

NEW ZEALAND POST GROUP FINANCE LIMITED
Issuer

NEW ZEALAND POST LIMITED
Guarantor

TRUSTEES EXECUTORS LIMITED
Supervisor

DEED AMENDING AND RESTATING A TRUST
DEED DATED 12 MARCH 2009

RUSSELL McVEAGH

DEED dated 13 October 2015

PARTIES

NEW ZEALAND POST GROUP FINANCE LIMITED ("Issuer")

NEW ZEALAND POST LIMITED ("Guarantor")

TRUSTEES EXECUTORS LIMITED ("Supervisor")

INTRODUCTION

- A. The Issuer, the Guarantor and the Supervisor have executed a trust deed relating to the constitution and terms of unsecured, subordinated notes dated 12 March 2009, as amended on 27 September 2012 and 15 September 2014 ("**Original Deed**").
- B. The Issuer, the Guarantor and the Supervisor wish to amend and restate the Original Deed on the terms set out in this deed.
- C. For the purposes of clause 9.5(a) of the Original Deed the Supervisor is of the opinion that the amendments contained in this deed are:
- (i) made to comply with the requirements of the Financial Markets Conduct Act 2013;
 - (ii) of a formal or technical nature; and
 - (iii) not, and are not likely to become, materially prejudicial to the interest of the Holders generally.

COVENANTS

1. INTERPRETATION

1.1 Definitions:

- (a) Words and expressions that are defined in the Original Deed have the same meanings when used in this deed, unless the context otherwise requires.
- (b) In this deed, "**Effective Date**" means the date the Issuer elects in accordance with clause 19(1)(a) of schedule 4 of the FMC Act and notifies to the Supervisor, having given the Supervisor notice of this date at the same time as the Financial Markets Authority and the Registrar of Financial Service Providers were notified in accordance with clause 19(2) of schedule 4 of the FMC Act.

1.2 Interpretation:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this deed.
- (b) Unless the context otherwise requires the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.

- (c) A reference to any document includes reference to that document as modified, novated, supplemented, varied or replaced from time to time.
- (d) A reference to any party to a document includes its successors and permitted assigns.

2. AMENDMENT AND RESTATEMENT OF THE ORIGINAL DEED

- 2.1 **Amendment and restatement:** With effect from the Effective Date, the Original Deed shall be amended and restated in the form set out in the schedule.
- 2.2 **Confirmation:** Except to the extent amended and restated by this deed, the Original Deed continues in full force and effect.

3. COUNTERPARTS

- 3.1 This deed may be signed in counterpart copies, both of which will together constitute one and the same instrument, and either of the parties may execute this deed by signing any such counterpart.

4. GOVERNING LAW

- 4.1 This deed shall be governed by, and construed in accordance with, the laws of New Zealand.

EXECUTION

Executed as a deed

The Issuer

NEW ZEALAND POST GROUP FINANCE LIMITED by:

Brian Roche
Signature of director
Brian Roche
Name of director

David Walsh
Signature of director
David Walsh
Name of director

The Guarantor

NEW ZEALAND POST LIMITED by:

Malcolm Chan
Signature of director *witness*
MALCOLM CHAN
Name of director *witness*
Occupation: GENERAL COUNSEL
City: WELLINGTON
The Supervisor

David Walsh
Signature of director *authorised signatory*
DAVID WALSH
Name of director *authorised signatory*

SIGNED by TRUSTEES EXECUTORS LIMITED under its common seal:

Authorised signatory

Authorised signatory

In the presence of:

Name of witness

Occupation

City/town of residence

EXECUTION

Executed as a deed

The Issuer

NEW ZEALAND POST GROUP FINANCE LIMITED by:

Signature of director

Signature of director

Name of director

Name of director

The Guarantor

NEW ZEALAND POST LIMITED by:

Signature of director

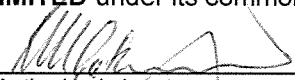
Signature of director

Name of director


Name of director

The Supervisor


SIGNED by TRUSTEES EXECUTORS LIMITED under its common seal:



Authorised signatory **Robert Gatward**



Authorised signatory **Stuart McLaren**

In the presence of:


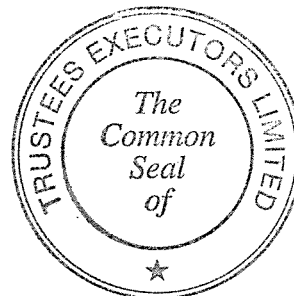
Name of witness

Sean Roberts

Occupation **Corporate Business Manager**

Wellington

City/town of residence



CTS 2015 -128 (1/2)

SCHEDULE

Amended and Restated Trust Deed

NEW ZEALAND POST GROUP FINANCE LIMITED
Issuer

NEW ZEALAND POST LIMITED
Guarantor

TRUSTEES EXECUTORS LIMITED
Supervisor

TRUST DEED

RUSSELL McVEAGH

CONTENTS

1. INTERPRETATION	1
2. ISSUE AND CONSTITUTION OF NOTES	5
3. GUARANTEE	7
4. SUBORDINATION AND STATUS OF NOTES AND THE GUARANTEE	9
5. THE REGISTER	12
6. TAXES	14
7. WARRANTIES AND COVENANTS	15
8. APPOINTMENT OF AUDITOR	19
9. SUPERVISOR'S POWER TO WAIVE	20
10. APPOINTMENT OF AND POWERS AND DISCRETIONS OF SUPERVISOR	20
11. AMENDMENTS	26
12. MEETINGS OF HOLDERS	26
13. INDEMNITY OF SUPERVISOR	27
14. RETIREMENT, REMOVAL AND NEW APPOINTMENT OF SUPERVISOR	27
15. SUPERVISOR'S REMUNERATION AND EXPENSES	28
16. DISCLOSURE OF INFORMATION	29
17. NOTICES	29
18. GOVERNING LAW	30
19. DISCHARGE OF DEED	30
20. INVALIDITY	30
SCHEDULE 1	32
CONDITIONS OF THE NOTES	32
SCHEDULE 2	47
MEETINGS OF HOLDERS	47

DEED dated 12 March 2009, as amended on 27 September 2012, 15 September 2014 and amended, restated and consolidated by the deed dated *13 October* 2015 to which this deed is attached as a schedule.

PARTIES

NEW ZEALAND POST GROUP FINANCE LIMITED ("Issuer")

NEW ZEALAND POST LIMITED ("Guarantor")

TRUSTEES EXECUTORS LIMITED ("Supervisor")

INTRODUCTION

- A. The Issuer wishes to issue unsecured, subordinated Notes to be constituted under this deed.
- B. The Guarantor has agreed to guarantee on an unsecured, subordinated basis to Holders and the Supervisor the due and punctual payment of all amounts payable on the Notes.
- C. The FMC Act requires the appointment of a supervisor in respect of the Notes and the execution by the Issuer and the Supervisor of a trust deed.
- D. The Supervisor has accepted appointment to act as supervisor on behalf of the Holders in accordance with this deed.

AGREEMENT

1. INTERPRETATION

- 1.1 **Definitions:** In this deed, unless the context otherwise requires:

"Agency Agreement" means the register and paying agency agreement between the Issuer and the Registrar dated on or about the date of this deed.

"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 under section RF 12(3) of the Income Tax Act 2007.

"Auditors" means the auditors for the time being of the Group.

"Audited Financial Statements" means, in relation to an Obligor, annual Financial Statements as at the balance date of the Obligor, and for the year ending on that balance date which have been duly audited by the Auditors.

"Board" means, in relation to an Obligor, the board of directors of the Obligor.

"Business Day" means any day (other than a Saturday or a Sunday) on which banks are generally open for business in Auckland and Wellington.

"**Capital Gazette**" means the New Zealand Gazette published or purporting to be published under the authority of the New Zealand Government, and includes a supplement.

"**Commencement of Liquidation**" means, in relation to an Obligor, the commencement of liquidation under section 241(5) or section 317 of the Companies Act, as the case may be, or under any similar legislation under which the Obligor will cease to be duly incorporated or to validly exist, or the date on which a statutory manager is appointed to the Obligor under the Corporations (Investigations and Management) Act 1989.

"**Companies Act**" means the Companies Act 1993.

"**Conditions**" means the terms and conditions from time to time applicable to the Notes in the form set out in schedule 1 (as modified from time to time in accordance with this deed).

"**Event of Default**" has the meaning given in the Conditions.

"**Financial Statements**" means, in relation to an Obligor, at any date, consolidated financial statements of the Obligor as at that date which comply with NZ GAAP and (if they are not Audited Financial Statements) on a basis consistent with the most recent Audited Financial Statements of the Obligor, except to the extent (if any) expressly disclosed in notes to such financial statements or in writing to the Supervisor.

"**FMC Act**" means the Financial Markets Conduct Act 2013.

"**FMC Regulations**" means the Financial Markets Conduct Regulations 2014.

"**Group**" means, at any date, the Guarantor and its Subsidiaries at that date.

"**Guarantee**" means the guarantee contained in clause 3.

"**Guaranteed Moneys**" means, at any time, all moneys payable on or in relation to the Notes to the Holders pursuant to this deed at that time.

"**Holder**" means, in relation to a Note, and, at any time, the person whose name is entered into the Register as the holder of the Note.

"**Issuer Obligations**" has the meaning given to it in the FMC Act.

"**Liquidation**" means, in relation to an Obligor:

- (a) the process of liquidation provided for in Part XVI of the Companies Act; or
- (b) any analogous procedure following which the Obligor will cease to validly exist, or be duly incorporated; or
- (c) the Obligor becoming subject to statutory management under the Corporations (Investigation and Management) Act 1989,

but excludes a reconstruction or amalgamation (not including or arising out of insolvency) of the Obligor provided that, upon such reconstruction or amalgamation, the successor to the Obligor assumes the obligations of the Obligor under this deed and the Notes, and that (except in the case of an amalgamation under Part XIII of the Companies Act) the form of the restructuring or amalgamation has been approved by Special Resolution.

"**Liquidator**" means, in relation to an Obligor, any official (including a statutory manager) in whom management of the Obligor may become vested for the purposes of liquidating

its assets and repaying its debts and administering to the eventual cessation of its business.

"**Listed**" means listed and quoted on the NZDX, and "**Listing**" has a corresponding meaning.

"**Listing Rules**" means the listing rules of NZX in force from time to time.

"**Notes**" means the unsecured, subordinated Notes constituted by this deed and which are for the time being outstanding, and includes the relevant Conditions applicable to such Notes.

"**Note Moneys**" means, in relation to a Note at any time, the Principal Amount, interest (if any) and other moneys payable on or in relation to the Note.

"**NZ Dollars**" and "\$" means the lawful currency of New Zealand.

"**NZDX**" means the debt security market operated by NZX.

"**NZ GAAP**" means generally accepted accounting practice in New Zealand as defined in section 8 of the Financial Reporting Act 2013.

"**NZX**" means NZX Limited.

"**Obligors**" means the Issuer and the Guarantor, and "**Obligor**" means either of them.

"**Offer Documents**" means the prospectus and the investment statement relating to the issue of Notes, in each case which has been prepared by, or on behalf and with the approval of, the Obligors, and shall include (in each case) all documents to be distributed with or which form part of the relevant document.

"**Ordinary Resolution**" means a resolution passed at a meeting of Holders duly convened and held in accordance with schedule 2 by a majority consisting of not less than one half of the votes cast on that resolution or, if a poll is required, by not less than one half of the votes cast on the poll.

"**Principal Amount**" means, in relation to a Note, the principal amount of the Note as recorded in the Register.

"**Proxy Closing Time**" means 48 hours before the time appointed for commencement of the relevant meeting of Holders or the taking of a poll of Holders.

"**Register**" means the register of Notes to be established and maintained in accordance with this deed and the Agency Agreement.

"**Registrar**" means Link Market Services Limited or any other persons as may be appointed by the Issuer to maintain the Register.

"**Senior Creditors**" means, in relation to an Obligor, persons to whom Senior Indebtedness of the Obligor is owed.

"**Senior Indebtedness**" means, in relation to an Obligor, all indebtedness (present or future) of the Obligor:

- (a) a claim in respect of which would be admitted in a liquidation of the Obligor; and
- (b) which is not by its terms expressed to rank in a liquidation subordinate to, or equally with the Notes or, as the case may be, the Guarantee.

