date for that Fixed Rate Note.

8.3 Index-linked Notes

- (a) In the case of an Index-linked Note for which the Principal Amount is calculated by reference to an Index, the Principal Amount on each Interest Payment Date (for the purposes of calculating the amount of interest payable by the Issuer on that Interest Payment Date) shall be determined in accordance with the formula recorded in the Register in respect of that Index-linked Note.
- (b) If the amount of interest payable on an Index-Linked Note on an Interest Payment Date is a negative amount, no amount by way of interest shall be payable by the Issuer on that Interest Payment Date and the positive equivalent of that amount will be deducted from the Principal Amount of that Index-Linked Note for the balance of the term of that Note. Nothing in this clause 8.3 obliges the Holder of that Index-Linked Note to make any payment to the Issuer by reason of the interest payable on the relevant Interest Payment Date being a negative amount.

- (c) If a deduction made pursuant to this clause results in the Principal Amount of the Index-Linked Note being equal to or less than zero, the Issuer shall not be required to make any further payments of interest or principal in respect of that Note and that Note shall be cancelled.

8.4 Broken Periods

The Conditions of any Note may provide that interest for the initial Interest Period for that Note is calculated on a daily basis from a specified date until the first Interest Payment Date.

9. Payments

9.1 Payment to Holder

Payment of the Principal Amount of, and interest (if any) on, a Note (less any amount required to be deducted in accordance with clause 10) shall be made to the person whose name appears in the Register as the Holder of the Note on the Record Date in respect of the relevant payment. If more than one person is so named in the Register, payment will be made to the first person so named.

9.2 Method of payment

A Holder may, by notice to the Registrar for the relevant Series, request the Registrar to make payments in respect of any Note held by it to a specified bank account and may at any time cancel or amend any notice so given. No such notice, or cancellation or amendment of a notice, will have effect in respect of any payment unless received by the Registrar before the Record Date for that payment. In the absence of any such notice payments in respect of each Note will be made by posting a cheque to the address of the relevant Holder appearing in the Register at the Holder's risk. Any notice given under this clause 9.2 will be deemed to be automatically cancelled upon transfer of all or part of a Note. A notice from one of several Holders of the same Notes shall be deemed to be given by all such Holders.

9.3 Business Day

If any Interest Payment Date or the Maturity Date of a Note is not a Business Day for that Note, the due date for the payment to be made on that date will, subject to the terms of the relevant Supplemental Trust Deed, be:

- (a) in relation to a Fixed Rate Note, the next following Business Day and all other provisions of this Deed and each Agency Agreement will be read and construed accordingly; or
- (b) in relation to a Floating Rate Note, the next following Business Day unless that following Business Day falls in the next calendar month, in which case the due date for payment to be made will be the first Business Day preceding that Interest Payment Date or that Maturity Date, and all other provisions of this Deed and the Agency Agreement will be read and construed accordingly.

9.4 Unclaimed payments

(a) Retail Notes

In respect of any Retail Note, if any payment made by the Issuer to any Retail Holder of that Retail Note at its address last entered in the Register is returned unclaimed the amount concerned will (unless the Registrar or the issuer has in the meantime received notice of a change of address to be entered in the Register) be retained by the Registrar for the relevant Retail Series to be held by it for the Retail Holder

concerned without any liability to invest or pay interest on that amount. Any money not claimed within a period of six months from the original date of payment must be returned to the Issuer. The Issuer will have no liability in respect of the amount concerned if it remains unclaimed six years after the original date of payment unless a Holder subsequently provides the Issuer with proof of its entitlement thereto together with evidence that that Holder has no claim for the relevant amount under the Unclaimed Money Act 1971.

(b) **Wholesale Notes**

In respect of any Wholesale Notes, if any payment made by the Issuer to any Wholesale Holder at its address last entered in the Register is returned unclaimed the amount concerned must (unless the Registrar or the Issuer has in the meantime received notice of a change of address to be entered in the Register) be returned to the Issuer unless it is otherwise agreed between the Issuer and the Registrar for the relevant Notes that such unclaimed monies are to be retained by the Registrar. The Issuer will have no liability in respect of the amount concerned if it remains unclaimed six years after the original date of payment unless a Holder subsequently provides the Issuer with proof of its entitlement thereto together with evidence that that Holder has no claim for the relevant amount under the Unclaimed Money Act 1971.

9.5 Reinstatement

If any payment made to a Holder by, or on behalf of, the Issuer is subsequently rescinded, avoided or otherwise restored to the Issuer, that payment will be deemed not to have discharged or affected the liability of the Issuer in respect of which that payment was made. In that event the relevant Holder and the Issuer will be restored to the position in which each would have been, and be entitled to exercise all the rights which each would have had, if such payment had not been made.

10. Taxes

10.1 Deductions or withholdings

All sums payable under a Note or under this Deed or any applicable Supplemental Trust Deed must be paid:

- (a) free of any restriction or condition;
- (b) free and clear of, and (except to the extent required by law or as provided in this clause 10) without any deduction or withholding on account of, any taxes; and
- (c) (except to the extent required by law) without deduction or withholding on account of any other amount whether by way of set-off or otherwise (except as provided in clauses 10.2, 10.3 and 10.4).

10.2 Non-resident Withholding Tax

Unless otherwise stated in the relevant Information Memorandum or if the relevant non-tax resident Holder notifies the Issuer that it elects that non-resident withholding tax be deducted from payments to it instead of Approved Issuer Levy, if the Issuer is lawfully able to pay Approved Issuer Levy in respect of any payment of interest (or deemed interest) to non-tax resident Holders, the Issuer, or the Registrar for the relevant Series on its behalf, shall pay the Approved Issuer Levy to the appropriate authority and shall deduct the amount paid from the interest (or deemed interest) payable to those Holders in lieu of deducting New Zealand non-resident withholding tax from that payment at the rate otherwise applicable. The amount of the Approved Issuer Levy will be reimbursed to the Issuer by the Issuer deducting the

amount of Approved Issuer Levy from the amount of interest otherwise to be paid or compounded to or for the benefit of the non-tax resident Holder. If the non-tax resident Holder has so elected or if the Issuer is not lawfully able to pay Approved Issuer Levy, New Zealand non-resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to non-tax resident Holders. This clause does not apply if the non-tax resident Holder derives interest jointly with one or more tax resident Holders, in that case New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) in accordance with clause 10.3.

10.3 Resident Withholding Tax

New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are tax resident or to payments made to non-tax resident Holders where that Holder derives interest jointly with one or more tax resident Holders unless the Holder is able to establish to the satisfaction of the Issuer, or the Registrar for the relevant Series on its behalf, either by means of the provision of a copy of an appropriate valid exemption certificate or otherwise, that no such tax need be deducted, before the Record Date for the relevant payment.

10.4 No gross-up

The Issuer will not be required to and will not make any additional payment by way of gross-up or otherwise with respect to the deduction or withholding from any payment made in respect of the Notes under clause 10.2 or 10.3. If, in respect of any Note, the Registrar for the relevant Series or the Issuer becomes liable to make any payment of, or on account of, tax payable by any Holder, then the Registrar for the relevant Series and the Issuer shall be indemnified by the relevant Holder in respect of such liability. Any moneys paid by the Registrar for the relevant Series or the Issuer in respect of such liability may be recovered from the Holder as a debt due to the Registrar for the relevant Series or the Issuer and may be withheld from any further payments to that Holder. Nothing in this clause 10.4 will prejudice or affect any other right or remedy of the Registrar for the relevant Series or the Issuer.

10.5 Maximum rate

Deductions of non-resident or resident withholding tax will be made at the default rates required under law from time to time applicable unless a Holder provides an election to the Issuer or the Registrar for the relevant Series (acceptable to it) that a different rate is applicable.

10.6 Tax status

The Issuer and the Registrar for the relevant Series shall be entitled for the purposes of this clause 10 to rely, without further enquiry, upon any evidence produced or statement made by, or on behalf of, a Holder in relation to that Holder's tax status or tax residency, and to regard the Holders entered in the Register as the only beneficial owners of the relevant Notes.

11. Representations and warranties

11.1 Representations and Warranties

The Issuer represents and warrants to the Supervisor and the Holders of each Series that:

- (a) **Power and Authority:** it has:

- (i) the corporate power to enter into, exercise its rights and perform and comply with its obligations under this Deed and the relevant Supplemental Trust Deed and to issue the Notes; and
 - (ii) taken all necessary corporate action to authorise the entry into, execution and delivery of this Deed and the relevant Supplemental Trust Deed and the performance of all the obligations expressed to be binding on it and the issue of the Notes;
- (b) **Valid Obligations:** this Deed, the relevant Supplemental Trust Deed and the Notes (once issued) constitutes its legal, valid and binding obligations enforceable against it in accordance with their terms;
- (c) **No Laws Violated:** none of the execution and delivery of this Deed or the relevant Supplemental Trust Deed, nor the exercise by it of any right or the performance or observance of any obligation under this Deed, or the relevant Supplemental Trust Deed, the Notes nor any transactions contemplated thereby, will:
- (i) violate or contravene any law to which it is subject; or
 - (ii) conflict with, or result in any breach of, any agreement, document, arrangement, obligation or duty to which it is a party or by which it or any of its assets may be bound; or
 - (iii) violate any of the documents constituting it or cause any limitation on any of its powers, or on the right or ability of its directors to exercise those powers, to be exceeded; and
- (d) **No Event of Default:** no Event of Default has occurred and is continuing; and
- (e) **Authorisations:** all authorisations required by it in relation to the entry into, execution or performance by it and the validity and enforceability of this Deed, the relevant Supplemental Trust Deed and the Notes have been obtained or effected and are in full force and effect.

11.2 Supplemental Trust Deed

In respect of a Series, the Issuer shall make such further representations and warranties as are set out in the Supplemental Trust Deed for that Series.

11.3 Repetition

In respect of a Series, the representations and warranties contained in:

- (a) clause 4.1 of the Deed of Negative Pledge and Guarantee; and
- (b) clauses 11.1 and 11.2 above,

shall be deemed to be repeated by the Issuer for the benefit of the Supervisor and the Holders of that Series on the Issue Date and each Interest Payment Date of each Note forming part of that Series.

12. Undertakings

12.1 General undertakings

The Issuer undertakes to the Holders of each Series and (in respect of Retail Series only) the Supervisor that it will, for so long as any Notes of that Series are outstanding:

(a) **Agency Agreement:**

comply with and perform all material obligations under each Agency Agreement and use all reasonable endeavours to ensure that each Registrar also does so;

(b) **Registrar:**

ensure that a Register for each Series of Notes is maintained and give, or procure that the Registrar gives, notice to the relevant Holders of any resignation or removal of the Registrar for that Series and the appointment of any replacement Registrar promptly following such event, provided that any resignation or removal of the Registrar shall not be effective until the replacement Registrar is appointed;

(c) **Register:**

in relation to that Series, use all reasonable endeavours to cause the Registrar for that Series to keep the Register for that Series pursuant to the relevant Agency Agreement;

(d) **Authorisations:**

in relation to that Series, obtain, effect and promptly renew from time to time all material authorisations required under any applicable law to enable it or any relevant Guaranteeing Group Company to perform and comply fully with the Conditions for that Series or required on its part (or on the part of any relevant Guaranteeing Group Company) for the validity or enforceability of the Transaction Documents for that Series;

(e) **Notify Event of Default to Holders:**

promptly notify the Supervisor (in the case of a Retail Series), and the Holders and the Supervisor (in the case of a Wholesale Series), of the occurrence of any Event of Default;

(f) **Report of contravention:**

where that Series is a Retail Series, if the Issuer has reasonable grounds to believe that it has contravened, may have contravened, or is likely to contravene, any of its issuer obligations in respect of that Retail Series in a material respect, it will, as soon as practicable, report to the Supervisor in writing of the contravention or possible contravention and advise the Supervisor of the steps (if any) that it has taken or intends to take in light of the contravention or possible contravention, and the date by which the steps were taken or are to be taken;

(g) **Insolvency:**

where that Series is a Retail Series, if the Issuer becomes aware of information on the basis of which it could reasonably form the opinion that it is, or is likely to become insolvent (as defined in the FMCA), it will, as soon as practicable:

- (i) disclose to the Supervisor all information relevant to that matter that is in its possession or under its control and that was obtained in the course of, or in connection with, the performance of its functions as issuer; and
 - (ii) advise the Supervisor of the steps (if any) that it intends to take in respect of that matter and the date by which the steps are to be taken;
- (h) **Send Notices:**
- send copies to the Supervisor of all notices given by it to Holders of that Series generally;
- (i) **Corporate Existence:**
- maintain its corporate existence and will not amalgamate, merge or consolidate with any person unless (and without prejudice to the Issuer's rights under clause 24):
- (i) the Issuer is, following the amalgamation, merger or consolidation, the continuing legal entity; or
 - (ii) in any other case, the resulting or surviving entity assumes the obligations of the Issuer under the relevant Notes to the satisfaction of the Supervisor and any Wholesale Holders; and
- (j) **FMCA:**
- where that Series is a Retail Series, comply with the provisions of the FMCA and FMC Regulations applicable to the Retail Notes;
- (k) **Information Memorandum:**
- not issue any Information Memorandum in respect of the issue of Notes without prior notice to the Supervisor, and not include any statement in any such Information Memorandum, or any advertisement (as defined in the FMCA) for any Notes, concerning the Supervisor, without the prior consent of the Supervisor; and
- (l) **Dealings with non-Guaranteeing Group Companies**
- where that Series is a Retail Series (other than a Retail Series for which clause 3.3 of the Deed of Negative Pledge and Guarantee is disapplied in the Supplemental Trust Deed for that Retail Series) no Guaranteeing Group Company shall make any loan to, or provide any guarantee, indemnity or similar obligation in respect of, the obligations of any related company (as defined in section 2(3) of the Companies Act 1993) which is not a member of the Guaranteeing Group otherwise than in the ordinary course of business for fair value and on arms-length terms or where such is not material in relation to the assets of the Guaranteeing Group taken as a whole.