"Special Resolution" means a resolution passed at a meeting of Holders duly convened and held in accordance with schedule 2 by Holders holding Notes with a Principal Amount of no less than 75% of the aggregate Principal Amount of the Notes held by those persons who are entitled to vote and who vote on the question..

"Statement" means a statement issued by the Issuer to a Holder in relation to the Notes held by the Holder, if applicable, in compliance with the Listing Rules.

"Subsidiary" means, in relation to any person, a subsidiary of that person 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).

1.2 **Interpretation:** Except to the extent that the context otherwise requires, any reference in this deed to:

- (a) a **"clause"** or **"schedule"** is a reference to a clause of, or the schedule to, this deed;
- (b) a **"company"** means any company or body corporate wherever incorporated or domiciled and, where the context so permits, includes an individual;
- (c) a **"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;
- (d) **"law"** means all laws, statutes, regulations and ordinances of New Zealand and all judgments, decrees, injunctions, writs and orders of any New Zealand court;
- (e) **"month"** means calendar month;
- (f) **"outstanding"** means, in relation to Notes, all Notes other than those which have been:
 - (i) Redeemed in accordance with this deed and the Conditions; or
 - (ii) purchased and cancelled in accordance with this deed and the Conditions,

provided that, for the purposes of (1) ascertaining the right to attend and vote at any meeting of the Holders, and (2) the exercise of any discretion, power or authority which the Supervisor is required, expressly or impliedly, to exercise in or by reference to the interests of the Holders, those Notes which are beneficially held by or on behalf of the Guarantor or any of its Subsidiaries and not cancelled shall (unless no longer so held) be deemed not to remain outstanding.

- (g) **"person"** includes an individual, firm, company, corporation or unincorporated body of persons, organisation or trust, and any state or governmental agency, in each case whether or not having a separate legal personality;
- (h) **"tax"** includes any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature and whatever called, imposed or levied by any government or governmental agency; and
- (i) **"written"** and **"in writing"** includes all means of reproducing words in a tangible and permanently visible form.

1.3 **Miscellaneous:**

- (a) **Definitions in Companies Act and FMC Act:** Except where otherwise expressly provided in this deed, words defined in the Companies Act or the FMC Act have the same meanings in this deed.
- (b) **Headings:** The introduction to and headings in this deed are inserted for convenience only and are to be ignored in construing this deed.
- (c) **Plural, singular and gender references:** Unless the context otherwise requires, words denoting the singular number only are to include the plural and *vice versa* and words denoting any gender are to include all genders.
- (d) **References to legislation:** References to any legislation or to any provision of any legislation are deemed to be references to that legislation or provision as from time to time amended, re-enacted or substituted.
- (e) **Modified, novated, supplemented, varied and replaced document:** References to any document (however described) will include references to such document as modified, novated, supplemented, varied or replaced from time to time.
- (f) **Schedules:** Each schedule has the same form and effect as if set out in the body of this deed and references to this deed include the schedules and the Conditions.
- (g) **References to time:** Anything which may be done at any time may also be done from time to time.

1.4 **Definitions in Conditions:** Words and expressions defined in the Conditions and not otherwise defined in this deed have the same meanings where used in this deed unless the context otherwise requires.

1.5 **Non-Business Days:** Anything which is required by this deed or the Conditions to be done on, or as of, a day which is not a Business Day is to be done on, or as of, the next Business Day.

2. **ISSUE AND CONSTITUTION OF NOTES**

2.1 **Constitution of Notes:** The Issuer may, from time to time, constitute and issue Notes in accordance with this deed.

2.2 **Conditions of issue:** Each Note is to be issued subject to the Conditions in accordance with this deed.

2.3 **Deed and Conditions binding:** This deed and the Conditions are binding on each Obligor, the Supervisor, the Holders and all persons claiming through or under them respectively and the Notes are to be held subject to this deed and the Conditions.

2.4 **Form of Notes:** Notes will be issued in denominations of \$1, and in minimum initial parcels of \$5,000 (and thereafter in multiples of \$1,000) by entry on the Register of the details specified in clause 5.1. Notes shall be issued in an uncertificated book entry form.

2.5 **Payment of Issue Price:** Each applicant for Notes must pay to the Issuer, upon application, the Issue Price for the Notes set out in that application for Notes following which, subject to acceptance of that application by the Issuer in full or in part, the Issuer

must issue that Holder with the appropriate number of Notes for which the application is accepted.

2.6 **Covenant to observe this deed and the Conditions:**

- (a) **Indebtedness:** The Issuer acknowledges its indebtedness to each Holder, and to the Supervisor on behalf of the Holders, in relation to the payment of the Note Moneys.
- (b) **Payment:** The Issuer covenants with the Supervisor that it will:
 - (i) pay the Note Moneys to, or as directed by the Supervisor; and
 - (ii) comply with, perform and observe all the provisions of this deed and the Conditions.
- (c) **Payment in satisfaction of obligations:** Each payment in respect of the Notes duly made to the Holders or the Supervisor will be in satisfaction of the relevant obligation of the Issuer to the Holders and the Supervisor under this deed.
- (d) **Benefit of covenants:** The Supervisor is to take and hold the benefit of the covenants given to it under this deed by the Issuer in respect of the Notes, and by the Guarantor in respect of the Guarantee, (in each case other than those covenants intended to be for the benefit of the Supervisor for its own account) for the Holders generally. No Holder is entitled to enforce any of its rights or remedies under this deed directly against an Obligor unless the Supervisor fails to enforce such rights or remedies after having become bound to do so in accordance with this deed.

2.7 **Holder absolute owner:** Each of the Obligors and the Supervisor is, notwithstanding any notice to the contrary, entitled to treat the Holder of any Note as its absolute and beneficial owner and is not required to recognise any trust or equity or security interest affecting such ownership (except as required by law or order of any competent court).

2.8 **Cancellation on purchase or Redemption:** Each Note which is Redeemed will be deemed to be cancelled, and none of the Obligors or the Supervisor will have any further liabilities or obligations in respect of that Note or the relevant Holder. The Guarantor or any of its wholly owned Subsidiaries may at any time purchase a Note for its own account. Each Note so purchased by the Guarantor or a wholly owned Subsidiary will be cancelled and none of the Obligors or the Supervisor will have any further liabilities or obligations in respect of that Note or the relevant Holder.

2.9 **Validity of issued Notes:** Neither the Supervisor nor any person named as a Holder on the Register in relation to any Note need be concerned or obliged to enquire whether any Note purporting to be evidenced by the Register has been issued in accordance with this deed or, if the Notes are Listed, the Listing Rules. Each Note issued for valuable consideration will be deemed to be validly issued and constituted by this deed notwithstanding that the issue of such Note was in breach of any provision of this deed, but without prejudice to the Supervisor's rights under or in accordance with this deed against the Issuer in respect of any such breach.

2.10 **Payment of brokerage or commission:** The Issuer may pay a commission, procuration, application or issue fee or brokerage to any person in respect of subscribing for, underwriting the issue of, or obtaining issues of, or arranging the sale of, the Notes.

2.11 **Unclaimed payments:** Any payment made by an Obligor or the Supervisor to any Holder at its address last entered in the Register which is returned unclaimed and remains unclaimed by the person entitled to it during the 12 month period thereafter,

must be paid to the Obligor to be held by it for the Holder concerned without any liability to invest or pay interest on that amount. Unless otherwise required by law, any money not so claimed within a period of six years from the original date of payment may be applied by the Obligor for its own purposes, and the Obligor and the Supervisor will have no further liability in respect of the amount concerned.

- 2.12 **Reinstatement:** If any payment made to the Supervisor or to any Holder by or on behalf of an Obligor is avoided by law, such payment will be deemed not to have discharged or affected the liability of the Obligor in respect of which that payment was made. In this circumstance, the Supervisor, the Holder and the Obligor will each be restored to the position in which it would have been, and will be entitled to exercise all the rights which each would have had, if such payment had not been made.
- 2.13 **Listing:** The Issuer may seek to have Notes Listed and quoted on the NZDX.
- 2.14 **Statements:** Where Notes are accepted for quotation on the NZDX, the Issuer must issue, or cause to be issued, to each Holder, a Statement in relation to each Note issued to that Holder, in accordance with, and in the time required by, the Listing Rules.

3. GUARANTEE

- 3.1 **Guarantee:** The Guarantor unconditionally and irrevocably guarantees, to the Holders and the Supervisor the due and punctual payment by the Issuer of the Guaranteed Moneys as and when the same shall become due and payable in accordance with this deed, and the due observance and punctual performance of, and compliance by the Issuer with, its obligations under this deed, to the Holders and the Supervisor, during the term of this Guarantee.
- 3.2 **Payment on Demand:** Whenever any default has been made by the Issuer in payment of all or part of the Guaranteed Moneys to Holders or the Supervisor, the Guarantor shall on demand by the Holders (subject to clause 2.6(d)) or the Supervisor, pay all amounts then due and payable with respect to the Guaranteed Moneys.
- 3.3 **Guarantor as Principal Debtor:** The liability of the Guarantor under this Guarantee is deemed to be the liability of a principal debtor and not merely a surety and such liability will not be affected or diminished, nor will any security or guarantee provided by the Guarantor be released or discharged, by any act, indulgence, omission or matter which but for this clause would have operated to release the Guarantor wholly or partly from its liabilities under this deed, including:
- (a) **Granting of Time:** the granting of any time, credit, indulgence, waiver or other concession to the Guarantor or any other person whether by the Supervisor, the Holders or any other person (whether or not at the request of the Guarantor or other such person);
 - (b) **Insolvency:** the dissolution of the Guarantor or any other person or the appointment of any administrator, receiver, manager, inspector, trustee, statutory manager or other similar person in respect of the Guarantor or any other person over the whole or any part of its or their respective assets or any step being taken in respect of such dissolution or appointment;
 - (c) **Change in Position:** the Guarantor or any other person being or becoming a party to an amalgamation, assignment for the benefit of creditors, scheme of arrangement, compromise, scheme of reconstruction or change in constitution, composition, status or control in each case however arising, including by reason of a change in constitutive documents or by incorporation or the death, incapacity, retirement, appointment or admission of any partner, trustee or other person;

- (d) **Liability Ceasing:** the liability of the Guarantor or any other person ceasing from any cause whatever (including any release or discharge by the Supervisor or by operation of law);
- (e) **Other Agreements:** any other person providing or joining in providing any agreement, guarantee or security or the failure by the Guarantor or any other person to provide, or being incompetent to give this Guarantee or any other agreement, guarantee or security required by the Supervisor or the Holders;
- (f) **Other Obligations:** any agreement, guarantee (including this Guarantee), security or right held by or available to the Supervisor or the Holders at any time being or becoming in whole or in part void, voidable, defective or unenforceable for any reason or being released, discharged or varied in whole or in part;
- (g) **Variation:** any amendment, variation, waiver, compounding, compromise, release, abandonment, relinquishment or renewal of any agreement (including any alteration or addition to this deed), guarantee, security or any assets, or any rights of the Supervisor or the Holders against the Guarantor or any other person (a "**change in circumstance**") or any failure to notify the Guarantor or such person of such change in circumstance; or
- (h) **Enforcement:** the enforcement of, or failure to enforce (including the failure to make a valid demand in respect of), any rights under any agreement, guarantee or security or any law.

3.4 **Independent Obligation:** This Guarantee is a principal obligation and is in addition to and independent of and not in substitution for any other agreement, guarantee, security or right which the Supervisor or the Holders may have at any time, and will not merge with or in any way be prejudiced or affected by, or prejudice or affect, any such agreement, guarantee, security or right. Subject to clause 2.6(d), the Supervisor and the Holders may enforce this Guarantee without first taking steps or proceedings against the Issuer or any other person.

3.5 **Continuing:** This Guarantee is to be a continuing guarantee and will remain in full force and effect by way of continuing security until the whole of the Guaranteed Moneys has been fully paid and/or satisfied and will not be considered as wholly or partially satisfied, discharged or affected by any intermediate payment or settlement of account.