12.2 Financial Covenants

In relation to any Retail Notes other than a Retail Series for which clause 2.3 of the Deed of Negative Pledge and Guarantee is disapplied in the Supplemental Trust Deed for that Retail Series, the Issuer agrees for the benefit of the Supervisor (who shall hold its rights under this clause on trust for Retail Holders in accordance with this Deed) that it shall ensure that, as at the date as at and to which its Consolidated Financial Statements delivered to the Supervisor under clause 2.1.1 or 2.1.2 of the Deed of Negative Pledge and Guarantee are prepared:

(a) **Debt:Equity Ratio**

$$\frac{\text{Debt}}{\text{Debt} + \text{Shareholders Funds}}$$

the ratio shall not exceed 60%; and

(b) **Guaranteeing Group Worth**

the TTA Ratio shall not be less than 80%.

In this clause 12.2, capitalised terms that are not otherwise defined in this Deed shall have the meaning given to them in the Deed of Negative Pledge and Guarantee.

12.3 Reports

The Issuer covenants with the Supervisor that, so long as any Retail Notes are outstanding, it will:

- (a) deliver to the Supervisor (as soon as practicable and in any event within 5 days after the same are provided to NZX or, if the Issuer is not Listed, within 90 days after the end of the relevant period):
 - (i) in respect of each financial half-year ending on a day other than a day that is the end of a financial year, a copy of its half-year report as required by NZX, and which shall include Financial Statements of the Group for that half-year, prepared in accordance with generally accepted accounting practice (as that term is defined in the Financial Reporting Act); and
 - (ii) in respect of each financial year, a copy of its annual report as required by NZX, and which shall include audited Financial Statements of the Group for that financial year, prepared in accordance with generally accepted accounting practice (as that term is defined in the Financial Reporting Act);
- (b) make available or provide to the Supervisor or a person authorised by it for these purposes all documents or records relating to the Issuer and any report or other information (which may be about any matter relevant to the Supervisor's performance of its functions and include forward-looking reports) that the Supervisor or its authorised person, by written notice, require the Issuer to make available or provide within the timeframe and in the manner specified by the Supervisor or its authorised person in that notice, provided that such timeframe and manner are reasonable in the circumstances; and
- (c) if at any time the TTA Ratio is below 85%, deliver to the Supervisor (as soon as practicable and in any event within 5 days after the same are provided to NZX or, if the Issuer is not Listed, within 90 days after the end of the relevant period):
 - (i) in respect of each financial half-year ending on a day other than a day that is the end of a financial year, Financial Statements of the Guaranteeing Group for that half-year, prepared in accordance with generally accepted accounting practice (as that term is defined in the Financial Reporting Act); and
 - (ii) in respect of each financial year, Financial Statements of the Guaranteeing Group for that financial year, prepared in accordance with generally accepted accounting practice (as that term is defined in the Financial Reporting Act), together with an audit report in respect of those Financial Statements if the same are audited.

12.4 Director's certificate

Not later than the time of delivery of the half-year report or the annual report (as applicable) under clause 12.3, the Issuer must deliver to the Supervisor a certificate, substantially in the form set out in schedule 2 (or as otherwise agreed between the Supervisor and the Issuer) stating the matters referred to therein as at the end of and in respect of such year or half-year, as applicable.

12.5 Auditor's report

The Issuer shall, so long as any Retail Notes are outstanding, provide to the Supervisor, at the same time as the annual report for the Issuer is provided in accordance with clause 12.3(a), a separate report by the Auditor stating:

- (a) whether, in the course of performing their duties as auditor, they have become aware of:
 - (i) any non-payment of interest or any breach of the provisions of this Deed or any Supplemental Trust Deed, and if so giving particulars thereof; or
 - (ii) any matter which, in their opinion, is relevant to the exercise or performance of the powers or duties conferred or imposed on the Supervisor by this Deed or any Supplemental Trust Deed, by law or by the FMCA, and if so giving particulars thereof;
- (b) whether, in their opinion, there is reasonable assurance that, in all material respects, the Register for each Retail Series has been duly maintained in accordance with the FMCA and correctly contains the information required by the FMCA;
- (c) whether their audit has disclosed any matter, and if so giving particulars thereof, calling in their opinion for further investigation by the Supervisor in the interests of the Holders;
- (d) that they have perused the certificate of the directors provided in accordance with clause 12.4 (**Directors' certificate**) given since the last report by the Auditor (or the date of this Deed, whichever is the later), and that, so far as matters which they have observed in the performance of their duties as auditor are concerned, nothing has come to their attention to show that the statements made in the Directors' certificate are not correct;
- (e) the aggregate Principal Amount of Notes in each Series on issue and outstanding; and
- (f) any other matter required by the FMCA or the FMC Regulations to be set out in that report.

Notwithstanding the above, and without limiting the other provisions of this Deed (including the Trust Powers under this Deed), the Auditor's report may be provided in such other form as may be agreed between the Issuer, the Supervisor and the Auditor from time to time.

12.6 Appointment of Auditor

(a) Appointment

For so long as any Retail Notes are outstanding, the Issuer must, before recommending the appointment or reappointment of a person as an auditor of the Issuer:

- (i) consult with the Supervisor on such appointment or reappointment and the nature and scope of any assurance engagement in relation to the Issuer's compliance with this Deed;
- (ii) ensure that any comments of the Supervisor concerning the proposed Auditor are brought to the attention of the persons appointing or reappointing the Auditor;
- (iii) give the Supervisor an opportunity to be a party to the assurance engagement for the purpose of the Supervisor obtaining assurance of matters relevant to the exercise or performance of the Supervisor's powers or duties;
- (iv) ensure that the terms of appointment of the Auditor, whether the Auditor is conducting an audit, review or other engagement, include that the Auditor will give the Supervisor an opportunity to meet with the Auditor, without any representative of the Issuer being present, to raise or discuss:
 - (A) at the beginning of such engagement, any issues or concerns relevant to the exercise or performance of the Supervisor's powers or duties; and
 - (B) matters arising in the performance of such engagement and to answer any questions the Supervisor may have concerning such engagement.

(b) **Resignation**

For so long as any Retail Notes are outstanding, the Issuer must notify the Supervisor if the Auditor resigns from appointment, or declines to accept appointment or reappointment, and must pass on to the Supervisor any explanation provided by the Auditor for resigning its appointment or declining to accept appointment or reappointment. The Issuer must not attempt to prevent any person who has resigned its appointment as an auditor, or declined to accept an appointment or reappointment as an auditor, from offering an explanation, or disclosing to the Supervisor the reason, for resigning or declining appointment or reappointment.

13. Default

13.1 Events of Default

If an Event of Default occurs then, at any time thereafter, provided the Event of Default is continuing unremedied:

(a) **Wholesale Series**

a Wholesale Holder may, without prejudice to any other remedies which that Holder may have, declare all (but not some only) of the Notes held by that Holder to be immediately due and payable by notice in writing to the Issuer; and

(b) **Retail Series**

the Supervisor may in its discretion and shall immediately upon being directed to do so by an Extraordinary Resolution passed by Holders of the Retail Notes declare the Notes of each Retail Series to be immediately due and payable by notice in writing to the Issuer.

13.2 Distribution of funds in respect of Retail Notes

All moneys received by the Supervisor in respect of Retail Notes from the Issuer on or after the Date of Enforcement shall (subject to payment of any debts or liabilities having priority to or ranking equally with any amounts due to Holders pursuant to those Notes) be held and applied (subject to the provisions of clause 6 of this Deed):

- (a) first, subject to any direction made by any court, in payment of all amounts due to the Supervisor under this Deed and the relevant Supplemental Trust Deed (including all expenses, losses and liabilities sustained or incurred by the Supervisor under this Deed and the relevant Supplemental Trust Deed, all fees payable to the Supervisor under this Deed and the relevant Supplemental Trust Deed, and any Default Interest on each such amount);
- (b) secondly, in or towards payment to the Retail Holders of Unsubordinated Notes, rateably in proportion to the amounts actually or contingently owing to them in respect of the Unsubordinated Notes held by them;
- (c) thirdly, in or towards payment to the Retail Holders of Term Subordinated Notes (if any), rateably in proportion to the amounts actually or contingently owing to them in respect of the Term Subordinated Notes held by them;
- (d) fourthly, in or towards payment to the Retail Holders of Undated Subordinated Notes (if any) rateably in proportion to the amounts actually or contingently owing to them in respect of the Undated Subordinated Notes held by them; and
- (e) fifthly, the surplus (if any) of such moneys, in payment to the Issuer or to such other person (including a liquidator of the Issuer) who may be lawfully entitled thereto.

14. Appointment of Supervisor

The Issuer appoints the Supervisor, and the Supervisor accepts appointment, as supervisor for the Holders on the terms and conditions of this Deed. The Supervisor shall hold in trust for the benefit of all Retail Holders the right to enforce any obligations or duties that the Issuer has under this Deed and the FMCA, including the right to enforce the Issuer's obligation to repay to a Holder the Principal Amount of the Notes held by that Holder, together with interest thereon, in accordance with the terms of this Deed and, if applicable, any charge or security for repayment of the Notes.

15. Supervisor's Fees, Expenses and Indemnities

15.1 Fees

The Issuer shall pay to the Supervisor such fees (plus goods and services tax (if any)) as may from time to time be agreed between them in writing.

15.2 Expenses

The Issuer shall pay all expenses (including legal fees on a full indemnity basis and travelling expenses) reasonably incurred by or on behalf of the Supervisor in connection with:

- (a) the preparation, signing and (if applicable) registration of this Deed, each Supplemental Trust Deed, and each Information Memorandum;
- (b) the exercise of any Trust Power, including the taking of any expert advice deemed reasonably necessary or expedient by the Supervisor;

- (c) the convening and holding, and carrying out of any directions or resolutions, of any meeting of Holders in accordance with the terms and conditions of this Deed and any Supplemental Trust Deed; or
- (d) any waiver, consent or other action requested by the Issuer.

15.3 Indemnity by Issuer

Subject to clause 19.1 and without prejudice to the right of indemnity by law given to trustees, the Supervisor and each of its officers, directors, employees and agents shall be indemnified by the Issuer for all expenses, losses and liabilities (and for the avoidance of doubt excluding income tax on the Supervisor's remuneration) reasonably sustained or incurred in carrying out its licensee obligations (as defined in section 4 of the FMISA) or the Trust Powers or otherwise for any action taken, or omitted to be taken, in accordance with the provisions of this Deed, other than a claim arising out of a wilful default, gross negligence or wilful breach of trust.

15.4 Indemnity by Holders

Subject to clause 16.3(a)(vi), the Supervisor is not required to take any action or exercise any Trust Power or comply with any request or direction pursuant to this Deed or any relevant Supplemental Trust Deed (whether or not it is expressed to be bound to do so) unless, subject to clause 19.1, it has first been indemnified to its satisfaction against all reasonable expenses, losses and liabilities it may sustain or incur by so doing.

15.5 Payments

The fees, expenses, indemnities and other amounts payable under this Deed or any relevant Supplemental Trust Deed to the Supervisor (excluding for the avoidance of doubt amounts payable in respect of the Notes) shall be payable by the Issuer at the times agreed (or, in the absence of agreement, on demand) and only on production of a valid tax invoice as defined in the Goods and Services Tax Act 1985 (if applicable) and, if not paid when due, shall carry Default Interest in accordance with clause 7.9 until paid at a rate equal to the aggregate of 2% and the Base Rate which on the due date would apply to an interest period of one month.

16. Supervisor's Powers and Duties

16.1 General powers

The powers, authorities and discretions conferred on the Supervisor by this Deed and each Supplemental Trust Deed shall be in addition to any powers, authorities and discretions which may from time to time be vested in trustees by law in relation to Retail Notes or (if applicable) Wholesale Notes and to any powers, authorities and discretions which may from time to time be vested in the Supervisor as the Holder of any Note.

16.2 Wholesale Series

- (a) The Supervisor shall have no powers or duties in relation to any Wholesale Series except:
 - (i) the powers and duties explicitly set out in the Conditions for any Wholesale Notes; and
 - (ii) the power to compel the Issuer to call a meeting of Wholesale Holders or any Class of Wholesale Holders when requested to do so by Wholesale Holders of

more than 10% of the aggregate Principal Amount of the Wholesale Notes or that Class of Wholesale Notes.

- (b) Where any authorisation or direction in respect of the taking of any action or other matter may, under the provisions of this Deed or any Supplemental Trust Deed, be given to the Supervisor by an Extraordinary Resolution of Wholesale Holders, the Supervisor may act in reliance upon such authorisation or (as the case may be) shall act in accordance with any such direction, and shall not be responsible for any costs, damages, expenses, liabilities or inconvenience that may result from the actions so taken in reliance thereon, provided that the Supervisor shall not be so bound to act unless first indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, damages, expenses and liabilities which it may incur by so doing.

16.3 Retail Series

In relation to each Retail Series the Supervisor shall, in addition to any powers provided by law, have the following powers and duties, subject to the terms of the Supplemental Trust Deed in relation to the relevant Series:

(a) **General responsibilities and duties:**

The Supervisor:

- (i) is responsible for acting on behalf of the Retail Holders in relation to the Issuer, any matter connected with this Deed or the terms of the offer of a Retail Series and any contravention or alleged contravention of the issuer obligations in respect of a Retail Series;
- (ii) is responsible for supervising the Issuer's performance of its issuer obligations and in order to ascertain whether or not the assets of the Issuer that are or may be available, are sufficient or likely to be sufficient to discharge the payment obligations of the Issuer in respect of the Retail Notes as they become due, subject, in the case of any Subordinated Notes issued as part of a Retail Series, to clause 6.11;
- (iii) is responsible for performing and exercising any other functions, duties and powers conferred or imposed on the Supervisor by this Deed, the FMCA and the FMSA;
- (iv) must:
 - (A) act honestly in acting as supervisor;
 - (B) in exercising its powers and performing its duties as supervisor, act in the best interests of the Retail Holders;
 - (C) exercise reasonable diligence in carrying out its functions as supervisor;
- (v) must do all the things it has the power to do to cause any contravention or alleged contravention of the issuer obligations in respect of a Retail Series to be remedied unless it is satisfied that the contravention will not have a material adverse effect on the Retail Holders of that Retail Series;
- (vi) subject to any court order made under section 210 of the FMCA, must act in accordance with any direction given by an Extraordinary Resolution of Retail Holders or an affected Class of Retail Holders that is not inconsistent with any enactment, rule of law or this Deed in relation to:

- (A) seeking a remedy to a contravention or alleged contravention of the issuer obligations in respect of a Retail Series; and
- (B) any other matter connected with the Supervisor's functions; and
- (vii) in exercising its powers and performing its duties as supervisor, must exercise the care, diligence, and skill that a prudent person engaged in the business of acting as a licensed supervisor (as those terms are defined in the FMCA) would exercise in the same circumstances.

(b) Applications to court

Having regard to any other powers or remedies available to it under this Deed or the relevant Supplemental Trust Deed or at law for the protection of the interests of Retail Holders and to all other circumstances relevant to the general interests of such Holders, the Supervisor may apply to the court for an order:

- (i) under section 208 of the FMCA, if the Supervisor is satisfied that:
 - (A) the Issuer is unlikely to be able to pay all money owing in respect of one or more Retail Series as and when due;
 - (B) the Issuer is insolvent (as defined in the FMCA) or the financial position or management of the Issuer is otherwise inadequate;
 - (C) there is a significant risk that the interests of Retail Holders will be materially prejudiced for any other reason; or
 - (D) the provisions of this Deed are no longer adequate to give proper protection to the interests of the Retail Holders; or
- (ii) under section 210 of the FMCA and within 20 working days (or, with leave of the court, within any longer period) after the passing of an Extraordinary Resolution of Retail Holders, directing it not to comply with an Extraordinary Resolution of Retail Holders,

and it may support or oppose any such application to the court made by or at the instance of the FMA or any Retail Holder (where applicable). The Supervisor shall, in accordance with clause 15.3, be indemnified by the Issuer against all expenses incurred in relation to any such application or proceedings, provided that the Supervisor must consult with the Issuer prior to making any such application before the Date of Enforcement.

(c) Material breach

If the Issuer breaches any issuer obligation in respect of a Retail Series or any such breach is likely to occur, the Supervisor shall, unless it is satisfied that such breach will not have a material adverse effect on the Holders of that Retail Series, be entitled in its absolute discretion to require the Issuer to promptly report to those Retail Holders the circumstances and the nature of such breach and any other relevant information concerning the Issuer which the Supervisor has received in relation to this Deed and which it reasonably considers to be material to those Holders, and invite those Holders to indicate to the Supervisor their preferences as to any exercise or non-exercise of the Trust Powers under this Deed or the relevant Supplemental Trust Deed. If the Issuer fails to give that report the Supervisor shall be entitled to do so itself.

(d) Represent Holders

The Supervisor may, either of its own volition or pursuant to any directions or in accordance with any policy given or indicated by any meeting of Retail Holders, represent and act on behalf of those Holders in any matter concerning them generally.

(e) **Investment**

Any moneys held by the Supervisor which are subject to the trusts created by this Deed or any relevant Supplemental Trust Deed may, at the discretion of the Supervisor, be invested in the name of the Supervisor or its nominee in any investment whatsoever, with power to vary such investments for others of a like nature and to deal with, or dispose of, such investments. The income (less any commissions properly payable to the Supervisor) arising from all such investments made by the Supervisor will belong to the person in respect of whom such moneys are held by the Supervisor.

(f) **Power to remedy breach**

The Supervisor's powers to remedy any breach of this Deed or any relevant Supplemental Trust Deed are subject to any other provision of this Deed or the relevant Supplemental Trust Deed which is inconsistent with the exercise of such powers.

(g) **Power to engage expert**

The Supervisor may engage an expert (for example, an auditor, investigating accountant, valuer or actuary) if the Supervisor considers, on reasonable grounds, that it requires the assistance of the expert:

- (i) to determine the financial position of the Issuer; or
- (ii) to review the business, operation, management systems or the governance of the Issuer.

Where the Supervisor engages an expert pursuant to this clause 16.3(g), the Issuer shall provide reasonable assistance to the expert to allow the expert to provide the assistance and (without limiting clause 15.2(b)) the fees and expenses of the expert, which must be reasonable in the circumstances, shall be paid by the Issuer.

17. Exercise of Supervisor's Powers

17.1 Discretion

Except as otherwise expressly provided in this Deed or any relevant Supplemental Trust Deed, the Supervisor:

- (a) has absolute discretion as to the exercise or non-exercise of the Trust Powers and as to the conduct of any action, proceeding or claim (provided it has acted with reasonable care and diligence);
- (b) may refrain from exercising any Trust Power until directed by Extraordinary Resolution of the Holders or the affected Class of Holders to do so; and
- (c) will not be responsible for any loss, costs, damages, expenses or inconvenience that may result from the exercise or non-exercise of any Trust Power.

17.2 Reliance

The Supervisor shall be entitled without liability for loss, to obtain, accept and act on, or to decline and elect not to act on:

- (a) any communication or document (including any fax or email) reasonably believed by it to be genuine and correct;
- (b) any resolution which the Supervisor believes to have been properly passed at any meeting of Holders or the affected Class of Holders;
- (c) advice and statements of lawyers, accountants and other experts reasonably selected by it or the Issuer;
- (d) a certificate signed by or on behalf of the Issuer by at least one director of the Issuer or the Chief Financial Officer of the Issuer, as to any matters of fact which might reasonably be expected to be within the knowledge of the Issuer or that any particular transaction, step or thing is expedient or commercially desirable and not detrimental to the interests of Holders generally or of any Class of Holders, as sufficient evidence of such fact or the expediency or desirability of such transaction, step or thing; and
- (e) the statements contained in any certificate or certificates or in any report or reports given pursuant to the provisions of this Deed or any Supplemental Trust Deed, as conclusive evidence of the facts stated therein.

17.3 Delegation

The Supervisor must not delegate any of its functions under clauses 16.3(a)(i) to (iii) unless such delegation is expressly permitted by the FMCA or permitted by, and then subject to, conditions imposed under the FMSA but may, for the avoidance of doubt, delegate its other functions. Where the Supervisor may delegate its functions, it may, whenever it thinks it expedient in the interests of the relevant Holders to do so, may:

- (a) delegate at any time to any person any of the Trust Powers (including the giving of power to sub-delegate) which cannot conveniently be exercised by it or through its employees, upon such terms and conditions it thinks fit provided any such delegation shall not relieve the Supervisor of its responsibilities under this Deed and all Supplemental Trust Deeds; and
- (b) authorise any person as it thinks fit to act as its representative at any meeting.

17.4 Supervisor's consent

Any consent given by the Supervisor for the purposes of this Deed or a Supplemental Trust Deed may be given on such terms and conditions (if any) as the Supervisor thinks fit.

17.5 Subscribers' money

The Supervisor shall not be responsible for monitoring the application by the Issuer of the money paid by purchasers of the Notes.

17.6 Safe custody

The Supervisor may, at the expense of the Issuer, hold or place this Deed and any other documents with any bank or any person whose business includes the undertaking of safe custody of documents or with any lawyer or firm of lawyers (in each case reasonably

considered by the Supervisor to be of good repute) and the Supervisor is not responsible for or required to insure against any loss incurred in connection with that deposit.

17.7 **Fiduciary relationship**

Nothing in this Deed prohibits the Supervisor, its holding company, any of its subsidiaries or any of the subsidiaries of its holding company (each a “**Relevant Company**”) or the directors or officers of each Relevant Company from:

- (a) being a Holder or a holder of shares or other securities of the Issuer or any associated company of the Issuer; or
- (b) acting in any representative capacity for a Holder or any such holder of shares or other securities.

Without limitation, the Relevant Company may so act on its own account or as executor, administrator, trustee, receiver, committee, guardian, attorney or agent or in any other fiduciary, vicarious or professional capacity. In doing so, it will not be deemed to be a breach of this Deed, any Supplemental Trust Deed or obligations imposed or implied by law arising out of the fiduciary relationship between the Supervisor and the Holders.

The Relevant Company will not by reason of its fiduciary capacity be prevented from:

- (a) making any contracts or entering into any transactions with the Issuer or any associated company of the Issuer in the ordinary course of the business of the Relevant Company; or
- (b) undertaking any insurance, financial or agency service for any of them; or
- (c) accepting or holding the office of trustee for the holders of any securities (whether secured or unsecured) issued by the Issuer or by any other entity.

The Relevant Company will not be accountable to the Issuer or to any other company or the Holders for any profits arising from any such contracts, transactions or offices.

17.8 **Confidentiality**

Unless required to do so by law, court order or the Conditions, the Supervisor shall not be required to disclose to any Holder any confidential financial or other information made available to the Supervisor by the Issuer.

17.9 **Binding on all Holders**

Any action taken by the Supervisor in accordance with this Deed is binding on all of the Holders or all of the relevant Holders (as the case may be).

17.10 **No obligation to consult**

Except where expressly required otherwise in this Deed, the Supervisor is not obliged to consult with the Holders before giving any consent, approval or agreement or making any determination under this Deed.

17.11 **Listing Rules**

Subject to compliance by the Supervisor with any obligations under the FMCA, the Supervisor shall not be required to monitor compliance by the Issuer or any other party with the Listing Rules and, in the absence of notice to the contrary from the Issuer or NZX, shall

be entitled to assume that the Issuer is so complying. In the event of non-compliance with the Listing Rules, the Supervisor, in determining the action to be taken or not taken by it, shall be entitled to have regard to the actions of NZX, as relevant, in relation to that non-compliance by the Issuer.

17.12 Representation and warranty

The Supervisor represents and warrants to the Issuer and the Retail Holders that it is licensed (as that term is defined in the FMCA) and that such licence covers the supervision of all Retail Notes issued under this Deed. The representation and warranty contained in this clause 17.12 shall be deemed to be repeated for the benefit of the Issuer and each Retail Holder on the Issue Date and each Interest Payment Date of each Retail Note.

18. Replacement of Supervisor

18.1 Resignation or removal of Supervisor

Subject, in the case of resignation or removal under 18.1(a), (b) or (d) below, to clause 18.2 below, and to the appointment and acceptance of a successor Supervisor as provided in this clause 18:

- (a) the Supervisor may resign at any time by giving not less than 90 days' written notice to the Issuer;
- (b) the Issuer may remove the Supervisor from office by giving not less than 90 days' written notice to the Supervisor; or
- (c) the FMA or the Issuer may remove the Supervisor under Part 2 of the FMCA; or
- (d) the Holders may remove the Supervisor from office by giving not less than 90 days' written notice to the Issuer and Supervisor upon the passing of an Extraordinary Resolution of Holders to that effect.

18.2 Requirements for retirement and removal

The Supervisor may not:

- (a) be removed or resign under clause 18.1(a), (b) or (d) unless:
 - (i) all functions and duties of the position have been performed;
 - (ii) another licensed supervisor has been appointed, and accepted the appointment, in its place; or
 - (iii) the court consents; and
- (b) be removed by the Issuer under clause 18.1(b) without the FMA's consent.

18.3 Appointment of new Supervisor

If the Supervisor resigns or is removed under clause 18.1, the Issuer will, subject to clause 18.4 have the right to appoint a successor Supervisor, which must be a person who is licensed (as defined in the FMCA) and whose licence covers the supervision of all Retail Notes issued under this Deed.

18.4 **Approval by Extraordinary Resolution**

Where the successor Supervisor is to be appointed pursuant to clause 18.3, and at such time there are Retail Notes outstanding under this Deed and any Supplemental Trust Deed, then the removal of the Supervisor and the appointment of the successor Supervisor shall be subject to approval by an Extraordinary Resolution of each Retail Series and each other Series which is Listed.