3.6 **Exercise of the Guarantor's Rights:** So long as the Guarantor has any indebtedness for Guaranteed Moneys which is unpaid or unsatisfied:

- (a) **No Competition:** any right of the Guarantor, by reason of the performance of any of its obligations under this Guarantee, to be indemnified by the Issuer or any other person, to directly or indirectly prove in the estate of the Issuer or any other person, to take the benefit of or enforce any agreement, security or other guarantee or exercise any other right it may have to receive the benefit of any distribution or payment shall be exercised and enforced only in such manner and on such terms as the Holders by a Special Resolution, may require; and
- (b) **Moneys on Trust:** any amount received or recovered by the Guarantor:
 - (i) as a result of any exercise of any such right; or
 - (ii) in the dissolution of the Issuer or any other person,

shall be held in trust for the Holders and the Supervisor and immediately paid to them.

- 3.7 **Payment in Gross:** Any distribution, payment or other money whatever received at any time by the Supervisor or the Holders which may be applied in reduction of the Guarantor's indebtedness for Guaranteed Moneys will be regarded as a payment in gross without any right on the part of the Guarantor to stand in the place of the Supervisor or the Holders in respect of, or to claim the benefit of, any moneys so received against the Guarantor until the whole of the Guaranteed Moneys have been paid or satisfied so that, in the event of the dissolution of the Issuer or any other person, the Supervisor or the Holders may, subject to clause 2.6(d), prove against it for the whole indebtedness of the Issuer in relation to the Guaranteed Moneys until the whole of the Guaranteed Moneys have been paid or satisfied.
- 3.8 **Suspense Account:** The Supervisor may retain in a suspense account and appropriate (subject to the provisions of this deed) at its discretion any amount received from the Guarantor in respect of its indebtedness for Guaranteed Moneys until the Supervisor has received one hundred cents in the dollar in respect of the Guarantor's indebtedness for Guaranteed Moneys.
- 3.9 **Indemnity:** If all or any of the Guaranteed Moneys (or any sum which, if recoverable, would have formed part of the Guaranteed Moneys) are or may be irrecoverable from the Guarantor, or if all or any of such moneys are not recoverable from the Guarantor by the Supervisor or (subject to clause 2.6(d)) the Holders under this Guarantee, then and in each such case:
- (a) **Indemnity:** the Guarantor as a separate and additional liability under this deed indemnifies and will keep indemnified the Supervisor and the Holders in respect of such moneys; and
 - (b) **Payment:** the Guarantor, as a principal debtor, will, on demand, pay to the Supervisor or (as the case may be) the Holders (subject to clause 2.6(d)), a sum equal to the amount of such moneys,
- and the terms of this deed shall (with all necessary modifications) apply so far as possible to this indemnity.
- 3.10 **Not Affected:** The indemnity in clause 3.9 shall apply to all or any of the Guaranteed Moneys (or any sum which, if recoverable, would have formed part of the Guaranteed Moneys) which is or may be irrecoverable for any reason (whether or not within the knowledge of the Supervisor or the Holders) including any legal or equitable limitation, disability or incapacity of or affecting the Guarantor or any other person, any transaction relating to such moneys being or becoming at any time void, voidable, defective or otherwise unenforceable and any other circumstances which allow the Guarantor to avoid paying such sums, in whole or in part.
- 3.11 **Marshalling:** None of the Supervisor or the Holders shall be under any obligation to marshal or appropriate in favour of the Guarantor.

4. SUBORDINATION AND STATUS OF NOTES AND THE GUARANTEE

- 4.1 **Status and subordination:** Each Note is the direct, unsecured, subordinated obligation of the Issuer and ranks equally without any preference with all other Notes. The Guarantee is the direct, unsecured, subordinated obligation of the Guarantor. In any distribution of assets by an Obligor in Liquidation (including by way of exercise of rights of set-off) the rights of the Supervisor and the Holders to the Note Moneys or, as the case may be, the Guarantee Moneys are to be subordinated to all moneys payable by the Obligor to Senior Creditors, so that in any such distribution no payment will be made on account of the Note Moneys or, as the case may be, the Guarantee Moneys to the Supervisor or the Holders until the Senior Creditors of the Obligor have been paid in full.

- 4.2 **Priority:** The Supervisor agrees, and, by subscribing or purchasing a Note each Holder will be deemed to agree, that:
- (a) **Agreement to accept lower priority:** in accordance with section 313(3) of the Companies Act, the Holder is accepting a lower priority in respect of the debt represented by the Note and the Guarantee than that which it would otherwise have under section 313; and
 - (b) **deed to take effect in accordance with its terms:** nothing in section 313 of the Companies Act will prevent this deed from having effect in accordance with its terms.
- 4.3 **Subordinated contingent debt:** In the Liquidation of an Obligor, neither the Supervisor nor any Holder is entitled to prove for the Note Moneys or, as the case may be, the Guaranteed Moneys except as a debt which is subject to, and contingent upon, prior payment of the Senior Creditors of the Obligor in full.
- 4.4 **Other indebtedness permitted:** Nothing in this deed, prior to the Commencement of Liquidation of an Obligor, in any way restricts the right of the Obligor to incur indebtedness or issue obligations or securities ranking in priority to, or equally with, or subordinate to, the indebtedness and obligations of the Obligor in respect of any Notes or, as the case may be, the Guarantee.
- 4.5 **No subordination of Supervisor's entitlement:** Nothing in this deed subordinates or otherwise affects or prejudices, or defers in priority of payment, the payment of the costs, charges, expenses, liabilities, indemnified amounts, remuneration or other moneys payable to the Supervisor (or any officer, employee or agent of the Supervisor) as provided for, or referred to, in this deed, all of which will be payable to the Supervisor at the time and in the manner provided by this deed.
- 4.6 **Trust:** Any payment, whether voluntarily or in any other circumstances, received by the Supervisor or a Holder from or on account of an Obligor (including by way of credit, set-off or otherwise) or from the Liquidator or any receiver, administrator, manager or statutory manager of an Obligor in breach of this clause 4 is to be held by the Supervisor or the relevant Holder in trust for and to the order of the Senior Creditors of the Obligor. The trust hereby created will, subject to clause 4.11, be for a term expiring on the earlier of the date on which all Senior Creditors of the relevant Obligor have been paid in full or the date on which the Liquidator determines that the Obligor has no further assets with which to satisfy the claims of the creditors.
- 4.7 **Contracts (Privity) Act 1982:**
- (a) For the purposes of the Contracts (Privity) Act 1982, but subject to paragraph (b) below, this clause 4 is intended to confer a benefit upon the Senior Creditors of the Obligors and to be enforceable by the Senior Creditors of the Obligors directly.
 - (b) For the purposes of section 6 of the Contracts (Privity) Act 1982, any amendments made to this deed in accordance with clause 11 (but not amendments to this clause 4) shall be binding upon the Senior Creditors of the Obligors whether or not they have consented to such amendment.
- 4.8 **Enforcement:**
- (a) **Claims by Holders:** No Holder may claim or prove in the Liquidation of an Obligor for any amount owing to him or her under any Note or, as the case may be, the Guarantee to the extent that the Supervisor has claimed or proved for, or has determined to claim or prove for, such amount in such Liquidation on

behalf of such Holder, and any claim or proof made contrary to this clause must be withdrawn by such Holder.

- (b) **Enforcement by Holders:** No Holder may proceed against an Obligor or the Supervisor for the enforcement or performance of any provision of this deed or the Conditions that is solely for the benefit of the Supervisor.

4.9 **Distribution on Liquidation:** Any amount received by the Supervisor under or in respect of this deed or the Notes in or upon the Commencement of Liquidation of an Obligor and not paid to the Liquidator must be applied, and pending such application must be held by the Supervisor upon trust to be applied, subject to any direction made by any court and except as required by law:

- (a) **Supervisor's expenses:** first, in payment or retention of all costs, charges, expenses and liabilities incurred and payments made by or on behalf of the Supervisor (or any officer, employee or agent of the Supervisor) and of all remuneration, indemnified amounts and other moneys payable to the Supervisor (or any officer, employee or agent of the Supervisor) as provided or referred to in this deed;
- (b) **Senior Creditor's indebtedness:** secondly, in payment to the Obligor to be held by it upon trust to apply the same in or towards the discharge of the indebtedness of the Obligor to its Senior Creditors according to their respective rights and interests and, pending payment of those amounts to the Obligor, any such amount received by the Supervisor must be held by it on trust to pay the same to the Obligor to be held on the trusts constituted or to be constituted under this clause;
- (c) **Holder's indebtedness:** thirdly, subject to the indebtedness of the Obligor to its Senior Creditors having been paid or satisfied or provided for in full, in or towards payment to each Holder, *pari passu* in proportion to the Principal Amounts of the Notes held by him or her, of the aggregate Note Moneys or, as the case may be, the Guaranteed Moneys; and
- (d) **Surplus to Obligor:** fourthly, in payment of the surplus (if any) of such moneys to the Obligor, or to such other person as may otherwise be lawfully entitled to those moneys.

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

4.11 **Termination of trusts:** The trusts contained in this deed in favour of the Senior Creditors of an Obligor terminate on the date which is 80 years after the date of execution of this deed, except to the extent that any interests under such trusts have vested at that date and without affecting the contractual rights and obligations of the Obligor and the Supervisor under this deed, and any amounts which would, but for this clause, have been held on trust for the Senior Creditors will be held on trust for the Obligor absolutely.

4.12 **Permitted payments and receipts:** Until the Commencement of Liquidation of an Obligor, the Obligor is entitled to pay, and a Holder or the Supervisor or any other person on behalf of a Holder is entitled to receive payment from or on behalf of the Obligor of, any Note Moneys or, as the case may be, the Guaranteed Moneys, and the Supervisor is entitled to pay any amounts to or for the benefit of the Holders or any other

person on behalf of any Holders. The payment and receipt prior to the Commencement of Liquidation of an Obligor of any such amount will not constitute a breach of, or be subject to, clause 4.1 and such payment is to be received free of any obligation on the recipient of that payment to refund or return the same, or to hold the same in trust, in accordance with this deed.

- 4.13 **Permitted proceedings:** Nothing in this deed excludes, limits, defers or otherwise affects:
- (a) **Proceedings seeking directions from court:** the right of the Supervisor to seek directions from a court in accordance with the FMC Act or to take any other proceedings seeking the directions of, or guidance by, any court or other authority as to the performance of its functions and duties hereunder or otherwise in relation to this deed; or
 - (b) **Proceedings seeking declaratory judgment:** any proceedings taken by the Supervisor or any Holder at any time seeking a judgment or order declaratory of the rights or obligations of any Holder or any party to this deed; or
 - (c) **Other proceedings:** the right of the Supervisor or a Holder, in the circumstances expressly permitted by this deed and the Conditions, to take any action permitted by this deed.

5. THE REGISTER

- 5.1 **Register:** The Issuer shall at all times while Notes are outstanding cause the Registrar to maintain the Register in New Zealand, which must record in respect of each Note:
- (a) **Name and address:** the name and address of each person registered as a Holder and the details of the account to which payments in relation to the Notes are to be made;
 - (b) **Issue Date:** the Issue Date of each Note;
 - (c) **Transfers:** details of all of Notes, including the date of registration of each transfer;
 - (d) **Cancellation:** all Redemptions or purchases and cancellations of Notes;
 - (e) **Tax:** the tax residency of the Holder and details of any RWT exemption certificate (as defined in section YA 1 of the Income Tax Act 2007) held by the Holder; and
 - (f) **Other information:** such other information as may be required by law and the Listing Rules or by the Supervisor.
- 5.2 **Disclosure and Inspection:** The Issuer shall ensure that, if a Holder so requests, the Registrar of the relevant Notes makes available for inspection, and provides copies of or extracts from, the Register which relate to the Notes registered in the name of the Holder. The Issuer and the Supervisor may, at all reasonable times during the office hours of the Registrar and subject to any applicable laws, inspect and take extracts (including electronic copies) from the Register without payment of any fee.
- 5.3 **Register conclusive:** Except as ordered by a court of competent jurisdiction, the Issuer, the Guarantor, the Supervisor and the Registrar are, for the purposes of this deed, 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, notice of registration or Statement issued in respect of a Note and the Register, the Register shall prevail.

- 5.4 **Correction of errors:** The Registrar may, on such evidence as appears to it to be sufficient, correct errors and remedy omissions in the Register.
- 5.5 **Co-ownership of Notes:**
- (a) Where two or more persons are registered as Holders of the same Note(s) by virtue of any application for Notes, transfer or other instrument, then, unless the contrary is expressed in the application, transfer, 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 transfer or other instrument), to be registered as Holders as tenants in common, the Registrar 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 thereof), the Registrar may refuse to accept the application, 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 (whether on the dissolution, death or bankruptcy of the relevant Holder, or under a writ of execution, or otherwise) the Registrar, 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 **Tax details:** Each Holder shall give written notice to the Registrar of its country of residency for taxation purposes and, if not resident in New Zealand for taxation purposes, of whether the Holder is engaged in business in New Zealand through a branch or other fixed establishment (as that term is defined in the Income Tax Act 2007) in New Zealand.
- 5.8 **Notification by Holders:** Any change of name or address of any Holder or any change in any other information required to be inserted in the Register in respect of any Holder shall immediately be notified to the Registrar in writing by the Holder, or if a joint holding by all the joint Holders.
- 5.9 **Register compliance:** The Issuer shall comply with, and shall use all reasonable endeavours to ensure that the Registrar complies with all statutory requirements and the requirements of this deed relating to the keeping of each Register and the details entered in each Register. Without limitation to the generality of the foregoing, the Register shall be audited in accordance with applicable auditing and assurance standards by the Auditors 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 5.9 are not being complied with in relation to the Register.
- 5.10 **No liability:** The Registrar will not be liable for any breach by the Issuer of any representation, obligation or undertaking (including the non-payment of any money due), and nor will the Registrar be liable for any negligent act, error or omission on the part of the Issuer, nor for acting in accordance with any written instruction or direction of the Issuer or with the written consent or approval of the Issuer.

6. TAXES

6.1 **Deductions or withholdings:** All sums payable under this deed or a Note 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 6) without any deduction or withholding on account of, any taxes; and
- (c) (except to the extent required by law or as provided in this clause 6) without deduction or withholding on account of any other amount whether by way of set-off or otherwise.

6.2 **Non-resident withholding tax:** New Zealand non-resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to any Holder (including, if applicable, any person who beneficially derives interest under a Note) who is not tax resident in New Zealand and who does not carry on business in New Zealand through a fixed establishment (as that term is defined in the Income Tax Act 2007) in New Zealand ("**Non-resident Holder**"). Unless otherwise stated in the Offer Documents or the relevant Non-resident Holder notifies the Obligors that it elects that non-resident withholding tax be deducted from payments to it instead of Approved Issuer Levy, if the relevant Obligor is lawfully able to pay Approved Issuer Levy in respect of any payment of interest (or deemed interest) to Non-resident Holders, and elects to do so in respect of the Notes, the Obligor (or, if applicable, the Registrar on behalf of the Issuer) shall pay the Approved Issuer Levy to the appropriate authority and shall deduct and retain for its own benefit an amount equal to the amount so 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.

6.3 **Resident withholding tax:** New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to any Holder (including, if applicable, any other person who beneficially derives interest under a Note) who is tax resident in New Zealand or who is not tax resident but carries on business in New Zealand through a fixed establishment (as that term is defined in the Income Tax Act 2007) in New Zealand unless the Holder is able to establish to the satisfaction of the relevant Obligor (or, if applicable, the Registrar on behalf of the Issuer) either by means of an appropriate exemption certificate or otherwise before the Record Date for the relevant payment that no such tax need be deducted.

6.4 **No gross-up:** Neither Obligor will 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 under clauses 6.2 or 6.3. If, in respect of a Note, the Registrar or an Obligor becomes liable to make any payment of, or on account of, tax payable by any Holder (including, if applicable, any other person who beneficially derives interest under a Note), then the Registrar and the Obligor shall be indemnified by the relevant Holder in respect of such liability. Any moneys paid by the Registrar or the Obligor in respect of such liability may be recovered from the relevant Holder as a debt due to the Registrar or the Obligor and may be withheld from any further payments to the Holder. Nothing in this clause 6.4 will prejudice or affect any other right or remedy of the Registrar or the Obligor.

6.5 **Maximum rate:** Deductions of non-resident or resident withholding tax will be made at the maximum rates from time to time applicable unless a Holder (or, if applicable, any person who beneficially derives interest under a Note) provides evidence to the Obligors or the Registrar (acceptable to it) that a lesser rate is applicable.

- 6.6 **Tax status:** Each Obligor and the Registrar shall be entitled for the purposes of this clause 6 to rely, without further enquiry, upon any evidence produced or statement made by, or on behalf of, a Holder in relation to the Holder's tax status or tax residency, and to regard the Holders entered in the Register as the only beneficial owners of, or the only persons who beneficially derive interest under, the Notes.

7. WARRANTIES AND COVENANTS

- 7.1 **Representations and warranties:** Each Obligor represents and warrants to the Supervisor that on the date of this deed and on each date of issue of the Notes:

- (a) **Incorporation:** it is a company duly incorporated under the laws of New Zealand;
- (b) **Power:** it has power to enter into this deed and perform its obligations under this deed and, in the case of the Issuer, to issue the Notes and to perform its obligations under the Notes;
- (c) **Consents and authorisation:** it has all the necessary consents and has taken all necessary corporate and other action to authorise the execution and performance of this deed and, in the case of the Issuer, the Notes;
- (d) **Obligations legally binding:** its obligations under this deed and, in the case of the Issuer, the Notes are legally binding and enforceable, subject to general equitable principles and to bankruptcy, insolvency or similar laws affecting creditors generally; and
- (e) **No breach of agreement, laws etc:** the execution and performance of this deed and, in the case of the Issuer, the Notes will not constitute a breach under any law or regulation by which the Obligor is bound, including the constitutional documents of the Obligor and, in the case of the Issuer if the Notes are Listed, the Listing Rules.

- 7.2 **Covenants:** The Issuer and, in the case of paragraphs (f), (i), (j) and (k) below, the Guarantor covenants with the Supervisor and each Holder that it each will:

- (a) **Agency Agreement:** comply with and perform all material obligations under the Agency Agreement and use all reasonable endeavours to ensure that the Registrar also does so;
- (b) **Notify Event of Default to Holders:** promptly notify the Supervisor and the Holders of the occurrence of any Event of Default;
- (c) **Notify Supervisor of non-payment:** promptly notify the Supervisor if the Issuer intends not to, or fails to, make a payment on the Notes when due;
- (d) **This deed:** comply with and observe its obligations under this deed;
- (e) **Registrar:** maintain a Registrar and give notice in accordance with clause 17 to the relevant Holders of any resignation or removal of the Registrar and the appointment of any replacement Registrar as soon as reasonably practicable following such event;
- (f) **Authorisations:** obtain, effect and promptly renew from time to time all authorisations required under any applicable law to enable it to perform and comply fully with this deed or required on its part for the validity or enforceability of this deed;

- (g) **Give Supervisor notices:** send a copy to the Supervisor of each notice or communication given by it to Holders generally;
- (h) **Quotation of Notes and provide information:** if the Notes are Listed, use reasonable endeavours to ensure that the Notes are, upon their issue, quoted on NZDX and that such quotation is maintained;
- (i) **Information:** whenever so requested, give to the Supervisor such information as may reasonably be required for the purposes of the discharge of the duties, trusts and powers vested in the Supervisor under this deed or imposed upon it by law;
- (j) **Compliance with legislation etc:** at all times comply with the FMC Act, FMC Regulations, Companies Act, Financial Reporting Act 2013, the Listing Rules and all other applicable laws;
- (k) **Corporate existence:** maintain its corporate existence and not amalgamate, merge or consolidate with any person unless the resulting or surviving entity assumes, to the satisfaction of the Supervisor, its obligations under this deed and, in the case of the Issuer, under the Notes;
- (l) **Breach or possible breach:** if, at any time it has reasonable grounds to believe that it has breached, or may have breached, any of the terms of this deed or the terms of an offer of Notes, it will, as soon as practicable, notify the Supervisor in writing of the breach or possible breach and the steps (if any) that it has taken or intends to take in light of the breach or possible breach, and the date by which the steps were taken or are to be taken; and
- (m) **Reports:** provide to the Supervisor any report signed by at least two directors on behalf of the board of the Issuer (or if the Issuer has only one director, by that director) about any matter relevant to the performance of the Supervisor's duties that the Supervisor, by written notice, requires the Issuer to provide within the timeframe specified by the Supervisor in that notice provided that such timeframe is reasonable in the circumstances.

7.3 **Financial Covenants:** The Guarantor covenants with the Supervisor that, so long as any Notes are outstanding:

- (a) **Financial and other information:** the Guarantor will deliver to the Supervisor:
 - (i) as soon as practicable (and in any event within 7 days) after the responsible Minister (as that term is defined in the State-Owned Enterprises Act 1986) for the Guarantor has laid them before the House of Representatives in New Zealand or they are published in the Capital Gazette under section 17A(2A) of the State Owned Enterprises Act 1986, whichever is earlier, (or, if the Guarantor shall no longer be required to lay its accounts thus, within 3 months after the end of each financial year), in respect of each of its financial years, a copy of the Audited Financial Statements of the Group and a copy of the Audited Financial Statements of the Issuer, each made up as at the last day of that financial year;
 - (ii) as soon as practicable (and in any event within 7 days) after the responsible Minister (as that term is defined in the State-Owned Enterprises Act 1986) for the Guarantor has laid them before the House of Representatives in New Zealand as part of the half yearly report required by section 16 of the State-Owned Enterprises Act 1986 (or, if the Guarantor shall no longer be required to lay its accounts thus, within 3 months after the last day of the first half of

each financial year), in respect of the first half of each financial year, a copy of the Financial Statements of the Group and a copy of the Financial Statements of the Issuer for the preceding half-year, each made up as at the last day of that half-year; and

- (iii) from time to time within seven days after request by the Supervisor such information about the business, assets and financial condition of the Issuer, the Guarantor and/or the Group as the Supervisor may reasonably require, provided that the Guarantor may, in its sole discretion, refuse to deliver any information requested under this clause 7.3(a)(iii) until such time as such information is publicly available or the Board and/or shareholders of the Guarantor have approved the information;
- (b) **Accounting Principles:** the Guarantor will ensure that all Financial Statements delivered to the Supervisor under clauses 7.3(a)(i) and (i):
- (i) are prepared in accordance with NZ GAAP, consistently applied except to the extent disclosed in those Financial Statements;
 - (ii) give a true and fair view in accordance with NZ GAAP of the financial position of the Group or the Issuer, as the case may be, and the result of the operations of the Group or the Issuer as at the date, and for the period ending on the date, to which those Financial Statements are prepared; and
 - (iii) are signed by two of the directors of the Guarantor (for Financial Statements of the Group) or the Issuer (for Financial Statements of the Issuer), and are accompanied by all documents and reports required by law to be annexed to or to accompany them; and
- (c) **Auditor's Report:** at the same time as the latest Audited Financial Statements are provided in accordance with clause 7.3(a)(i), a separate report by the Auditors stating:
- (i) whether, in the course of performing their duties as Auditors, they have become aware of any non-payment by the Issuer of any interest on any of the Notes and if so the amount of the interest so unpaid;
 - (ii) the aggregate Principal Amount of Notes on issue and outstanding;
 - (iii) whether they, as Auditors, have audited the Register, and if not, whether another firm (and which firm if any) has audited the Register, and to the extent that the Auditors or the other firm have audited the Register, whether the Register has been duly maintained;
 - (iv) whether in the performance of their duties as Auditors they have become aware of 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 the FMC Act, and if so giving particulars thereof;
 - (v) 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; and
 - (vi) that they have perused the reports given by the Board of the Issuer pursuant to clause 7.4 since the last report by the Auditors (or the date of this deed, whichever is later) and that, so far as matters which

they have observed in the performance of their duties as Auditors are concerned, nothing has come to their attention to show that the statements made in such reports by the directors are not correct.