18.5 **Failure to Appoint Supervisor**

Other than where the successor Supervisor requires approval pursuant to clause 18.4, if a successor Supervisor has not been appointed by the Issuer or has not accepted an appointment within 60 days after any such notice, then the retiring Supervisor may, on behalf of the Issuer, appoint a successor Supervisor. In circumstances where the successor Supervisor requires approval by an Extraordinary Resolution of Retail Holders, any failure of the Issuer to appoint or have approved a successor Supervisor will entitle the Retail Holders, by an Extraordinary Resolution of Retail Holders, to appoint a new Supervisor.

18.6 **Successor Supervisor**

Upon the acceptance of any appointment under this clause 18 by a successor Supervisor:

- (a) the successor Supervisor will succeed to, and become vested with, all the rights, powers and obligations of the retiring Supervisor under the Transaction Documents and, as from that time, the retiring Supervisor shall be discharged from its rights, powers and obligations;
- (b) the retiring Supervisor must transfer to the successor Supervisor all moneys, investments, property and books held by the Supervisor under this Deed;
- (c) the successor Supervisor shall execute all such documents which are necessary or appropriate and in such form as may be reasonably required by the other parties to the Transaction Documents, such that the successor Supervisor is bound by all the covenants on the part of the Supervisor under the Transaction Documents from the date of such appointment; and
- (d) the Issuer shall execute all such documents which are necessary or appropriate and in such form as may be reasonably required by the retiring Supervisor, such that the retiring Supervisor is indemnified to its satisfaction in respect of the effectiveness of its retirement and any actions of the successor Supervisor.

18.7 **Notice**

The Issuer shall notify all Holders of the appointment of any new supervisor as soon as reasonably practicable following such appointment.

19. **Liability of Supervisor**

19.1 **Supervisor not Indemnified**

The Supervisor's rights to be indemnified in relation to the performance of the Supervisor's licensee obligations (as defined in section 4 of the FMSA) under this Deed in respect of Retail Notes are available only in relation to the proper performance of its duties in accordance with clauses 16.3(a)(iv) and 16.3(a)(vii) and no other provision of this Deed that is contrary to the foregoing shall have any effect.

19.2 Duty of care

Notwithstanding any other provision of this Deed but subject to the provisions of any Supplemental Trust Deed and any applicable law, the Supervisor does not assume any duty of care to the Issuer, any creditors of the Issuer, the Wholesale Holders or any other person other than the Retail Holders (subject to and in accordance with this Deed and the relevant Supplemental Trust Deed) in exercising the Trust Powers, and shall not be liable to any person (including the Issuer and any Holders) in any way except for wilful default, gross negligence or wilful breach of trust where the Supervisor has failed to show the degree of care and diligence required of it having regard to the provisions of this Deed and the relevant Supplemental Trust Deed.

19.3 No liability

The Supervisor is not liable for anything done, or omitted to be done, in good faith in giving effect to a direction to it by Retail Holders.

20. Benefit of Deed

The Issuer acknowledges, in relation to each Series and the Holders of the Notes of that Series, that this Deed (including, for the avoidance of doubt, the Supplemental Trust Deed for that Series) is made for the benefit of, and (subject to clause 2.7) is intended to be enforceable by, any person who is from time to time a Holder of the Notes of that Series, the Registrar for that Series, and the Supervisor.

21. Amendments

21.1 Limited right to amend

In relation to each Series, except as provided in this clause 21, the Issuer may not cancel, vary or amend any provision of this Deed or any Supplemental Trust Deed while any Notes are outstanding. Any amendment to this Deed or any Supplemental Trust Deed must be:

- (a) in writing signed by the Issuer and the Supervisor (and, in relation to an amendment affecting Retail Notes, the Supervisor must, where required by the FMCA, provide or, where applicable, obtain the certificates required under section 108(2)(b) of the FMCA); or
- (b) made under section 109 of the FMCA or 22(7) or 37(6) of the FMSA or under any other power to amend this Deed under any other applicable law.

21.2 Amendment without consent

- (a) In relation to each Series, the provisions of this Deed and the relevant Supplemental Trust Deed may be amended without the consent of the Holders of that Series where:
 - (i) in relation to a Wholesale Series, such amendment, in the opinion of the Issuer is:
 - (A) of a minor, formal, administrative or technical nature;
 - (B) to correct a manifest error;

- (C) to comply with the requirements or a modification of the requirements of any applicable law or any rules of any stock exchange in New Zealand or elsewhere;
- (D) necessary for the purpose of obtaining or maintaining a quotation of any Notes on any stock exchange in New Zealand or elsewhere;
- (E) in respect of any of the provisions for reporting to the Supervisor under this Deed or a Supplemental Trust Deed or in respect of clauses 15 and 17; or
- (F) (where that Series is a Retail Series) agreed to by the Supervisor pursuant to clause 23,

and, in any such case, the Issuer is of the opinion that such amendment will not be materially prejudicial to the interests of Holders of that Series; and

- (ii) in relation a Retail Series, the Supervisor is satisfied that such amendment does not have a material adverse effect on Holders of that Retail Series.

- (b) Notice of any such amendment shall be provided to the Holders of the relevant Series within 30 days of the amendment being made.

21.3 Amendment approved by Holders

Without limiting clause 21.2, the provisions of this Deed may be amended in relation to each Class of Notes if the amendment has been approved, or is contingent upon approval:

- (a) by an Extraordinary Resolution of:
 - (i) the Holders; or
 - (ii) each Class of Holders that is or may be adversely affected by the amendment; or
- (b) in writing by all Holders of that Class of Holders (and such authorisation may be given in one or more documents in similar form).

21.4 Single meeting

Without limiting section 14.4 of schedule 1 or section 14.4 of schedule 1A, where the amendment requiring approval of the Holders pursuant to clause 21.3 relates to or arises from any general change in the constitution, affairs or business of the Issuer, and the subject matter of such resolution is the same in relation to Retail Holders and Wholesale Holders, such approval shall not be required to be dealt with by way of separate meetings of each such Class of Holders unless the Supervisor determines that there is a material difference in the effect of such resolution on Retail Holders from Wholesale Holders. For the avoidance of doubt, where such approval is dealt with by way of a single meeting, the meeting shall be convened and held in accordance with the provisions of schedule 1.

21.5 Notice

Notice of any proposed variation under clause 21.3 shall be given by the Issuer to each Holder of each affected Class of Holders not less than 14 days before the date on which it is intended that such variation take effect, but the non-receipt of notice by any such Holder shall not affect the validity of any such variation.

22. Waiver

22.1 Temporary Variation

In addition to, and not in abrogation of or substitution for, clause 21 (but subject to any applicable law and except to the extent expressly provided otherwise in the Conditions for any Notes) the Supervisor may, in respect of any Retail Series, temporarily vary the provisions of this Deed or any Supplemental Trust Deed applicable to any Retail Notes in each case for such period and on such terms as:

- (a) the Supervisor may deem appropriate; or
- (b) may be agreed by the Supervisor pursuant to clause 23,

provided that, in either case, the Supervisor shall be satisfied that the temporary variation will not have a material adverse effect on Holders and the Supervisor must provide, or where applicable, obtain the certificates required under section 108(2)(b) of the FMCA.

22.2 Waivers

Subject to any applicable law and except to the extent expressly provided otherwise in the Conditions for any Notes, by notice to the Issuer the Supervisor may, in respect of any Retail Series, waive any breach or anticipated breach by the Issuer of this Deed or the relevant Supplemental Trust Deed applicable to any Retail Notes either wholly or in part for a specified period or indefinitely and on such other terms and conditions as:

- (a) it deems expedient provided that it shall be satisfied that the interests of the affected Holders generally will not be materially and adversely prejudiced thereby, and provided further that no such waiver shall prejudice the rights of the Supervisor or the Holders in respect of any other breach; or
- (b) may be agreed by the Supervisor pursuant to clause 23.

23. Statutory Exemptions

- 23.1 In relation to each Retail Series, subject to any applicable law, and except to the extent expressly provided otherwise in the Conditions for that Retail Series, if the Issuer is granted an exemption, or an exemption is applicable to the Issuer, in relation to any obligation imposed upon the Issuer by or pursuant to the Financial Reporting Act, the Securities Act, the Securities Regulations, the FMCA or the FMC Regulations or the listing rules of any stock exchange which is materially the same as or analogous to any obligation of the Issuer under this Deed or any Supplemental Trust Deed or any Notes, then provided two Authorised Officers of the Issuer certify that such amendment, temporary variation or waiver will not have a material adverse effect on the Issuer or any Class of Holders, the Supervisor may in respect of that Retail Series agree to amend or temporarily vary this Deed or any Supplemental Trust Deed or the Notes of that Retail Series or waive any breach or anticipated breach of such obligation in a manner which is consistent with the relevant exemption.

24. Further and substituted issuers

24.1 Further Issuers

The Issuer shall be entitled to nominate any wholly-owned Subsidiary of the Issuer to be the issuer of the Notes of a particular Series by so providing in the Supplemental Trust Deed for

that Series, provided that the new issuer enters into the relevant Supplemental Trust Deed and agrees to become bound by the terms of this Deed and in the case of a Retail Series on terms satisfactory to the Supervisor (acting reasonably).

24.2 Substituted Issuers

The Issuer may substitute any wholly-owned Subsidiary of the Issuer (**Substituted Obligor**) in place of the Issuer (or of any previous substitute under this clause) as the principal debtor under this Deed and the Notes in relation to one or more Series but only if:

- (a) where the relevant Series is a Retail Series, the consent of the Supervisor is obtained;
- (b) the obligations of the Substituted Obligor under the relevant Notes are guaranteed by the Issuer;
- (c) the Substituted Obligor succeeds to and becomes bound by all the terms and conditions of the Transaction Documents for the relevant Series by entering into such agreements and documents (**Substitution Documents**) each in form and substance satisfactory to:
 - (i) (where the relevant Series is a Retail Series) the Supervisor, as the Supervisor (acting reasonably) may deem appropriate;
 - (ii) (where the relevant Series is a Wholesale Series) the Holders of that Wholesale Series, as those Holders (acting reasonably) may and, to the extent relevant under this Deed and the relevant Supplemental Trust Deed in the context of a Wholesale Series, the Supervisor (acting reasonably) deem appropriate;
- (d) (where the relevant Series is a Retail Series) such amendments are made to any other documents (including any Information Memorandum and prospectus in respect of the relevant Notes) as the Supervisor may reasonably deem appropriate;
- (e) two directors of the Substituted Obligor certify that the Substituted Obligor will be solvent immediately after such substitution;
- (f) (if the relevant Notes, or any of them, are publicly rated by a rating agency as a result of a contract between the Issuer and that rating agency) that rating agency confirms in writing that following such substitution the rating assigned to the relevant Notes in force immediately prior to the substitution taking effect shall be maintained or increased;
- (g) (where paragraph (f) above does not apply, and if the Issuer is publicly rated by a rating agency whether as a result of a contract between the Issuer and that rating agency or otherwise) that rating agency confirms in writing that following such substitution the rating assigned to the Substituted Obligor or any person guaranteeing the obligations of the Substituted Obligor under this Deed immediately prior to the substitution taking effect shall be maintained or increased;
- (h) the Issuer (or any such previous Substituted Obligor) and the Substituted Obligor comply with such other reasonable requirements as the Supervisor may direct which the Supervisor reasonably considers are in the interests of the Retail Holders (as a whole) of the relevant Notes, which may include a requirement that the Issuer remains bound by all or certain of the provisions of this Deed in respect of the relevant Notes;
- (i) prior to the substitution being effected, the Substituted Obligor warrants and represents to the Holders of the relevant Series that:
 - (i) it has obtained all necessary authorisations for such substitution;

- (ii) it has obtained all necessary authorisations for the performance by it of its obligations under the relevant Transaction Documents and relevant the Notes and that they are in full force and effect; and
 - (iii) the obligations assumed by it are its legal, valid and binding obligations, enforceable against it in accordance with their terms, subject to laws affecting creditors' rights generally and equitable principles of general application; and
- (j) legal opinions (in form and substance reasonably satisfactory to the Supervisor in respect of the relevant Retail Series or the Holders of the relevant Wholesale Series, as the case may be) have been delivered to the Supervisor or the relevant Holders, as the case may be, confirming that, following such substitution:
- (i) the Transaction Documents and the Notes will constitute legal, valid and binding obligations of the Substituted Obligor, enforceable against it in accordance with their terms, subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and equitable principles of general application;
 - (ii) the Substituted Obligor is validly incorporated in its jurisdiction of incorporation;
 - (iii) all necessary authorisations are in full force and effect; and
 - (iv) amounts payable to any Holder of the relevant Series will not be reduced by the existence of any applicable taxes or levies (other than taxes and approved issuer levy that the Issuer is already obliged to withhold or deduct) except for such taxes or levies (if any) in respect of which the Substituted Obligor has agreed to make compensating payments to the Holders of that Series.

24.3 Release of substituted issuer

Any Substitution Document entered into pursuant to clause 24.2 shall, if so expressed, release the Issuer from any or all of its obligations under the Notes and the Transaction Documents for the relevant Series with effect from the date of substitution. Notice of any substitution pursuant to clause 24.2 shall be given to the Holders of the relevant Series within 14 days of the execution of the Substitution Documents and compliance with the other requirements of clause 24.2.

24.4 Completion of Substitution

After notice has been given in accordance with clause 24.3:

- (a) the Substituted Obligor shall be deemed to be the principal debtor and to have all the rights, powers and obligations of the Issuer under the Transaction Documents for the relevant Series as if the Substituted Obligor were originally named in those Transaction Documents in place of the Issuer; and
- (b) this Deed and the Conditions of the relevant Notes shall be deemed to be amended as necessary to give effect to the substitution.