7.4 **Reports and information:** The Issuer covenants to the Supervisor that, so long as any Notes are outstanding, it will:

(a) **Board Report:** deliver to the Supervisor, not later than the times of delivery of the latest Financial Statements pursuant to clauses 7.3(a)(i) and 7.3(a)(i), a report signed by two directors on behalf of the Board of the Issuer stating:

(i) to the best of their knowledge and belief having made due enquiry, during the immediately preceding financial year or half-year (as the case may be):

(aa) whether any matter has arisen relating to the Issuer which would adversely affect the ability of the Issuer to perform its obligations under this deed and the Notes and, if so, details of that matter;

(bb) whether the Issuer has duly observed, performed and complied in all respects with its obligations under this deed (and, if not, details of the contravention);

(cc) whether any Notes have been Redeemed, or purchased by the Guarantor or its Subsidiaries and, if so, details of the Redemption or purchase;

(dd) whether the Register has been maintained and audited in accordance with this deed;

(ee) that the Issuer is not in material default in the payment of amounts due to Senior Creditors; and

(ff) whether the Issuer has remained solvent; and

(ii) the aggregate Principal Amount of the Notes outstanding at the end of the financial year or half-year (as the case may be);

(b) **Requested information and reports:** deliver to the Supervisor, if requested by the Supervisor (or a person authorised by the Supervisor to exercise its powers), within the time and in the manner (which must be reasonable in the circumstances) specified by the Supervisor:

(i) all documents and records relating to the Issuer; and

(ii) any other reports, information, confirmations or financial statements required by the Supervisor (or other authorised person).

The reports, information, confirmations or financial statements may be about any matter relevant to the performance of the Supervisor's functions and include forward-looking reports;

(c) **Contravention or possible contravention of Issuer Obligations:** if it has reasonable grounds to believe that it has contravened, may have contravened, or is likely to contravene any of its Issuer Obligations in a material respect, as soon as practicable:

- (i) deliver to the Supervisor a report of the contravention or possible contravention to the Supervisor; and
 - (ii) advise the Supervisor of the steps (if any) that the Issuer 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; and
- (d) **Serious financial problems:** if it 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 soon as practicable:
- (i) deliver to the Supervisor a report to the Supervisor containing all information relevant to that matter that is in the possession or under the control of the Issuer 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 the Issuer intends to take in respect of that matter and the date by which the steps are to be taken.

8. APPOINTMENT OF AUDITOR

8.1 Consultation with Supervisor: The Issuer must:

- (a) before recommending the appointment or reappointment of a person as an Auditor:
 - (i) consult with the Supervisor on the appointment or reappointment; and
 - (ii) ensure that any comments of the Supervisor concerning the proposed auditor are brought to the attention of the person or persons appointing or reappointing the Auditor;
- (b) 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 from appointment or declining to accept appointment or reappointment; and
- (c) not attempt to prevent a person who has resigned from appointment as the Auditor, or declined to accept appointment or reappointment as the Auditor, from offering an explanation, or disclosing to the Supervisor the reason, for resigning or declining appointment or reappointment.

8.2 Specified Engagement: The Issuer must, before recommending the appointment or reappointment of a person as the Auditor:

- (a) give the Supervisor an opportunity to be a party to an assurance engagement carried out by an auditor in relation to the Issuer's compliance with this deed for the purpose of the Supervisor obtaining assurance of matters relevant to the exercise or performance of the powers or duties of the Supervisor; and
- (b) consult with the Supervisor on the nature and scope of any such engagement.

8.3 Terms of Appointment: The Issuer must ensure that the following terms are included in the terms of appointment of an auditor in its capacity as Auditor:

- (a) that the Auditor will, at the beginning of the audit, review, or engagement, give the Supervisor an opportunity to meet with the Auditor, without any

representative of the Issuer being present, in order to allow the Supervisor an opportunity to raise any issues or concerns relevant to the exercise or performance of the powers or duties of the Supervisor;

- (b) that the Auditor will give the Supervisor an opportunity to meet with the Auditor, without any representative of the Issuer being present, to discuss matters arising in the performance of the audit, review, or engagement and to answer any questions the Supervisor may have concerning the audit, review, or engagement;
- (c) that the Auditor will acknowledge its obligations as auditor under the FMC Act; and
- (d) that the Auditor will carry out the audit of the Audited Financial Statements referred to in clause 7.3(a)(i) in accordance with NZ GAAP.

9. SUPERVISOR'S POWER TO WAIVE

- 9.1 Subject to any direction or request given by the Holders and clause 11 (if applicable), the Supervisor may from time to time by notice in writing to the Obligors waive in part or in whole, for a specified period or completely, and on such terms and conditions (if any) as it deems expedient, any breach or anticipated breach by an Obligor of any of the provisions of this deed or the Conditions, provided the Supervisor is satisfied that the interests of the Holders will not be materially prejudiced as a result. Any such waiver will not affect the rights of the Supervisor and the Holders in respect of any other breach, but will be binding on all Holders. Notwithstanding anything in this deed or otherwise contained or implied or any rule of law to the contrary, the Supervisor will not be deemed to have given any such waiver unless the waiver is given by the Supervisor in writing.

10. APPOINTMENT OF AND POWERS AND DISCRETIONS OF SUPERVISOR

- 10.1 **Appointment:** The Issuer hereby appoints the Supervisor, and the Supervisor accepts appointment, as supervisor for the Holders in respect of the Notes, with the rights, powers, duties and obligations set out in this deed including, without limitation:
- (a) acting on behalf of the Holders in relation to:
 - (i) the Issuer;
 - (ii) any matter connected with this deed; and
 - (iii) any contravention or alleged contravention of the Issuer Obligations; and
 - (b) supervising the Issuer's performance:
 - (i) of its Issuer Obligations; and
 - (ii) in order to ascertain whether the assets of the Issuer are or may be available, whether by way of security or otherwise, are sufficient or likely to be sufficient to discharge the Principal Amount, interest and other monies payable on, or in relation to the Notes as they become due; and
 - (c) performing or exercising any other functions, duties, and powers conferred or imposed on the Supervisor by or under the FMC Act, the Financial Markets Supervisors Act 2011 or this deed.

- 10.2 **Hold in trust:** The Supervisor shall hold the following in trust for the benefit of the Holders:
- (a) the right to enforce the Issuer's duty to repay, or to pay interest, under the terms of the Notes;
 - (b) any charge or security for repayment; and
 - (c) the right to enforce any other duties that any Obligor and any other person have under:
 - (i) the terms of the Notes; or
 - (ii) the provisions of this deed or the FMC Act in relation to the Notes.
- 10.3 **Powers:** In addition to the powers, authorities and discretions which may be vested in trustees and supervisors by law relating to trustees or supervisors, and to facilitate the discharge of its duties under this deed, it is expressly declared that:
- (a) **Act on advice:** the Supervisor may, subject to the provisions of this deed, without liability for loss, obtain, accept and act on, or decline and elect not to accept and act on:
 - (i) the opinion or advice of, or any information obtained from, any barrister, solicitor, valuer, financial adviser, auditor, chartered accountant or other expert, even though it may subsequently be found to contain some error or not be authentic;
 - (ii) a certificate or report signed by any two directors of the Issuer as to any fact or matter *prima facie* within their knowledge as sufficient evidence of that fact or matter; and
 - (iii) the statements contained in any certificate or report given in accordance with this deed as conclusive evidence of the facts stated in that certificate or report;
 - (b) **Resolution of Holders:** the Supervisor will not be liable to the Obligors or any Holder for acting or relying upon any resolution purporting to have been passed at any meeting of the Holders in respect of which a proper record has been made and which the Supervisor believes to have been properly passed, even though it afterwards appears that such resolution is not binding or valid by reason of a defect in the convening of the meeting or in the proceedings conducted at the meeting or for any other reason;
 - (c) **Proceeds of Notes:** the Supervisor will not be liable to the Obligors or any Holder for the receipt or application by the Issuer of the proceeds of the issue of Notes or be bound to see to the application of those proceeds to the persons entitled to them;
 - (d) **Breach of deed or Notes:** subject to clause 10.8, until such time as the Supervisor:
 - (i) becomes aware that, or receives specific advice from the Board of the Issuer or the Auditors that, a breach has, or appears to have, occurred or threatens to occur; or
 - (ii) receives notice of an Event of Default,

the Supervisor is entitled to assume that the Obligors are not in breach of the provisions of this deed or, in the case of the Issuer, any of the Notes;

- (e) **Duty of care:** the Supervisor will not be liable to the Obligors or the Holders unless the Supervisor has acted in gross negligence, fraudulently, dishonestly or in wilful breach of trust or any law or had otherwise failed to show the degree of care and diligence required of it having regard to the powers, authorities and discretions conferred or imposed upon it by this deed or by law;
- (f) **Exercise of trusts, powers, authorities, discretions and responsibilities:** except as otherwise expressly provided in this deed, the Supervisor as regards all trusts, powers, authorities, discretions and responsibilities vested in it by this deed, will have absolute discretion as to their exercise or non-exercise and as to the commencement, modification, discontinuance, compromise or conduct of any action, proceeding or claim and, provided it acts in good faith, it will not be responsible for any loss, damage, cost or expense that may result from the exercise or non-exercise of such;
- (g) **Power to delegate:** the Supervisor may, whenever it thinks it expedient in the interests of the Holders to do so:
 - (i) where permitted to do so by the FMC Act or as permitted by, and then subject to, conditions imposed under the Financial Markets Supervisors Act 2011, delegate at any time to any person any of the trusts, powers, authorities, discretions or responsibilities vested in the Supervisor by this deed which cannot conveniently be exercised by it or through its employees upon such terms and conditions (including the power to sub-delegate) as the Supervisor may reasonably think fit (provided that the Supervisor shall remain liable for the actions of any delegate);
 - (ii) authorise such person as it thinks fit to act as its representative at any meeting; and
 - (iii) apply to the court at any time for directions in relation to any matter or for an order that the powers and trusts contained in this deed be exercised under the direction of the court, or, consent to, approve or oppose any application to court by an Obligor or by or at the instance of any Holder;
- (h) **Consents:** any consent given by the Supervisor for the purposes of this deed may be given on such terms and conditions (if any) as the Supervisor reasonably thinks fit;
- (i) **Power to remedy breach:** the Supervisor's powers to remedy any breach of this deed are subject to any other provision of this deed which is inconsistent with the exercise of such powers;
- (j) **Duties to the Group:** the Supervisor has no duties and responsibilities under this deed, other than under clause 4.9, to any Holder which is the Guarantor or any of its Subsidiaries;
- (k) **Power to invest:** any moneys held by the Supervisor and subject to the trusts constituted or to be constituted under this deed may, at the discretion of the Supervisor, be invested in the name of the Supervisor or its nominee in any investments it considers fit with power to vary or transpose such investments for others of a like nature and deal with or dispose of such investments, and all income from such investments will belong to the person in respect of whom such moneys are held by the Supervisor;

- (l) **Attend general meetings:** any representative of the Supervisor, being a person authorised to act for the purposes of this clause by any director, general manager or secretary of the Supervisor, is entitled to attend any general meeting of the Issuer or meeting of Holders, and to be heard at any such meeting which he or she attends on any part of the business of the meeting which concerns the Supervisor as such or the Holders;
- (m) **Listing Rules:** 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 (if the Notes are Listed). In the event of non-compliance with any Listing Rule 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 in relation to that non-compliance by the Issuer;
- (n) **Materiality:** the Supervisor may determine whether or not a failure by an Obligor to perform any obligation under this deed is in its opinion capable of remedy or is materially prejudicial to the interests of the Holders and any such determination shall be conclusive and binding upon the Holders;
- (o) **Duty to consult:** unless it is impractical to do so, the Supervisor will consult with the Issuer before seeking the opinion or advice of any of the persons listed in clause 10.3(a)(i);
- (p) **Event of Default:** where, following an Event of Default, the Issuer has failed to comply with its obligations under clause 3.2 of the Conditions, the Supervisor may and shall forthwith (subject to being indemnified as provided in clause 10.5) upon being directed to do so in writing by Holders holding together not less than 10% of the aggregate Principal Amount of the Notes or if so directed by an Ordinary Resolution and subject at all times to clause 4, institute and pursue all such proceedings, suits or other legal actions, execute any judgments obtained, exercise all such rights of set-off or other rights or remedies available at law, compromise and effect compositions, and for all or any of the purposes aforesaid may execute and do all such assurances and things as the Supervisor may think fit on behalf of the Holders, to enforce the obligations of the Issuer under clause 3.2 of the Conditions, exercise the power of enforcement available to it and apply all moneys received in accordance with the provisions of this deed;
- (q) **Represent Holders:** the Supervisor may act on behalf of the Holders in relation to:
 - (i) the Issuer;
 - (ii) any matter connected with this deed or the terms of offer of Notes; and
 - (iii) any contravention or alleged contravention of the Issuer Obligations;
- (r) **Supervision of Performance:** the Supervisor is responsible for supervising the Issuer's performance:
 - (i) of its Issuer Obligations;
 - (ii) in order to ascertain whether the assets of the Issuer that are or may be available, whether by way of security or otherwise, are sufficient or likely to be sufficient to discharge the amounts of the debt securities as they become due; and

- (s) **Statutory Duties:** for as long as required under the FMC Act, the Supervisor must, in performing its duties and functions as a supervisor (as defined under the FMC Act):
- (i) exercise the care, diligence and skill that a prudent person engaged in the business of acting as a supervisor licensed under the FMC Act would exercise in the same circumstances;
 - (ii) act honestly;
 - (iii) act in the best interests of the Holders;
 - (iv) exercise reasonable diligence;
 - (v) do all the things it has the power to do to cause any contravention by the Issuer of the Issuer Obligations to be remedied (unless it is satisfied that the contravention will not have a material adverse effect on the Holders); and
 - (vi) act in accordance with any direction given by a Special Resolution of the Holders that is not inconsistent with any enactment, rule of law or this deed in relation to:
 - (aa) seeking a remedy to a contravention or alleged contravention of the Issuer Obligations; and
 - (bb) any other matter connected with the Supervisor's functions.