25. Deed of Negative Pledge and Guarantee

25.1 Rights of Supervisor on own account

The Issuer, (for itself and on behalf of each other Guaranteeing Group Company as provided for in clause 8.1 of the Deed of Negative Pledge and Guarantee, but subject to clause 25.3 below), extends the benefit of the Deed of Negative Pledge Deed and Guarantee to the

Supervisor and each Wholesale Holder and, accordingly, for the purposes of the Deed of Negative Pledge and Guarantee:

- (a) this Deed and each Supplemental Trust Deed shall be a “Facility”;
- (b) the Supervisor shall be a “Financier” (and shall hold its rights as Financier on trust for Retail Holders in accordance with this Deed);
- (c) each Wholesale Holder shall be a “Financier”;
- (d) all money owing or payable by the Issuer to Retail Holders or to the Supervisor in its own right or on behalf of Retail Holders under or pursuant to this Deed shall constitute “Indebtedness”; and
- (e) this Deed and each Supplemental Trust Deed is a “Letter of Accession”.

25.2 Rights of Supervisor on behalf of Holders

In addition to its rights under clause 25.1, the Supervisor shall hold the benefit of the Deed of Negative Pledge and Guarantee on behalf of Holders in each Retail Series, unless otherwise specified under the relevant Supplemental Trust Deed. Holders in each Retail Series will only be entitled to exercise rights under the Transaction Documents in accordance with clause 2.7(a). Notwithstanding clause 2.7, no Retail Holder shall be entitled to exercise any rights under clause 2.1.3 (Information on Request) of the Deed of Negative Pledge and Guarantee.

25.3 Exclusion of certain provisions

Unless otherwise specified in the relevant Supplemental Trust Deed, neither the Supervisor nor any Holders will have the benefit of any of the following clauses of the Deed of Negative Pledge and Guarantee:

- (a) clause 2.1.1 (Annual Financial Statements); and
- (b) clause 2.1.2 (Semi-Annual Financial Statements).

25.4 Amendments to Deed of Negative Pledge and Guarantee

- (a) The Supervisor will not have the benefit of, or be subject to, any amendments to the Deed of Negative Pledge and Guarantee made after the date of this Deed unless expressly agreed between the Issuer and the Supervisor.
- (b) Subject to paragraph (a) above, the Issuer may amend the Deed of Negative Pledge and Guarantee at any time without the consent of the Supervisor.

26. Meetings of holders

26.1 Convening

Meetings of a Class of Holders are to be convened and held in accordance with the provisions of schedule 1 (unless a meeting only relates to Wholesale Holders, in which case the meeting is to be convened and held in accordance with the provisions of schedule 1A). Regulation 78 and Schedule 11 of the FMC Regulations (other than clauses 2 and 5 of Schedule 11) do not apply except to the extent incorporated into schedule 1. For the avoidance of doubt, in respect of any meeting involving Retail Holders to approve an Extraordinary Resolution, to the extent of any inconsistency, clauses 2 and 5 of Schedule 11

of the FMC Regulations shall prevail over any section in schedule 1 (except to the extent that clauses 2 and 5 of Schedule 11 of the FMC Regulations are expressly subject to, or allow matters to be set by, a trust deed). None of the provisions of Regulation 78 and Schedule 11 of the FMC Regulations will apply to a meeting convened and held in accordance with schedule 1A.

26.2 No voting by Issuer

Notwithstanding any other provision of this Deed, where the Issuer or any Subsidiary of the Issuer is a Holder, neither the Issuer nor any of its Subsidiaries may vote on any matter relating to the Notes held by the Issuer.

27. Notices

27.1 Writing

Each notice or other communication to be given or made under this Deed or a Supplemental Trust Deed to any person must:

(a) **Writing**

be given or made in writing by fax, letter or email and be signed by the sender or an authorised officer of the sender;

(b) **Address**

be given or made to the recipient at the address, fax number or email address, and marked for the attention of the person (if any), from time to time designated by the recipient to the other for the purposes of the Transaction Documents;

(c) **Deemed delivery**

not be effective until received by the recipient, and any such notice or communication shall be deemed to be received:

- (i) (if given or made by letter) when left at the address of the recipient or 5 Business Days after being put in the post (by airmail if to another country), postage prepaid, and addressed to the recipient at that address;
- (ii) (if given or made by fax) upon production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the fax number of the recipient;
- (iii) (if by email) when actually when dispatched in readable form by the sender to the email address advised by the recipient from time to time,

provided that any notice or communication received or deemed received after 5pm on a working day in the place to which it is sent, or on a day which is not a working day in that place, shall be deemed not to have been received until the next working day in that place.

27.2 Initial address and numbers

The initial address, fax number email address and person (if any) designated for the purposes of this Deed, are set out below:

(a) **The Issuer:**

Contact Energy Limited
Level 1
Harbour City Tower
29 Brandon Street
Wellington

Fax: 04 499 4003
Email: louise.tong@contactenergy.co.nz
Attention: The Treasurer

(b) **The Supervisor:**

The New Zealand Guardian Trust Company Limited

Level 2
99-105 Customhouse Quay
Wellington
6011

Fax: 04 901 0108

Email: ct-wellington@nzgt.co.nz
Attention: Manager, Corporate Trusts

(c) **The Holders:**

The address of each Holder last entered in the Register.

27.3 Joint Holders

In the case of joint holders of Notes a notice given to the Holder whose name stands first in the Register in respect of such holding shall be sufficient notice to all the joint holders.

28. Release

Upon being indemnified to its reasonable satisfaction pursuant to clause 15.3 and upon proof being given to the reasonable satisfaction of the Supervisor that all sums owing or outstanding in respect of the Notes or otherwise under this Deed and any relevant Supplemental Trust Deed have been paid or satisfied or that provision for such payment or satisfaction has been made in accordance with the provisions of this Deed and upon payment or retention of all costs, charges and expenses incurred by, or payable to, the Supervisor in relation to this Deed and any relevant Supplemental Trust Deed and the remuneration of the Supervisor and all other money payable hereunder the Supervisor shall, at the request and cost of the Issuer, execute a deed of release of this Deed and any relevant Supplemental Trust Deed and shall thereupon retire.

29. Miscellaneous

29.1 Registration of Deed

If the Issuer proposes to issue a Retail Series, it shall promptly, at its own cost, lodge with the Registrar of Financial Service Providers this Deed and the Supplemental Trust Deed and any amendment to this Deed or such Supplemental Trust Deed in respect of that Series and

any certificate as required by the FMCA and shall pay all costs and expenses incidental to doing so.

29.2 **Waivers and remedies**

Time shall be of the essence of this Deed and any applicable Supplemental Trust Deed but no delay in acting, or failure to act, by a Holder is a waiver of any of that Holder rights, nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights provided in this Deed and any applicable Supplemental Trust Deed do not exclude any rights provided by law.

29.3 **Partial invalidity**

A provision of this Deed has no effect to the extent that it contravenes, or is inconsistent with, the FMCA, the FMC Regulations or any term implied into this Deed by the FMCA or the FMC Regulations. An invalid provision in this Deed and any applicable Supplemental Trust Deed shall not affect the enforceability of the remaining provisions of this Deed or any Supplemental Trust Deed.

29.4 **Resolutions of Holders**

Any matter relating to this Deed or a relevant Supplemental Trust Deed or the Notes issued pursuant to this Deed may be agreed or approved by the relevant Class of Holders by signing (in any number of counterparts) a memorandum in writing, recording the matter so agreed or approved.

29.5 **Further issues**

In respect of each Series, subject to any agreement to the contrary contained in any Transaction Document in respect of that Series, the Issuer may from time to time, without the consent of the Holders of that Series, issue further notes or other debt obligations on such other terms and conditions as the Issuer may think fit as part of that Series or a new Series.

29.6 **Documents**

The Issuer must:

- (a) make copies of this Deed, each Supplemental Trust Deed and the Information Memorandum relating to Notes held by the relevant Holder, the Agency Agreement in relation to the relevant Series and any other Transaction Document in relation to the relevant Series available for inspection during usual business hours by any Holder at the registered office of the Issuer (or such other office as the Issuer may notify the Holders from time to time); and
- (b) in relation to a Retail Series, retain, make available for inspection, provide and deliver copies of any document or information required by, and in accordance with, the FMCA for such fee as permitted by the FMCA.

Each Holder will be deemed to have notice of the provisions of this Deed and each other Transaction Document in relation to the relevant Series.

29.7 **No liability**

No Registrar will be liable for any breach by the Issuer of any representation, obligation, undertaking, including the non-payment of any money due, nor will any Registrar be liable for

any negligent act, error or omission on the part of the Issuer, nor for acting in accordance with any instruction or direction of the Issuer or with the consent or approval of the Issuer.

29.8 Survival

The indemnities given in this Deed and any Supplemental Trust Deed will survive the repayment of all the Notes and the termination of this Deed and any relevant Supplemental Trust Deed.

29.9 Remedies Cumulative

The rights, powers and remedies provided in this Deed and any relevant Supplemental Trust Deed are cumulative and not exclusive of any rights, powers or remedies provided by law.

29.10 Counterparts

This Deed may be signed in any number of counterparts, all of which together constitute one and the same instrument, and any of the parties may execute this Deed by signing any such counterpart (by fax or otherwise).

30. Governing law

30.1 Governing law

This Deed shall be governed by New Zealand law.

30.2 Submission to jurisdiction

The Issuer and the Supervisor submit to the non-exclusive jurisdiction of the New Zealand courts for the purpose of any legal proceedings arising out of this Deed.

Schedule 1: Meeting of Retail Holders or all Holders

1. Interpretation

1.1 Definitions

In these provisions:

Appointed Time means the day and time at which any meeting of Holders or the taking of a poll of Holders (not at a meeting of Holders) is due to be held.

Authorised Person means the person authorised by the Supervisor to receive and count votes at that meeting cast in accordance with section 13.9 or, if no such person is so authorised, the Supervisor.

Extraordinary Resolution means a resolution passed at a meeting of Holders properly convened and held in accordance with the provisions of this schedule, at which not less than three fourths of the persons entitled to vote and voting on the question or, if a poll is properly demanded, not less than three fourths of the eligible votes given on such a poll voted in favour of the resolution.

Proxy Closing Time means 48 hours before the Appointed Time of the relevant meeting of Holders or taking of a poll of Holders.

Representative means:

- (a) in the case of an individual Holder, a person appointed by an instrument of proxy or by power of attorney or, in the event of the death of a Holder, the personal representative of that Holder;
- (b) in the case of a Holder which is a corporation or corporation sole either:
 - (i) a person appointed by an instrument of proxy or by power of attorney; or
 - (ii) a person authorised by the directors of the corporation, or in the case of a corporation sole, a person authorised pursuant to its constitution.

1.2 Classes

In this schedule, references to "Notes" and "Holders" are references to the Notes of the relevant Class of Notes only and the Holders of the relevant Class of Notes only.

1A. Meetings of Wholesale Holders only

In relation to a meeting which relates only to Wholesale Holders, the meeting shall be convened and held in accordance with the provisions of schedule 1A and the provisions of schedule 1 other than this section 1A shall be of no effect. For the avoidance of doubt if a meeting relates to both Wholesale Holders and Retail Holders, the meeting shall be convened and held in accordance with the provisions of this schedule 1.

2. Convening

2.1 Meeting required by law

The Issuer shall, whenever required to do so pursuant to the Companies Act or the FMCA or any other applicable law, convene a meeting of the Holders.

2.2 By Holders

The Issuer shall, at the request in writing of Holders holding not less than 5% of the aggregate Principal Amount of the Notes, convene a meeting of the Holders. The request must state the nature of the business proposed to be dealt with at the meeting concerned.

2.3 By Issuer or authorised person

The Issuer may at any time of its own volition convene a meeting of the Holders and shall, at the request in writing of a person authorised by the FMCA or the FMC Regulations to call a meeting of a Class of Retail Holders, convene a meeting of that Class of Retail Holders.

2.4 By Supervisor

The Supervisor may at any time of its own volition (after such consultation with the Issuer which is reasonable in the circumstances as to the nature of the business the subject of the proposed meeting), or the Issuer shall, at the request in writing of the Supervisor, convene a meeting of Retail Holders. The Supervisor shall not be obliged to convene a meeting of Retail Holders pursuant to this section 2.4 until it has been indemnified to its reasonable satisfaction, subject to clause 19.1, against all costs and expenses to be incurred in relation to that meeting.

2.5 Place of meeting

Each meeting will be held in the city or town in which the registered office of the Issuer is situated or at such other place as designated by the Issuer.

2.6 Regulations

Meetings of Holders shall be convened and held in accordance with the provisions of this schedule or such supplemental rules or procedures for meetings, and variations to the rules and procedures applying to such meeting set out in this schedule, as the Supervisor and the Issuer may agree from time to time.

2.7 Methods of holding meetings

A meeting of Holders may be held by a quorum of Holders or their Representatives:

- (a) being assembled together at the time and place appointed for the meeting;
- (b) participating in the meeting by means of audio, audio and visual, or electronic communication provided that the Supervisor approves such means and each Retail Holder or its Representative complies with any conditions imposed by the Supervisor in relation to the use of such means; or
- (c) by a combination of both of the methods described in section 2.7(a) and (b) above.