10.4 **Discretion to consult Holders:** Subject to clause 16, following any breach of this deed by an Obligor, the occurrence of any circumstances which may result in such a breach which the Supervisor reasonably considers may be materially prejudicial to the interests of the Holders or whenever the Supervisor otherwise deems that it would be in the interests of Holders to do so, the Supervisor may, in its absolute discretion:

- (a) report to the Holders, or any of them, the circumstances and nature of such breach and any other information concerning the Obligor which the Supervisor has received under or in relation to this deed or the Notes and which it reasonably considers to be material to the Holders or any of them; and
- (b) invite the Holders or any of them to indicate to the Supervisor their preferences as to any exercise or non-exercise of the Supervisor's powers under this deed or the Notes or as to any action or omission to act by the Supervisor in relation to the breach.

Any such report may be given in such manner as is considered by the Supervisor to be the most practicable and expedient in all the circumstances.

10.5 **Supervisor's right to be indemnified:** The Supervisor may decline to take any action or exercise any power or discretion or comply with or implement any direction or request given in accordance with this deed whether or not it is otherwise bound to so act unless and until, subject to clause 13.1, the Supervisor and each of its officers, employees or agents are first indemnified by the Holders to its or their satisfaction against all actions, proceedings, claims and demands to which any of them may be rendered liable and all costs, charges, losses, damages and expenses which it or they may incur by so doing.

10.6 **Fiduciary relationship:** The Supervisor may not be a Holder on its own account. However, nothing in this deed prohibits the Supervisor or its holding company or any of their Subsidiaries or their officers or shareholders (all for the purposes of this clause, where the context permits, being included in the expression the Supervisor) from being

a Holder in any trustee, agency, nominee or other representative capacity, or from being a creditor or shareholder of, or having any other interest in, the Guarantor or of any of its Subsidiaries or from acting in any other fiduciary, contractual, agency or representative capacity for a Holder or the Guarantor or any of its Subsidiaries without breach of any obligations established by this deed or otherwise imposed or implied by law arising out of any such relationship. The Supervisor may enter into any transaction with the Guarantor or any of its Subsidiaries in the ordinary course of business and will not be accountable to the Holders for any profits arising from such transactions.

10.7 **Exercise of Supervisor's duties:** The duties of the Supervisor in respect of the Notes shall be construed and interpreted to recognise and take into account:

- (a) the characteristics of the Notes as direct, unsecured, subordinated, redeemable, cumulative, interest bearing debt obligations of the Issuer and the characteristics of the Guarantee as direct, unsecured, subordinated, obligations of the Guarantor;
- (b) the limitations on the rights of the Holders and the Supervisor on behalf of the Holders (other than upon or in relation to an Event of Default) in respect of any breach by the Obligor of this deed and the Conditions; and
- (c) the limitations of the rights of the Supervisor to make any directions or otherwise interfere in the conduct of the business of the Issuer or the Guarantor,

and the duties of the Supervisor shall to the extent permitted by law be limited and construed by reference to those characteristics and limitations. All Holders are deemed to have agreed to and accept and are bound by the foregoing limitations.

10.8 **Duties of Supervisor:** The Supervisor must:

- (a) exercise reasonable diligence to ascertain whether or not any breach of the terms of the deed or of the terms of the offer of the Notes has occurred;
- (b) do all the things that it is empowered to do to cause any breach of those terms to be remedied (except if it is satisfied that the breach will not materially prejudice the security (if any) of the debt securities or the interests of the Holders); and
- (c) exercise reasonable diligence to ascertain whether or not the assets of the Obligor that are or may be available, whether by way of security or otherwise, are sufficient or likely to be sufficient to discharge the amounts of the Notes as they become due.

10.9 **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 to assist the Supervisor to:

- (a) determine the financial position of the Issuer; or
- (b) review the business, operation, management systems or the governance of the Issuer.

Where the Supervisor engages an expert pursuant to this clause 10.9, the Issuer shall provide reasonable assistance to the expert to allow the expert to provide the assistance and (without limiting clause 15) the fees and expenses of the expert, which must be reasonable in the circumstances, shall be paid by the Issuer.

11. AMENDMENTS

11.1 **Right to amend:** The provisions of this deed may not be amended or replaced unless the amendment or replacement is made:

- (a) with the consent of the Supervisor; or
- (b) (despite anything to the contrary in this deed or in any enactment, rule of law, or agreement, including anything relating to the consent of any person to the making of amendments to this deed) under section 109 of the FMC Act, section 22(7) or 37(6) of the Financial Markets Supervisors Act 2011 or any other power to amend or replace this deed under an enactment.

11.2 **Supervisor consent:** The Supervisor must not consent to an amendment to, or a replacement of, this deed unless:

- (a) either:
 - (i) the amendment or replacement is approved by, or is contingent on approval by, the Holders; or
 - (ii) the Issuer and the Supervisor are satisfied that the amendment or replacement does not have a material adverse effect on the Holders; and
- (b) the Supervisor certifies to that effect and certifies, or obtains a certificate from a lawyer, that this deed, as amended or replaced, will comply with sections 104 to 106 of the FMC Act on the basis set out in the certificate.

11.3 **Holder consent:** The approval of the Holders for the purposes of clause 11.2(a)(i) must be the approval of a Special Resolution of:

- (i) the Holders; or
- (ii) each class of Holders of the Notes that is or may be adversely affected by the amendment or replacement.

11.4 **Effect of amendment or replacement:** Any such amendment or replacement will be binding on all Holders. No such amendment or replacement will be effective unless it is in writing signed by the Obligors and the Supervisor.

12. MEETINGS OF HOLDERS

12.1 **Regulations of meetings:** Each meeting of Holders is to be convened and held in accordance with schedule 2.

12.2 **Represent Holders:** The Supervisor may, of its volition or in accordance with any directions or in accordance with a Special Resolution, represent Holders in any investigation, negotiation, action, transaction, matter or proceedings affecting the interests of Holders.

12.3 **Frequency of meetings of Holders:** Annual meetings of Holders are not required to be held. Meetings of Holders will occur when required and convened under the terms of this deed.

12.4 **Resolutions of Holders:** Regulation 78 of the FMC Regulations does not apply to this deed.

13. INDEMNITY OF SUPERVISOR

13.1 Without prejudice to the right of indemnity by law given to trustees or supervisors, the Supervisor and each of its officers, employees, attorneys or agents are entitled to be indemnified by the Issuer, on an unsubordinated basis, in respect of all liabilities and expenses incurred by it or any of them in the performance or exercise or attempted or purported performance or exercise of any of the trusts, powers, authorities or discretions conferred on the Supervisor or any of them by this deed and against all actions, proceedings, costs, losses, claims and demands in respect of any matter or thing done or omitted in any way relating to this deed other than liabilities, expenses, actions, proceedings, costs, losses, claims or demands that arise as a result of the Supervisor's failure to:

- (a) act honestly in acting as a supervisor;
- (b) in exercising its powers and performing its duties as a supervisor, act in the best interests of the Holders;
- (c) exercise reasonable diligence in carrying out its functions as a supervisor; or
- (d) in exercising its powers and performing its duties as a supervisor, exercise the care, diligence and skill that a prudent person engaged in the business of acting as a licensed supervisor would exercise in the same circumstances,

and the Supervisor may retain and pay out of any moneys it holds upon the trusts of this deed, all sums necessary to effect and satisfy that indemnity, together with the remuneration and reimbursements of the Supervisor as provided for in this deed.

14. RETIREMENT, REMOVAL AND NEW APPOINTMENT OF SUPERVISOR

14.1 **Retirement or removal of Supervisor:**

- (a) **Retirement by Supervisor:** The Supervisor may retire at any time without assigning any reason upon giving 90 days' notice (or such lesser period of notice as the Issuer may agree) in writing to the Issuer.
- (b) **Removal by Issuer:** The Issuer may at any time without assigning any reason upon giving at least 90 days' notice in writing to the Supervisor (or such lesser period of notice as the Supervisor may agree), remove the Supervisor (including any new supervisor appointed upon the retirement or removal of any previous Supervisor) subject to the Financial Market Authority's consent.
- (c) **Removal under legislation:** The Supervisor may be removed by the Financial Markets Authority or the Issuer under Part 2 of the Financial Markets Supervisors Act 2011.
- (d) **Special Resolution:** The Holders may remove the Supervisor from office upon the passing of a Special Resolution to that effect.
- (e) **Requirements for Retirement and Removal:** The Supervisor may not be removed or resign under subsections 14.1(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 and all of the moneys and investments that are held by the Supervisor under this deed are transferred to such new supervisor; or

(iii) the court consents.

14.2 **Appointment of new Supervisor:**

- (a) **Appointment by the Issuer subject to approval by Holders:** The power to appoint a new supervisor or supervisors of this deed is vested in the Holders by way of a Special Resolution and in the Issuer, but no new supervisor may be appointed by the Issuer unless such appointment is first approved by a Special Resolution. Upon the Supervisor notifying the Issuer that it wishes to retire, or upon the Issuer wishing to appoint a new supervisor, the Issuer must promptly call a meeting of the Holders for the purposes of approving an appointment of a new supervisor and, if such approval is given, the Issuer may exercise its power of appointment.
- (b) **Appointment by Holders:** If the Issuer, within 60 days of receiving notice of the Supervisor's intention to retire, fails to call a meeting of the Holders in accordance with clause 14.2(a) or to exercise the power vested in it under that clause to appoint a new supervisor or new supervisors, in either case, the Holders may by Special Resolution exercise such power to the exclusion of the Issuer.
- (c) **Notification of new Supervisor:** The Issuer must notify all Holders of the identity of any new supervisor appointed as soon as reasonably possible following such appointment.

15. **SUPERVISOR'S REMUNERATION AND EXPENSES**

- 15.1 **Basic remuneration:** The Issuer will pay to the Supervisor remuneration for its services as Supervisor in accordance with the terms of any current agreement contained in letters exchanged between the Issuer and the Supervisor.
- 15.2 **Expenses:** The Issuer will also pay all reasonable costs, charges, taxes or duties (including legal expenses) properly incurred by or on behalf of the Supervisor in connection with:
 - (a) **Preparation, execution and modification of deed:** the preparation, execution and modification (and release when applicable) of this deed;
 - (b) **Exercise of powers:** any proper exercise by the Supervisor of any power or discretion conferred on the Supervisor or upon any Holders by this deed or in respect of the Notes, or the performance of its duties;
 - (c) **Breach by Issuer:** any breach, default or non-compliance by an Obligor of or with any obligation under this deed or, in the case of the Issuer, the Notes;
 - (d) **Meetings of Holders:** the convening and holding of any meeting of Holders and carrying out of any directions or resolutions of such a meeting; and
 - (e) **Other matters:** any other matters dealt with in the agreement referred to in clause 15.1.
- 15.3 **Liability not terminated:** The remuneration and payments payable under this clause 15 will continue to be payable until the trusts of this deed are finally wound up (whether or not the Issuer is in Liquidation or the trusts of this deed are in course of administration by or under the direction of the court).