3. Notice of Meetings

3.1 Persons to be notified

Notice of every meeting shall be given in the manner provided in clause 27 of this Deed to:

- (a) every Holder entered in the Register as at the close of business five Business Days prior to the date of despatch of the notice;
- (b) every personal representative or assignee in bankruptcy of any such Holder who, to the actual knowledge of the Issuer, is deceased or insolvent as the case may be;
- (c) the Issuer, if the meeting is convened by the Supervisor;
- (d) the Supervisor, if the meeting is convened by the Issuer;
- (e) if the relevant Notes are listed, any stock exchange on which those Notes are listed; and
- (f) the Auditor and every director of the Issuer.

3.2 Time for notification

Subject to sections 3.5 and 4.5, at least 15 working days' notice of every meeting will be given. The notice will be exclusive of the day on which it is served or deemed to be served and of the day for which it is given.

3.3 Contents of notice

The notice will specify:

- (a) the place and Appointed Time of the meeting;
- (b) the nature of the business to be transacted at the meeting in sufficient detail to enable a Holder to form a reasoned judgment in relation to it;
- (c) the right of a Holder to appoint a Representative; and
- (d) the Authorised Person (if any) for the meeting.

It will not be necessary to specify in the notice the terms of the resolutions to be proposed, except in the case of a resolution proposed to be passed as an Extraordinary Resolution in which case the text of the proposed resolution must be set out.

3.4 Prior notification of Supervisor

The Issuer shall, at least 10 working days (or any lesser period approved by the Supervisor) before the Issuer gives notice of a meeting, advise the Supervisor in writing of the intended place and time of the meeting and the nature of the business to be conducted and shall obtain the prior written approval of the Supervisor to any documents it proposes to send to the relevant Retail Holders (such approval not to be unreasonably withheld or delayed). If the Supervisor so requires, the documents shall include any statement or comments which the Supervisor wishes to make in relation to the meeting and the matters to be considered at the meeting provided the Supervisor provides such statement or those comments in writing to the Issuer 5 working days (or any lesser period approved by the Issuer) before the notice of meeting is given under regulation 3.2.

3.5 Short or irregular notice

Notwithstanding any other provision of this section 3, a meeting may be called by shorter notice than that specified in section 3.2, by notice without compliance with section 3.3 or by notice with any other irregularity or called without any formal notice, and any such meeting shall be deemed to have been duly called and any such irregularity or lack of formal notice shall be waived if:

- (a) all Holders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity or lack of formal notice or if all such Holders agree to the waiver before, at or after that meeting; or
- (b) the Supervisor indicates at the meeting that it is satisfied that the irregularity or lack of formal notice has not resulted in and is unlikely to result in any material prejudice to the Retail Holders.

3.6 Accidental omission

The accidental omission to give notice to, or the non-receipt of notice by, any person (other than the Supervisor) entitled to receive notice will not invalidate the proceedings at any meeting.

4. Quorum

4.1 Quorum required

No business will be transacted at any meeting unless the requisite quorum is present at the commencement of business. A Holder is present at a meeting for the purposes of this schedule 1 and part of the quorum if that Holder is present in person or by Representative or is participating in that meeting by means of audio, audio and visual or electronic communication.

4.2 Quorum for Extraordinary Resolution

Subject to section 4.4, the quorum for passing an Extraordinary Resolution will be the Holders or their proxies present at the meeting, or which have cast votes under section 13.9, holding or representing at least 25% of the Principal Amount of the Notes held by those Holders who are entitled to vote. Where a Holder holds Zero Coupon Notes, for the purposes of determining the quorum, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting.

4.3 Quorum for other business

Subject to section 4.4, the quorum for the transaction of any business other than the passing of an Extraordinary Resolution will be at least two Holders present at the meeting holding or representing at least 10% in Principal Amount of the Notes held by those Holders who are entitled to vote. Where a Holder holds Zero Coupon Notes, for the purposes of determining the quorum, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting.

4.4 Quorum not present

If, within 30 minutes after the Appointed Time, a quorum is not present the meeting, if convened at the request of Holders, will be dissolved. In any other case it will be adjourned to the day that is 10 working days later at the same time and same place or to such other date, time and place as may be appointed by the chairman or by the Supervisor. At such adjourned meeting, if a quorum is not present 30 minutes after the Appointed Time, all the Holders present at the adjourned meeting will be a quorum for the transaction of business including the passing of Extraordinary Resolutions.

4.5 Notice of adjourned meeting

Notwithstanding section 3.1, notice of any such adjourned meeting of Holders at which an Extraordinary Resolution is to be submitted shall be given to the Holders recorded in the Register as at the day before the notice of adjourned meeting is given and otherwise will be given in the same manner as for an original meeting (except that only seven clear days' notice will be required) and such notice will state that, if a quorum is not present 30 minutes after the Appointed Time, the Holders present at the adjourned meeting will form a quorum whatever the Principal Amount of Notes held by them provided that, if a meeting is adjourned for less than 30 days, it will not be necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting that is adjourned.

5. Chairman

A person nominated by the Supervisor shall preside at every meeting convened in accordance with this schedule 1. If no such person is nominated or if at any meeting the person nominated is not present within 15 minutes after the time appointed for holding the meeting, the Holders present shall appoint a person to be chairman.

6. Right to Attend and Speak

Any director, officer or solicitor, auditor or accountant of the Issuer, or any person appropriately authorised by the Issuer (or any director, officer or solicitor of the Supervisor, or any person appropriately authorised by the Supervisor), may attend any meeting and all such persons will have the right to speak at the meeting.

7. Adjournment

7.1 Chairman may adjourn

The chairman may, with the consent of any meeting at which a quorum is present, and will, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

7.2 **Business at adjourned meeting**

No business will be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

8. **Only persons on Register recognised by Issuer**

The persons named as Holders in the Register at the Proxy Closing Time will be recognised and treated as the legal owners of the Notes whether those persons are or are not in fact the beneficial owners of those Notes.

9. **Authority to Vote**

9.1 **Voting**

An individual Holder may vote personally or by his Representative and a Holder which is a corporation may vote by its Representative. A Holder may appoint more than one Representative, each such Representative being authorised to act on behalf of the Holder in respect of a specified Principal Amount of Notes, provided that only one proxy is appointed to exercise the rights relating to a particular Note held by that Holder.

9.2 **Entitlement**

The persons named in the Register as Holders at the Proxy Closing Time or the personal representatives or assignees in bankruptcy of any such Holder will be exclusively entitled to vote in person at the meeting in respect of the Notes recorded as owned by them.

10. **Proxies**

10.1 **In writing**

The instrument appointing a proxy must be in writing signed, or in the case of an electronic notice sent, by the appointer or his attorney or, if the appointer is a corporation, either by an authorised officer or attorney or by any director, general manager, investment manager or other person who appears to have authority to appoint a proxy on behalf of the corporation.

10.2 **Proxy need not be Holder**

A person appointed to act as a proxy need not be a Holder. A holder of a proxy will have the right to speak at the meeting.

11. **Holder may appoint Attorney**

11.1 Except where a Holder is the Issuer or any of its Subsidiaries, any Holder may by power of attorney appoint an attorney (who need not be a Holder) to vote and act on his behalf at any meeting. An attorney will be entitled to produce evidence of his appointment at any time before the Appointed Time. An attorney who is so empowered may exercise the Holder's right to appoint a proxy.

12. Corporate Representatives

12.1 Authority

A Representative of a Holder which is a corporation or a corporation sole will, until his authority is revoked, be entitled to exercise the same powers on behalf of the corporation as that corporation could exercise if it were an individual Holder and will be entitled to produce evidence of his authority to act at any time before the Appointed Time of, or at, the meeting or adjourned meeting or for the taking of a poll at which the Representative proposes to vote.

12.2 Right to act

A Representative will have the right to demand or join in demanding a poll and will (except and to the extent to which the Representative is specially directed to vote for or against any proposal) have power generally to act at the meeting for the Holder concerned.

13. Voting Procedure and Polls

13.1 Show of hands

An Extraordinary Resolution put to the vote of a meeting will be decided by poll. Any other resolution put to the vote of a meeting will be decided on a show of hands or by voice as determined by the chairman or, in the case of a meeting of Holders held under section 2.7(b) or (c), by any method permitted by the chairman of the meeting (including by electronic means), unless in either case, a poll is demanded (before or after the vote is taken on a resolution) by:

- (a) the chairman (who must in any event call for a poll on a resolution on which the chairman holds sufficient votes cast under section 14.9 if the chairman believes that, if a poll is taken, the result may differ from that obtained on a show of hands or by voice); or
- (b) the Supervisor;
- (c) the Issuer or any representative of the Issuer; or
- (d) one or more Holders present at the meeting holding or representing not less than 5% in aggregate Principal Amount of the Notes.

A declaration by the chairman that a resolution has been carried by the requisite majority or lost will be conclusive evidence of that fact unless a poll is demanded in accordance with this section 13.1.

13.2 Number of votes

On a show of hands each person entitled to vote and present at the meeting or casting a vote pursuant to section 13.9 will have one vote only. On a poll every Holder who is entitled to vote and present in person at the meeting or casting a vote pursuant to section 13.9 will have one vote for every \$1 of Principal Amount of the Notes of which he is the Holder, provided that where a Holder holds Zero Coupon Notes, for the purposes of calculating that Holder's voting entitlement in this clause, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting. On a poll a

person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

13.3 Poll

If a poll is demanded it will be taken in the manner directed by the chairman and the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.

13.4 Chairman has no casting vote

The Chairman of any meeting will not have a casting vote in addition to the votes (if any) to which the Chairman may be entitled as a Holder or on behalf of Holders.

13.5 Election of chairman

A poll demanded on the election of a chairman or on a question of adjournment will be taken immediately. A poll demanded on any other question will be taken either immediately or at a time within 30 days from the date of the meeting and in a place appointed by the chairman. The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.

13.6 No disturbance

The demand for a poll will not prevent the continuance of a meeting for the transaction of business other than the question in relation to which the poll has been demanded.

13.7 Joint Holders

In the case of joint Holders the vote of the senior who tenders a vote will be accepted to the exclusion of the vote of the other joint Holders and for this purpose seniority will be determined by the order in which the names stand in the Register in respect of the joint holding.

13.8 Disqualification

A vote given in accordance with the terms of an instrument of proxy or power of attorney or other authority will be valid notwithstanding the previous death, insanity or (in the case of a corporation) liquidation of the principal or revocation of the proxy or power of attorney or authority or the transfer of the Notes in respect of which the vote is given, provided that no written notice of such death, insanity, liquidation, revocation or transfer is received by the Issuer at its registered office before the commencement of the meeting or adjourned meeting at which the proxy, attorney or authority is used. Neither the Issuer nor any Subsidiary of the Issuer shall be entitled to vote in respect of any Notes held by them.

13.9 Voting by other means

- (a) A Holder may exercise the right to vote at any meeting by casting a postal vote, a vote by email or a vote using any other electronic means permitted by the Issuer or the Supervisor.
- (b) A Holder may cast a vote using the above means on all or any of the matters to be voted on at a meeting by sending a notice of the manner in which that Holder's Notes are to be voted on to the Issuer or the Authorised Person for that meeting. Such notice must reach that person before the Proxy Closing Time unless the Issuer or the Authorised Person (as the case may be), in its absolute discretion, elects to accept any notice notwithstanding that that notice is received or produced at a place other than that specified above or out of time.

- (c) The Issuer or the Authorised Person for that meeting (as applicable) must:
- (i) collect together all of those votes received by it;
 - (ii) in relation to each resolution to be voted on at that meeting, count the number of Holders voting for and against the resolution and the number of votes cast for and against the resolution by each Holder;
 - (iii) sign a certificate that it has carried out the duties set out in sections 13.9(c)(i) and (ii) above and that sets out the results of the counts required by section 13.9(c)(ii); and
 - (iv) ensure that the certificate required by section 13.9(c)(iii) above is presented to the chairman.

14. Extraordinary Resolutions

14.1 Powers

A meeting of Holders will, in addition to all other powers which by this Deed are specified as exercisable by Extraordinary Resolution, have the following powers exercisable by Extraordinary Resolution namely power to:

- (a) sanction either unconditionally or upon any conditions the release of the Issuer from the payment of all or any part of the moneys payable pursuant to this Deed or the Notes;
- (b) sanction any request from the Issuer for the exchange of the Notes for, or the conversion of the Notes into, shares, stock, debentures, debenture stock or other obligations or securities of the Issuer or any other company formed or to be formed;
- (c) postpone or, with the concurrence of the Issuer, to accelerate the day when the Principal Amount of any Notes becomes payable and to suspend or postpone for a time the payment of interest on any Notes;
- (d) sanction any alteration, release, modification, waiver, variation, or compromise or any arrangement relating to the rights of the Holders against the Issuer or its assets however those rights arise;
- (e) assent to any amendment to the terms of this Deed or the relevant Supplemental Trust Deed proposed or agreed to by the Issuer (and, where required, the Supervisor) and to authorise the Issuer and the Supervisor to execute any Supplemental Trust Deed embodying any such amendment;
- (f) give any sanction, assent, release or waiver of any breach or default by the Issuer or the Supervisor under any of the provisions of this Deed or the relevant Supplemental Trust Deed;
- (g) sanction any scheme for the reconstruction of the Issuer or for the amalgamation of the Issuer with any other corporation where such sanction is necessary;
- (h) discharge, release or exonerate the Supervisor from all liability in respect of any act of commission or omission for which the Supervisor has or may become responsible under this Deed or any Supplemental Trust Deed;
- (i) subject to the provisions of this Deed, remove any Supervisor and to approve the appointment of or appoint a new Supervisor;

- (j) consent to, approve, authorise and direct the Supervisor in respect of any of the matters referred to or any of the foregoing paragraphs of this section 14.1, or as to any other matter which may be necessary to carry out and give effect to any Extraordinary Resolution;
- (k) authorise or direct the Issuer and the Supervisor to execute any supplemental deed or other document embodying such sanction, authority or approval, assent, release, waiver, direction or request.