16. DISCLOSURE OF INFORMATION

16.1 Notwithstanding any other provision of this deed, neither Obligor is required to provide any information to a Holder where:

- (a) it would be unlawful to do so; or
- (b) the information is confidential; or
- (c) in the Obligor's reasonable opinion, the information is commercially sensitive,

but may be required, in accordance with this deed, to provide such information to the Supervisor. An Obligor may request, in providing such information to the Supervisor, the Supervisor to undertake to keep such information confidential (including as against Holders) and the Supervisor shall be entitled to, and shall, give and honour that undertaking unless the Supervisor has legal advice that to do so would prevent the Supervisor fulfilling its duty to Holders.

17. NOTICES

17.1 Each notice to be given in accordance with this deed will be deemed effective if made in writing, delivered or posted by pre-paid mail or sent by facsimile addressed to:

- (a) in the case of each Obligor:

Address: New Zealand Post House

Level 12
7 Waterloo Quay
Private Bag 39990
Wellington Mail Centre
Lower Hutt 5045

Fax No: 04 496 4479
Attention: General Counsel

- (b) in the case of the Supervisor:

Address: Level 5
10 Customhouse Quay
P O Box 3222
Wellington 6140

Fax No: 04 496 2952
Attention: Business Manager, Corporate Trust

- (c) in the case of a Holder, the address of such Holder last entered in the Register,

or, in the case of paragraph (a) or (b) above, such other address as the Obligor or the Supervisor may from time to time in writing nominate to the others. Each Notice will be deemed to be given, in the case of personal delivery, when delivered, and in the case of post, two Business Days after the date of posting. If sent by facsimile, notices will be deemed to be given when sent or, if sent on other than a Business Day or after 5 p.m. on any Business Day, the next Business Day.

18. GOVERNING LAW

18.1 This deed is governed by the laws of New Zealand.

19. DISCHARGE OF DEED

19.1 The Supervisor will, upon being reasonably satisfied that no moneys are actually or contingently owing under this deed or any Note, execute a discharge of this deed whenever requested by the Issuer so to do, but any such discharge will be without prejudice to any indemnity given by the Issuer in favour of the Supervisor or any unremedied breach or unperformed obligation under the deed.

20. INVALIDITY

20.1 If any provision of this deed or the Notes is invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired to the maximum extent permitted under law.

EXECUTION

Executed as a deed

The Issuer

NEW ZEALAND POST GROUP FINANCE LIMITED by:

Signature of director

Signature of director

Name of director

Name of director

The Guarantor

NEW ZEALAND POST LIMITED by:

Signature of director

Signature of director

Name of director

Name of director

The Supervisor

SIGNED in the name and under the seal of **TRUSTEES EXECUTORS LIMITED** by:

Signature of authorised signatory

Signature of authorised signatory

Name of authorised signatory

Name of authorised signatory

in the presence of:

Signature of witness

Occupation

Address

**SCHEDULE 1
CONDITIONS OF THE NOTES**

1. DEED

1.1 **Deed binding:** The statements in these Conditions are subject to the provisions of the trust deed dated 12 March 2009 as amended from time to time ("**Deed**") between New Zealand Post Group Finance Limited as issuer, New Zealand Post Limited as guarantor and Trustees Executors Limited as supervisor.

1.2 **Notice of deed:** Holders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Deed.

1.3 **Interpretation:**

(a) Unless otherwise specified, a reference to a clause is a reference to a clause of these Conditions.

(b) Terms defined in the Deed have the same meanings in these Conditions.

1.4 **Definitions:** In these Conditions unless the context otherwise requires:

"**Accrued Interest**" has the meaning in clause 2.3.

"**Administrative Action**" means any judicial decision, official administrative pronouncement, published or private ruling, response to application for a ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt a procedure or regulation).

"**Appointed Person**" has the meaning in clause 4.8.

"**Authorised Officer**" means a person appointed by a party to act as an Authorised Officer for the purposes of these Conditions.

"**Benchmark Rate**" has the meaning given in clause 2.1.

"**Bid Notice**" has the meaning in clause 4.3.

"**Bookbuild**" means the process conducted by the Issuer or its agents prior to the opening of the Offer whereby certain investors and brokers lodge bids for Notes and, on the basis of those bids, the Issuer determines the Margin and the Interest Rate for the first Calculation Period, and announces its determination on the Rate Set Date.

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

"**Deferred Interest Payment**" has the meaning in clause 2.2.

"**Event of Default**" means any of the following events:

(a) the Issuer fails to pay any Unpaid Interest on a Mandatory Unpaid Interest Payment Date in accordance with clause 2.4(b); or

(b) the Issuer fails to comply with clause 2.6; or

(c) the Issuer fails to comply with its payment obligations under clause 3.8 in respect of a Redemption of Notes required by clause 3.4; or

(d) an Insolvency Event occurs in respect of the Issuer or the Guarantor.

"First Interest Payment Date" means 15 May 2009.

"First Reset Date" means 15 November 2014.

"Hold Notice" has the meaning in clause 4.3.

"Insolvency Event" means, in relation to the Issuer or the Guarantor, any of the following events:

- (a) the Commencement of Liquidation; or
- (b) an encumbrancer takes possession or a trustee, receiver, receiver/and manager, administrator inspector under any companies or securities legislation, or similar official is appointed in respect of the Issuer or, as the case may be, the Guarantor or the whole or any part of its assets.

"Interest Payment" means an interest payment under clause 2.1 or, as the case may be, clause 2.8.

"Interest Payment Date" means, in relation to a Note:

- (a) 15 May and 15 November each year commencing on the First Interest Payment Date until the Redemption Date of the Note; or
- (b) if a Successful Remarketing Process has occurred, such other dates (if any) as may be specified by the Issuer in the applicable Re-marketing Process Invitation as the Interest Payment Dates.

"Interest Period" means, in relation to a Note, the period from (and including) an Interest Payment Date (or, in the case of the first Interest Period, the date on which subscription moneys of an initial subscriber are first banked into the trust account operated by the Issuer in connection with the Offer) until (but excluding) the next Interest Payment Date (or, if the Note is Redeemed on a date that is not an Interest Payment Date, the Redemption Date).

"Interest Rate" has the meaning in clause 2.1.

"Intermediate Equity Content" means an equity content of "intermediate" has been assigned by the Rating Agency.

"Issue Date" means, in relation to a Note, the date on which the Note is issued.

"Issue Price" means the sum of \$1 in respect of each Note.

"Issuer Notice" has the meaning given in clause 3.5.

"Issuer Notice of Resale" has the meaning given in clause 4.5.

"Mandatory Unpaid Interest Payment" has the meaning in clause 2.4.

"Mandatory Unpaid Interest Payment Date" has the meaning in clause 2.4.

"Margin" has the meaning in clause 2.1.

"Maturity Date" means 15 November 2039.

"Minimum Holding" has the meaning in clause 6.3.

"**Minimum Interest Rate**" has the meaning given in clause 2.1.

"**New Margin**" has the meaning given in clause 4.4.

"**NZClear**" means the securities clearing and settlement facility operated by the Reserve Bank of New Zealand and known as the NZClear System and includes any securities clearing and/or settlement facility which replaces or supersedes it from time to time.

"**Offer**" means the invitation made by the Issuer under the Offer Documents for prospective investors to apply for Notes.

"**Optional Unpaid Interest Payment**" has the meaning in clause 2.4.

"**Rate Set Date**" means the date following the Bookbuild and preceding the Offer on which the Issuer announces the Margin and the Interest Rate for the first Calculation Period.

"**Rating Agency**" means Standard & Poor's (Australia) Pty Limited or its successors.

"**Rating Agency Event**" means receipt by the Guarantor of advice from the Rating Agency that as a result of a change in Rating Agency criteria the Notes no longer meet the tests for receiving an Intermediate Equity Content (or higher) classification from the Rating Agency.

"**Record Date**" means, in relation to a payment, the date which is 10 calendar days before the due date for the payment and, if that date is not a Business Day, the preceding Business Day, or such other date as may be required by NZX.

"**Redemption**" means the redemption of a Note in accordance with clause 3.8, and "**Redeem**" and "**Redeemable**" have corresponding meanings.

"**Redemption Date**" means the date on which Redemption is to occur according to clause 3.1, 3.2, 3.3 or 3.4.

"**Redemption Notice**" has the meaning in clause 4.3.

"**Regulatory Event**" means the receipt by the Guarantor of an opinion from a reputable legal counsel that, as a result of:

- (a) any amendment to, clarification of, or change (including any announced prospective change) in the laws or any regulations of New Zealand;
- (b) any Administrative Action; or
- (c) any amendment to, clarification of, or change in an Administrative Action that provides for a position that differs from the current generally accepted position,

in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective or such pronouncement or decision is announced on or after the first Issue Date, there is more than an insubstantial risk that the Issuer would be exposed to more than a minimal increase in its costs in respect of Notes or the Guarantor would be exposed to more than a minimal increase in its costs in respect of the Guarantee.

"**Re-marketing Process**" means the process described in clause 4.

"Re-marketing Process Invitation" means an invitation given by the Issuer to Holders when initiating a Re-marketing Process.

"Replacement Capital Covenant Deed" means the deed dated on or about the date of the Deed between the Issuer, the Guarantor and the Supervisor entitled "Replacement Capital Covenant Deed".

"Resale" has the meaning given in clause 4.5, and **"Resell"** and **"Resold"** have corresponding meanings.

"Resale Date" has the meaning given in clause 4.5.

"Reset Date" means:

- (a) the First Reset Date; and
- (b) either:
 - (i) each fifth anniversary of the First Reset Date; or
 - (ii) if a Successful Re-marketing Process has occurred, such other date or dates (if any) as may be specified by the Issuer in the applicable Re-marketing Process Invitation as the Reset Date or Reset Dates.

"Retiring Holders" means a Holder who, in a Re-marketing Process, provides a Redemption Notice or a Bid Notice specifying a margin higher than the resulting New Margin.

"Step-up Date" means the Reset Date with effect from which the Step-up Margin applies in accordance with clause 4.2.

"Step-up Margin" means the Margin which prevailed immediately before the Step-up Date plus the Step-up Percentage.

"Step-up Percentage" means:

- (a) 1.00%; or
- (b) if a Successful Re-marketing Process has occurred prior to the Step-up Date, such other percentage (if any) as may be specified by the Issuer in the applicable Re-marketing Process Invitation as the Step-up Percentage.

"Successful Re-marketing Process" means the Re-marketing Process which results in a New Margin being set by the Issuer pursuant to clause 4.4(a)(i).

"Tax Event" means the receipt by the Guarantor of an opinion from a reputable legal counsel or other tax adviser that, as a result of:

- (a) any amendment to, clarification of, or change (including any announced prospective change) in the laws, treaties, or any regulations affecting taxation of New Zealand or any political subdivision or taxing authority of New Zealand;
- (b) any Administrative Action; or
- (c) any amendment to, clarification of, or change in an Administrative Action that provides for a position that differs from the current generally accepted position,

in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or

Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective or such pronouncement or decision is announced on or after the first Issue Date there is more than an insubstantial risk that the Issuer would be exposed to more than a minimal increase in its costs in respect of the Notes or the Guarantor would be exposed to more than a minimal increase in its costs in respect of the Guarantee.

"**Unpaid Interest**" has the meaning given in clause 2.3.

2. INTEREST PAYMENTS

2.1 **Interest Payments:** Subject to clauses 2.2 and 2.8, each Note entitles the Holder on a Record Date to receive in respect of an Interest Period an interest payment calculated according to the following formula:

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

where:

"**N**" = 2 or, if a Successful Re-marketing Process has occurred, such other number (if any) as may be specified by the Issuer in the applicable Re-marketing Process Invitation.