14.2 Binding on Holders

An Extraordinary Resolution passed at a meeting of Holders properly convened and held will be binding upon all the Holders whether or not present or entitled to be present at the meeting and the Holders will be bound to give effect to that resolution. The passing of any such resolution will, as between the Issuer and the Holders, be conclusive evidence that the circumstances justify the passing thereof the intention being that the meeting is entitled to determine without appeal whether or not the circumstances justify the passing of any such resolution. Notwithstanding the foregoing, a resolution which affects a particular Holder or Holders holding a Class of Notes only (as opposed to the rights of the Holders generally) will not be binding on such Holder or Holders unless such Holder or Holders agree to be bound by the terms of such resolution or unless the Holders of that Class have so agreed by virtue of an Extraordinary Resolution of the Holders of that Class of Notes. Whenever there are Notes outstanding which do not form a single Class then the provisions of this schedule shall have effect subject to the following:

- (a) a resolution which affects a particular Holder only, rather than the rights of all Holders generally, or of a particular Class of Holders generally, will not be binding on such Holder unless such Holder agrees to be bound by the terms of such resolution;
- (b) a resolution which affects one Class of Notes only is deemed to have been duly passed if passed at a properly convened and held meeting of the Holders of that Class (or pursuant to section 16);
- (c) a resolution which affects more than one Class of Notes, but does not give rise to a conflict of interest between the Holders of any of the Classes so affected is deemed to have been duly passed if passed at a single properly convened and held meeting of the Holders of all Classes so affected (or pursuant to section 16);
- (d) a resolution which affects more than one Class of Notes and gives or may give rise to a conflict of interest between the Holders of any of the Classes so affected is deemed to have been duly passed if passed at separate properly convened and held meetings of the Holders of each Class so affected (or pursuant to section 16); and
- (e) in respect of each meeting referred to in paragraphs (b), (c) and (d) of this section 14.2, the provisions of this schedule apply with the necessary modifications as though references in them to Notes and Holders were references to the relevant Class or Classes and to the Holders of the Notes comprised in such Class or Classes, respectively.

14.3 Reliance on advice

The Issuer and the Supervisor may rely on, and the Holders and the Registrar for the relevant Series shall be bound by, a legal opinion from a leading law firm in New Zealand addressed to the Issuer and/or the Supervisor, as the case may require, to the effect that a resolution affects one Class only or, if it affects more than one Class of Notes, does not give rise to a conflict of interest, for the purposes of determining the meeting or meetings which need to be held for the purposes of section 14.2.

14.4 Single meeting

Where any resolution of the Holders relates to or arises from any general change in the constitution, affairs or business of the Issuer, and the subject matter of such resolution is the same in relation to Retail Holders and Wholesale Holders, such approval shall not be required to be dealt with by way of separate meetings of each such Class of Holders unless the Supervisor determines that there is a material difference in the effect of such resolution on Retail Holders from Wholesale Holders. For the avoidance of doubt, where such approval is dealt with by way of a single meeting, the meeting shall be convened and held in accordance with the provisions of this schedule 1.

15. Minutes to be kept

Minutes of all resolutions and proceedings at every meeting will be made by the Supervisor or if the Supervisor is not present at the meeting, by a person appointed by the chairman of the meeting. Minutes must be entered in books from time to time provided for that purpose by the Issuer. The chairman must ensure that a certificate of votes under section 13.9 held by the chairman is attached to the minutes. Any such minutes, if signed or apparently signed by the chairman of the meeting at which a resolution was passed or proceedings had or by the chairman of the next meeting of Holders, will be prima facie evidence of the matters recorded in those minutes. Until the contrary is proved every meeting in respect of which minutes have been made will be deemed to have been properly held and convened and all resolutions passed or proceedings had at that meeting to have been properly passed and had.

16. Resolutions in writing

16.1 Extraordinary Resolution

Anything that may be done by Holders by a resolution or Extraordinary Resolution passed at a meeting of Holders may be done by a resolution in writing signed by not less than 75% of the Holders entitled to vote on that resolution, holding in aggregate the Notes conferring the right to cast not less than 75% of the votes which could be cast on that resolution.

16.2 Counterparts

Any such resolution may consist of several documents in similar form (including letters, electronic mail or other similar means of communication), each signed by one or more Holders.

16.3 Execution

Any such resolution may be signed by a Holder, or an agent or attorney of the Holder duly authorised in writing, or if the Holder is a company, by a director, or by an attorney so authorised by the company.

Schedule 1A: Meeting of Wholesale Holders only

1. Interpretation

1.1 Definitions

In these provisions:

Appointed Time means the day and time at which any meeting of Holders or the taking of a poll of Holders (not at a meeting of Holders) is due to be held.

Extraordinary Resolution means a resolution passed at a meeting of Holders properly convened and held in accordance with the provisions of this schedule, at which not less than three fourths of the persons entitled to vote and voting on the question or, if a poll is properly demanded, not less than three fourths of the eligible votes given on such a poll voted in favour of the resolution.

Proxy Closing Time means 48 hours before the Appointed Time of the relevant meeting of Holders or taking of a poll of Holders.

Representative means:

- (a) in the case of an individual Holder, a person appointed by an instrument of proxy or by power of attorney or, in the event of the death of a Holder, the personal representative of that Holder;
- (b) in the case of a Holder which is a corporation or corporation sole either:
 - (i) a person appointed by an instrument of proxy or by power of attorney; or
 - (ii) a person authorised by the directors of the corporation, or in the case of a corporation sole, a person authorised pursuant to its constitution.

1.2 Classes

In this schedule, references to “Notes” and “Holders” are references to:

- (a) the Notes of the relevant Class of Notes only and the Holders of the relevant Class of Notes only; and
- (b) Wholesale Notes only and Wholesale Holders only.

2. Convening

2.1 Meeting required by law

The Issuer shall, whenever required to do so pursuant to the Companies Act or the FMCA or any other applicable law, convene a meeting of the Holders.

2.2 By Holders

The Issuer shall, at the request in writing of Holders holding not less than 10% of the aggregate Principal Amount of the Notes, convene a meeting of the Holders. The request must state the nature of the business proposed to be dealt with at the meeting concerned.

2.3 **By Issuer**

The Issuer may at any time of its own volition convene a meeting of the Holders.

2.4 **Place of meeting**

Each meeting will be held in the city or town in which the registered office of the Issuer is situated or at such other place as designated by the Issuer.

2.5 **Regulations**

Meetings of Holders shall be convened and held in accordance with the provisions of this schedule or such supplemental rules or procedures for meetings, and variations to the rules and procedures applying to such meeting set out in this schedule, as the Supervisor and the Issuer may agree from time to time.

3. **Notice of Meetings**

3.1 **Persons to be notified**

Notice of every meeting shall be given in the manner provided in clause 27 of this Deed to:

- (a) every Holder entered in the Register as at the close of business five Business Days prior to the date of despatch of the notice;
- (b) every personal representative or assignee in bankruptcy of any such Holder who, to the actual knowledge of the Issuer, is deceased or insolvent as the case may be;
- (c) the Issuer, if the meeting is convened by the Supervisor;
- (d) the Supervisor, if the meeting is convened by the Issuer; and
- (e) if the relevant Notes are listed, any stock exchange on which those Notes are listed.

3.2 **Time for notification**

Subject to sections 3.5 and 4.5, at least 14 days' notice of every meeting will be given. The notice will be exclusive of the day on which it is served or deemed to be served and of the day for which it is given.

3.3 **Contents of notice**

The notice will specify the place and Appointed Time of the meeting and the general nature of the business to be transacted. It will not be necessary to specify in the notice the terms of the resolutions to be proposed, except in the case of a resolution proposed to be passed as an Extraordinary Resolution in which case the text of the proposed resolution must be set out.

3.4 **Prior notification of Supervisor**

The Issuer shall, at least 10 days before the Issuer gives notice of a meeting in relation to such Series, advise the Supervisor in writing of the intended place and time of the meeting and the nature of the business to be conducted.

3.5 **Short or informal notice**

Notwithstanding any other provision of this section 3, a meeting may be called by shorter notice than that specified in section 3.2, or without any formal notice, and without compliance with section 3.3, and shall be deemed to have been duly called if it is so agreed by all Holders before, at or after that meeting.

3.6 **Accidental omission**

The accidental omission to give notice to, or the non-receipt of notice by, any person (other than the Supervisor) entitled to receive notice will not invalidate the proceedings at any meeting.

4. **Quorum**

4.1 **Quorum required**

No business will be transacted at any meeting unless the requisite quorum is present at the commencement of business.

4.2 **Quorum for Extraordinary Resolution**

Subject to section 4.4, the quorum for passing an Extraordinary Resolution will be two or more Holders (present in person or by Representative) holding or representing a majority in Principal Amount of the Notes. Where a Holder holds Zero Coupon Notes, for the purposes of determining the quorum, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting.

4.3 **Quorum for other business**

Subject to section 4.4, the quorum for the transaction of any business other than the passing of an Extraordinary Resolution will be the Holders present in person or by Representative holding or representing at least 10% in Principal Amount of the Notes. Where a Holder holds Zero Coupon Notes, for the purposes of determining the quorum, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting.

4.4 **Quorum not present**

If, within 15 minutes (or any longer time not exceeding 45 minutes as the chairman of the meeting may decide) after the Appointed Time, a quorum is not present the meeting, if convened at the request of Holders, will be dissolved. In any other case it will be adjourned to a day and time (not being less than 14 days later) and to a place as may be appointed by the chairman. At such adjourned meeting all the Holders present in person or by

Representative will be a quorum for the transaction of business including the passing of Extraordinary Resolutions.

4.5 **Notice of adjourned meeting**

Notwithstanding section 3.1, notice of any such adjourned meeting of Holders at which an Extraordinary Resolution is to be submitted shall be given to the Holders recorded in the Register as at the day before the notice of adjourned meeting is given and otherwise will be given in the same manner as for an original meeting (except that only seven clear days' notice will be required) and such notice will state that the Holders present in person or by Representative at the adjourned meeting will form a quorum whatever the Principal Amount of Notes held by them.

5. **Chairman**

A person appointed, by a resolution of Holders, from the Holders or any Representatives present will preside as chairman at a meeting.

6. **Right to Attend and Speak**

Any director, officer or solicitor, auditor or accountant of the Issuer, or any person appropriately authorised by the Issuer, may attend any meeting and all such persons will have the right to speak at the meeting.

7. **Adjournment**

7.1 **Chairman may adjourn**

The chairman may, with the consent of any meeting at which a quorum is present, and will, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

7.2 **Business at adjourned meeting**

No business will be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

8. **Only persons on Register recognised by Issuer**

The persons named as Holders in the Register at the Proxy Closing Time will be recognised and treated as the legal owners of the Notes whether those persons are or are not in fact the beneficial owners of those Notes.

9. **Authority to Vote**

9.1 **Voting**

An individual Holder may vote personally or by his Representative and a Holder which is a corporation may vote by its Representative. A Holder may appoint more than one Representative, each such Representative being authorised to act on behalf of the Holder in respect of a specified Principal Amount of Notes.

9.2 Entitlement

The persons named in the Register as Holders at the Proxy Closing Time or the personal representatives or assignees in bankruptcy of any such Holder will be exclusively entitled to vote in person or by Representative in respect of the Notes recorded as owned by them.

10. Proxies

10.1 In writing

The instrument appointing a proxy must be in writing signed by the appointer or his attorney or, if the appointer is a corporation, either by an authorised officer or attorney or by any director, general manager, investment manager or other person who appears to have authority to appoint a proxy on behalf of the corporation.

10.2 Proxy need not be Holder

A person appointed to act as a proxy need not be a Holder. A holder of a proxy will have the right to speak at the meeting.

11. Holder may appoint Attorney

- 11.1 Except where a Holder is the Issuer or any of its Subsidiaries, any Holder may by power of attorney appoint an attorney (who need not be a Holder) to vote and act on his behalf at any meeting. An attorney will be entitled to produce evidence of his appointment at any time before the Appointed Time. An attorney who is so empowered may exercise the Holder's right to appoint a proxy.

12. Corporate Representatives

12.1 Authority

A Representative of a Holder which is a corporation or a corporation sole will, until his authority is revoked, be entitled to exercise the same powers on behalf of the corporation as that corporation could exercise if it were an individual Holder and will be entitled to produce evidence of his authority to act at any time before the Appointed Time of, or at, the meeting or adjourned meeting or for the taking of a poll at which the Representative proposes to vote.

12.2 Right to act

A Representative will have the right to demand or join in demanding a poll and will (except and to the extent to which the Representative is specially directed to vote for or against any proposal) have power generally to act at the meeting for the Holder concerned.

13. Voting Procedure and Polls

13.1 Show of hands

A resolution put to the vote of a meeting will be decided on a show of hands unless a poll is demanded (before or on the declaration of the result of the show of hands) by:

- (a) the chairman; or

- (b) the Supervisor;
- (c) the Issuer or any representative of the Issuer; or
- (d) one or more Holders holding or representing not less than 5% in aggregate Principal Amount of the Notes.

A declaration by the chairman that a resolution has been carried by the requisite majority or lost will be conclusive evidence of that fact unless a poll is demanded.

13.2 Number of votes

On a show of hands each person present at the meeting and entitled to vote (whether personally or as a Representative) or casting a vote pursuant to clause 13.9 will have one vote only. On a poll every Holder who is present in person or by a Representative or casting a vote pursuant to regulation 13.9 will have one vote for every \$1 of Principal Amount of the Notes of which he is the Holder, provided that where a Holder holds Zero Coupon Notes, for the purposes of calculating that Holder's voting entitlement in this clause, the Principal Amount of those Zero Coupon Notes is to be construed as a reference to the net present value of those Zero Coupon Notes (as calculated by the Registrar for the relevant Series by adjusting, on a straight line basis, the Principal Amount of the relevant Note by a proportion of any discount to that Principal Amount applicable to such Note on its Issue Date) as at the date of the meeting. On a poll votes may be given either personally or by Representative and a person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

13.3 Poll

If a poll is demanded it will be taken in the manner directed by the chairman and the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.

13.4 Chairman has no casting vote

The Chairman of any meeting will not have a casting vote in addition to the votes (if any) to which the Chairman may be entitled as a Holder or on behalf of Holders.

13.5 Election of chairman

A poll demanded on the election of a chairman or on a question of adjournment will be taken immediately. A poll demanded on any other question will be taken either immediately or at a time within 30 days from the date of the meeting and in a place appointed by the chairman. The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.

13.6 No disturbance

The demand for a poll will not prevent the continuance of a meeting for the transaction of business other than the question in relation to which the poll has been demanded.

13.7 Joint Holders

In the case of joint Holders the vote of the senior who tenders a vote whether in person or by Representative will be accepted to the exclusion of the vote of the other joint Holders and for this purpose seniority will be determined by the order in which the names stand in the Register in respect of the joint holding.

13.8 Disqualification

A vote given in accordance with the terms of an instrument of proxy or power of attorney or other authority will be valid notwithstanding the previous death, insanity or (in the case of a corporation) liquidation of the principal or revocation of the proxy or power of attorney or authority or the transfer of the Notes in respect of which the vote is given, provided that no written notice of such death, insanity, liquidation, revocation or transfer is received by the Issuer at its registered office before the commencement of the meeting or adjourned meeting at which the proxy, attorney or authority is used. Neither the Issuer nor any Subsidiary of the Issuer shall be entitled to vote in respect of any Notes held by them.

13.9 Voting by other means

- (a) A Holder may exercise the right to vote at any meeting by casting a postal vote, a vote by email or a vote using any other electronic means permitted by the Issuer.
- (b) A Holder may cast a vote using the above means on all or any of the matters to be voted on at a meeting by sending a notice of the manner in which that Holder's Notes are to be voted on to the Issuer. Such notice must reach the Issuer before the Proxy Closing Time unless the Issuer, in its absolute discretion, elects to accept any notice notwithstanding that that notice is received or produced at a place other than that specified above or out of time.

14. Extraordinary Resolutions

14.1 Powers

A meeting of Holders will, in addition to all other powers which by this Deed are specified as exercisable by Extraordinary Resolution, have the following powers exercisable by Extraordinary Resolution namely power to:

- (a) sanction either unconditionally or upon any conditions the release of the Issuer from the payment of all or any part of the moneys payable pursuant to this Deed or the Notes;
- (b) sanction any request from the Issuer for the exchange of the Notes for, or the conversion of the Notes into, shares, stock, debentures, debenture stock or other obligations or securities of the Issuer or any other company formed or to be formed;
- (c) postpone or, with the concurrence of the Issuer, to accelerate the day when the Principal Amount of any Notes becomes payable and to suspend or postpone for a time the payment of interest on any Notes;
- (d) sanction any alteration, release, modification, waiver, variation, or compromise or any arrangement relating to the rights of the Holders against the Issuer or its assets however those rights arise;
- (e) assent to any amendment to the terms of this Deed or the relevant Supplemental Trust Deed proposed or agreed to by the Issuer (and, where required, the Supervisor) and to authorise the Issuer and the Supervisor to execute any Supplemental Trust Deed embodying any such amendment;
- (f) give any sanction, assent, release or waiver of any breach or default by the Issuer or the Supervisor under any of the provisions of this Deed or the relevant Supplemental Trust Deed;

- (g) sanction any scheme for the reconstruction of the Issuer or for the amalgamation of the Issuer with any other corporation where such sanction is necessary;
- (h) discharge, release or exonerate the Supervisor from all liability in respect of any act of commission or omission for which the Supervisor has or may become responsible under this Deed or any Supplemental Trust Deed;
- (i) subject to the provisions of this Deed, remove any Supervisor and to approve the appointment of or appoint a new Supervisor;
- (j) consent to, approve, authorise and direct the Supervisor in respect of any of the matters referred to or any of the foregoing paragraphs of this section 14.1, or as to any other matter which may be necessary to carry out and give effect to any Extraordinary Resolution;
- (k) authorise or direct the Issuer to execute any supplemental deed or other document embodying such sanction, authority or approval, assent, release, waiver, direction or request.

14.2 Binding on Holders

An Extraordinary Resolution passed at a meeting of Holders properly convened and held will be binding upon all the Holders whether or not present or entitled to be present at the meeting and the Holders will be bound to give effect to that resolution. The passing of any such resolution will, as between the Issuer and the Holders, be conclusive evidence that the circumstances justify the passing thereof the intention being that the meeting is entitled to determine without appeal whether or not the circumstances justify the passing of any such resolution. Notwithstanding the foregoing, a resolution which affects a particular Holder or Holders holding a Class of Notes only (as opposed to the rights of the Holders generally) will not be binding on such Holder or Holders unless such Holder or Holders agree to be bound by the terms of such resolution or unless the Holders of that Class have so agreed by virtue of an Extraordinary Resolution of the Holders of that Class of Notes. Whenever there are Notes outstanding which do not form a single Class then the provisions of this schedule shall have effect subject to the following:

- (a) a resolution which affects a particular Holder only, rather than the rights of all Holders generally, or of a particular Class of Holders generally, will not be binding on such Holder unless such Holder agrees to be bound by the terms of such resolution;
- (b) a resolution which affects one Class of Notes only is deemed to have been duly passed if passed at a properly convened and held meeting of the Holders of that Class (or pursuant to section 16);
- (c) a resolution which affects more than one Class of Notes, but does not give rise to a conflict of interest between the Holders of any of the Classes so affected is deemed to have been duly passed if passed at a single properly convened and held meeting of the Holders of all Classes so affected (or pursuant to section 16);
- (d) a resolution which affects more than one Class of Notes and gives or may give rise to a conflict of interest between the Holders of any of the Classes so affected is deemed to have been duly passed if passed at separate properly convened and held meetings of the Holders of each Class so affected (or pursuant to section 16); and
- (e) in respect of each meeting referred to in paragraphs (b), (c) and (d) of this section 14.2, the provisions of this schedule apply with the necessary modifications as though references in them to Notes and Holders were references to the relevant Class or Classes and to the Holders of the Notes comprised in such Class or Classes, respectively.

14.3 Reliance on advice

The Issuer and the Supervisor may rely on, and the Holders and the Registrar for the relevant Series shall be bound by, a legal opinion from a leading law firm in New Zealand addressed to the Issuer and/or the Supervisor, as the case may require, to the effect that a resolution affects one Class only or, if it affects more than one Class of Notes, does not give rise to a conflict of interest, for the purposes of determining the meeting or meetings which need to be held for the purposes of section 14.2.

14.4 Single meeting

Where any resolution of the Holders relates to or arises from any general change in the constitution, affairs or business of the Issuer, and the subject matter of such resolution is the same in relation to Retail Holders and Wholesale Holders, such approval shall not be required to be dealt with by way of separate meetings of each such Class of Holders unless the Supervisor determines that there is a material difference in the effect of such resolution on Retail Holders from Wholesale Holders. For the avoidance of doubt, where such approval is dealt with by way of a single meeting, the meeting shall be convened and held in accordance with the provisions of schedule 1.

15. Minutes to be kept

Minutes of all resolutions and proceedings at every meeting will be made by the Issuer or, if the Issuer is not present at the meeting, by a person appointed by the chairman of the meeting. Minutes must be entered in books from time to time provided for that purpose by the Issuer. Any such minutes, if signed or apparently signed by the chairman of the meeting at which a resolution was passed or proceedings had or by the chairman of the next meeting of Holders, will be prima facie evidence of the matters recorded in those minutes. Until the contrary is proved every meeting in respect of which minutes have been made will be deemed to have been properly held and convened and all resolutions passed or proceedings had at that meeting to have been properly passed and had.

16. Resolutions in writing

16.1 Extraordinary Resolution

Anything that may be done by Holders by a resolution or Extraordinary Resolution passed at a meeting of Holders may be done by a resolution in writing signed by not less than 75% of the Holders having the right to vote on that resolution, holding in aggregate the Notes conferring the right to cast not less than 75% of the votes which could be cast on that resolution.

16.2 Counterparts

Any such resolution may consist of several documents in similar form, each signed by one or more Holders.

16.3 Execution

Any such resolution may be signed by a Holder, or an agent or attorney of the Holder duly authorised in writing, or if the Holder is a company, by a director, or by an attorney so authorised by the company

Schedule 2: Form of Directors' Certificate

1. This report is given by the undersigned Directors of Contact Energy Limited (**Issuer**) pursuant to clause 12.4 of the Master Trust Deed dated [] between the Issuer and The New Zealand Guardian Trust Company Limited, as supervisor (**Trust Deed**).
2. Unless the context otherwise requires, terms defined in the Trust Deed have the same meaning herein.
3. We, the undersigned, hereby state that as at the last day of the financial [year] [half-year] ending on [] (**Reporting Date**), to the best of our knowledge and belief having made all due inquiries, and, during the immediately preceding financial [year] [half-year]:
 - (a) [Here state any matter, or state if there is not any matter, which has arisen relating to the Issuer which would materially and adversely affect the ability of the Issuer to perform its obligations under the Trust Deed and the Notes];
 - (b) the Issuer has observed and complied with its issuer obligations and all provisions expressed to be binding upon it under the Trust Deed and any relevant Supplemental Trust Deed in respect of Retail Notes including the payment of all interest on, and the Principal Amount in respect, of the Retail Notes;

[If the Issuer has not so complied and observed the provisions of the Trust Deed or any Supplemental Trust Deed set out the particulars of the contravention and proposals to remedy the same]
 - (c) no Event of Default has occurred;

[If any Event of Default has occurred, set out the particulars of the Event of Default and, if appropriate, details of how it has been, or is proposed to be, remedied.]
 - (d) the Principal Amount of Retail Notes (if any) which have been repaid on maturity is \$[];
 - (e) all interest due on the Retail Notes has been paid;

[If any interest has been suspended in respect of Subordinated Bonds in the immediately preceding financial year or half-year, provide details]
 - (f) each Register in respect of a Series has been duly maintained in accordance with the Trust Deed;

[If any Register in respect of a Series has not been duly maintained set out the particulars of the failure to maintain]
 - (g) the Issuer has complied with clause 2.3.1 (Debt:Equity Ratio) of the Deed of Negative Pledge and Guarantee;

[If the Issuer has not so complied and observed its banking covenants set out the particulars of the contravention and proposals to remedy the same]
 - (h) the Guaranteeing Group Companies under the Deed of Negative Pledge and Guarantee are [] and [];

[If there are no Guaranteeing Group Companies, state so. Provide details regardless of whether any particular Series is guaranteed by the Guaranteeing Group Companies.]

- (i) the following changes have occurred since the last reporting certificate in respect of the membership of the Guaranteeing Group:

[Set out any changes to the membership of the Guaranteeing Group since the last reporting certificate]

- (j) there have been [no/the following] significant changes in the level of assets and liabilities of the companies which are not members of the Guaranteeing Group but which would be included in any consolidated financial statements prepared under clause 12.3(a) of the Trust Deed;

[Provide details of any significant changes]

- (k) the ratio in clause 2.3.2 of the Deed of Negative Pledge and Guarantee is [above/below] 85%.

[Provide details showing how this ratio has been calculated. Also, if the ratio is below 85%, additional reporting requirements apply under clause 12.3(c) of the Trust Deed].

4. As at the date of this certificate, to the best of our knowledge and belief:

- (a) the available assets of the Issuer are sufficient or likely to be sufficient to discharge amounts payable in respect of the Notes over the 12 month period commencing on the Reporting Date;
- (b) the Issuer is able to pay its debts as they become due in the normal course of business; and
- (c) the value of the Issuer's assets is more than the value of the Issuer's liabilities including contingent liabilities.

5. As at the Reporting Date the aggregate Principal Amount of the Retail Notes outstanding is \$[].

This certificate is given on the [] day of [] 20[]

Director

Director

Execution

Executed as a deed

Contact Energy Limited by

Director

Director

Print Name

Print Name

Executed under the name and seal
of **The New Zealand Guardian
Trust Company Limited** by:

Authorised Signatory

Authorised Signatory

Print Name

Print Name

Witness to both signatures
(if not signed by two directors)

Print Name

Occupation

Address