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

- (a) for each Interest Period during the first Calculation Period, means the initial Interest Rate as announced by the Issuer on the Rate Set Date; and
- (b) for each Interest Period during any subsequent Calculation Period, is calculated according to the following formula:

Interest Rate = Benchmark Rate + Margin, unless a Minimum Interest Rate is applicable to the Calculation Period, in which case Interest Rate = (i) Benchmark Rate + Margin; or (ii) Minimum Interest Rate, whichever is the higher.

where:

"**Benchmark Rate**" (expressed as a percentage per annum) means, for an Interest Period during a Calculation Period, the rate per annum expressed on a percentage yield basis, and rounded up to the nearest two decimal places, which is the average of the bid and offered swap rates displayed at or about 11am on the first day of the Calculation Period on page FISSWAP (or any successor page) of the Reuters monitor screen for an interest rate swap with:

- (a) a term equal to five years; or
- (b) if a Successful Re-marketing Process has occurred prior to the commencement of the Calculation Period, such other term (if any) as may be specified by the Issuer to be the term of the Calculation Period,

or if there is a manifest error in the calculation of that average rate or that average rate is not displayed by 11am on that date, the rate specified in good faith by the Issuer at or around that time on that date having regard, to the extent possible, to the rates otherwise bid and offered for interest swaps of that term displayed on any Reuters page on that date.

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

- (a) during the first Calculation Period, the margin determined by the Issuer following the Bookbuild and announced on the Rate Set Date;
- (b) during a Calculation Period which follows a Successful Re-marketing Process, the New Margin; and
- (c) during a Calculation Period which does not immediately follow a Successful Re-marketing Process (other than the first Calculation Period), the Step-up Margin.

"Minimum Interest Rate" means, for an Interest Period during a Calculation Period, if a Successful Re-marketing Process has occurred prior to the commencement of the Calculation Period, the interest rate (if any) specified as such in the Re-marketing Process Invitation.

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

2.2 **Deferral of Interest Payments:** An Interest Payment will not be made on its Interest Payment Date if the Board of the Issuer, at its discretion, declares that the Interest Payment is to be deferred ("**Deferred Interest Payment**"). This clause 2.2 does not apply to an Interest Payment scheduled to be made on a Redemption Date.

2.3 **Accrual of interest on Deferred Interest Payments:** If an Interest Payment has been deferred in accordance with clause 2.2, that Deferred Interest Payment shall itself accrue interest at a rate equal to the prevailing Interest Rate from (and including) the Interest Payment Date on which that Interest Payment was deferred ("**Deferral Date**") until (but excluding) the day on which that Deferred Interest Payment together with all accrued interest on that Deferred Interest Payment ("**Accrued Interest**", and together with the Deferred Interest Payment, "**Unpaid Interest**") is paid in full in accordance with clause 2.4. Accrued interest will be calculated on a daily basis and compound on each Interest Payment Date.

2.4 **Deferred interest is cumulative:** If an Interest Payment has been deferred in accordance with clause 2.2, the Issuer:

- (a) may, in its absolute discretion, on a date which is notified to Holders (which date must be at least 10 Business Days before the payment), pay all or part of the Unpaid Interest relating to that Deferred Interest Payment ("**Optional Unpaid Interest Payment**"); and
- (b) shall, if any Unpaid Interest has not been paid in full by the Issuer in accordance with clause 2.4(a) or clause 3.8(b) by the fifth anniversary of the relevant Deferral Date ("**Mandatory Unpaid Interest Payment Date**"), pay all Unpaid Interest on the Mandatory Unpaid Interest Payment Date ("**Mandatory Unpaid Interest Payment**"),

in each case to those persons registered as Holders on the Record Date in respect of that Optional Unpaid Interest Payment or Mandatory Unpaid Interest Payment as the case may be.

2.5 **No default:** The deferral of an Interest Payment under clause 2.2 will not constitute a default by the Issuer for any purpose.

2.6 **Restrictions in the case of deferral:** For as long as any Unpaid Interest remains outstanding, unless the approval of a Special Resolution has been obtained, the Guarantor:

- (a) shall not:
 - (i) declare or otherwise determine to pay, or pay, any interest or a dividend or make any distribution or other payment in respect of any securities issued, or payment obligations incurred, by the Guarantor, that rank junior to the Guarantee; or
 - (ii) redeem, repay, reduce, cancel, buy-back or acquire for any consideration any such securities or payment obligations that rank junior to the Guarantee; and
- (b) shall procure that, if:
 - (i) the Guarantor has guaranteed the obligations of an issuer of securities;
 - (ii) all or a substantial proportion of the proceeds of the issue of those securities have been provided to the Guarantor; and
 - (iii) the claims of the holders of the guarantee rank junior to the Guarantee,

the Issuer will not:

- (i) declare or otherwise determine to pay, or pay, any interest or a dividend or make any distribution in respect of those securities; or
- (ii) redeem, reduce, cancel, buy-back or acquire for any consideration any of those securities.

2.7 **Interest Payment Dates:** Interest Payments (other than Deferred Interest Payments) will be payable on:

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

2.8 **First and last Interest Payments:** The interest payment made on:

- (a) the First Interest Payment Date in respect of each Note shall be:
 - (i) calculated according to the following formula:

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

where "N" means, in respect of a Note, the number of days from (and including) the date on which the subscription moneys of an initial subscriber are banked into the trust account operated by the Issuer in connection with the Offer to (but excluding) the First Interest Payment Date; and

- (ii) paid to the first subscriber for the Note, irrespective of any transfer of the Note before the First Interest Payment Date. If the first Interest Payment is deferred, any Optional Unpaid Interest Payment or

Mandatory Interest Payment relating to that Interest Payment made in accordance with clause 2.4 shall be paid to the first subscriber for the Note in respect of which it is paid; and

- (b) the Redemption Date of a Note which is not also an Interest Payment Date shall be calculated according to the following formula:

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

where "N" means, in respect of a Note, the number of days from (and including) the immediately preceding Interest Payment Date to (but excluding) the Redemption Date for that Note.

3. REDEMPTION

3.1 **Redemption at Maturity:** The Issuer shall Redeem all Notes on the Maturity Date.

3.2 **Redemption on Default:** Upon the occurrence of an Event of Default, whether or not within the control of the Issuer or, as the case may be, the Guarantor, the Notes will become immediately due and payable and the Issuer shall Redeem the Notes on the next Business Day following the Event of Default.

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

- (a) all or some Notes on a Reset Date;
- (b) all or some Notes on any Interest Payment Date if the Step-up Margin applies on the Interest Payment Date;
- (c) all (but not some only) Notes at any time, if a Regulatory Event, a Tax Event, or a Rating Agency Event has occurred; or
- (d) all (but not some only) Notes at any time, if there are less than 50,000,000 Notes on issue,

provided that the Issuer shall only elect to Redeem Notes in accordance with this clause 3.3 if the Redemption will not result in the Issuer or the Guarantor breaching their covenants under the Replacement Capital Covenant Deed.

3.4 **Redemption of Notes held by Retiring Holders:** Subject to clause 4.5, where a New Margin is set in accordance with clause 4.4(a)(i), the Issuer shall Redeem all Notes held by Retiring Holders on the Reset Date from which the New Margin will apply.

3.5 **Issuer Notice:** To elect to Redeem under clause 3.3 or when required to Redeem under clause 3.4, the Issuer must give a notice ("**Issuer Notice**") according to this clause 3.5. The Issuer Notice must:

- (a) in the case of a Redemption under clause 3.3(a) or clause 3.3(b), be given no less than 35 Business Days (but no more than three months) before the relevant Reset Date or Interest Payment Date, and state the relevant Reset Date or Interest Payment Date as the Redemption Date;
- (b) in the case of any other Redemption under clause 3.3, state as the Redemption Date the 15th day of the month following the month in which the Issuer Notice was given unless the Issuer determines an earlier date having regard to the best interests of Holders (collectively) and the relevant event;

- (c) in the case of a Redemption under clause 3.4, be given within five Business Days after the last date for receipt of responses from Holders to a Re-marketing Process Invitation in accordance with clause 4.3, and state the applicable Reset Date as the Redemption Date; and
- (d) if less than all Notes are being Redeemed, state the proportion of Notes to be Redeemed for each Holder.

3.6 **Partial Redemption:** If some but not all Notes are Redeemed, the Issuer must, in each case, endeavour to treat all Holders on an approximately proportionate basis but may adjust to take account of the effect on marketable parcels and other logistical considerations.

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

3.8 **Payment on Redemption:** If Notes are to be redeemed, on the Redemption Date, the Issuer must pay to the Holder in respect of each Note which is Redeemed the sum of:

- (a) the Issue Price;
- (b) any Unpaid Interest on that Note; and
- (c) any Interest Payment scheduled to be paid on that date in accordance with clause 2.7.

4. RE-MARKETING PROVISIONS

4.1 **Notification of Re-marketing Process:** No earlier than six months and not later than 30 Business Days before a Reset Date, the Issuer may issue a Re-marketing Process Invitation that will include the terms, if any, of the Notes that will be adjusted with effect from the Reset Date if a Successful Re-marketing Process occurs. Those terms that may be adjusted are:

- (a) the Benchmark Rate;
- (b) the Step-up Percentage;
- (c) the Margin (which may only be adjusted in accordance with clause 4.4);
- (d) the Minimum Interest Rate;
- (e) the frequency and timing of Interest Payment Dates;
- (f) the timing of the next Reset Date (which must coincide with the beginning of an Interest Period); and
- (g) the notice periods required under clause 3.5 or clause 4.3, having regard to the changes specified in the Re-marketing Process Invitation in respect of clause 4.1(e) or (f).

4.2 **Step-up Margin to apply:** If the Issuer does not issue a Re-marketing Process Invitation within the period before a Reset Date prescribed by clause 4.1, the Step-up Margin will apply with effect from the Reset Date and no other terms will be adjusted.

4.3 **Holder participation in Re-marketing Process:** Each Holder may, within 20 Business Days of the issue of a Re-marketing Process Invitation or such longer time period

(ending not less than 25 Business Days before the Reset Date) which the Issuer nominates, give one of the following types of written notice to the Issuer:

- (a) a "**Redemption Notice**" indicating that the Holder does not wish to continue to hold Notes if a New Margin is set by the Issuer in accordance with clause 4.4(a)(i);
- (b) a "**Bid Notice**" indicating that the Holder does not wish to continue to hold Notes unless the New Margin is at least equal to a rate specified by the Holder (which must be less than the Step-up Margin) with effect from the Reset Date; or
- (c) a "**Hold Notice**" indicating that the Holder wishes to continue to hold Notes irrespective of the Margin which applies with effect from the Reset Date.

If a Holder does not respond within 20 Business Days, or the longer time period nominated by the Issuer, the Holder is deemed to have given a Hold Notice.

4.4 **Result of Re-marketing Process:**

- (a) If the Issuer issues a Re-marketing Process Invitation before a Reset Date in accordance with clause 4.1, it may, at its election, within five Business Days after the last date for receipt of responses from Holders:
 - (i) set a new margin ("**New Margin**") which, together with the other revised terms referred to in clause 4.1 (if any), will apply to the Notes with effect from the Reset Date; or
 - (ii) not set a New Margin.
- (b) The Issuer may set a New Margin under clause 4.4(a)(i) only where Holders gave:
 - (i) Bid Notices under clause 4.3(b) specifying a margin equal to or less than the New Margin; or
 - (ii) Hold Notices under clause 4.3(c) (and for the purposes of this clause 4.4(b), a deemed Hold Notice must not be counted),

and notices under (i) and (ii) were cumulatively in respect of at least 25% of Notes on issue at the time the Re-marketing Process Invitation was issued.
- (c) If clause 4.4(a)(ii) applies, the Step-up Margin will apply to any Notes which remain on issue with effect from the Reset Date and no other terms will be adjusted.
- (d) The Issuer will confirm to the Supervisor promptly, and no later than 5 Business Days:
 - (i) after making its election under clause 4.4(a), of the election made by the Issuer; or
 - (ii) after it applies, if clause 4.4(a)(ii) applies.

4.5 **Issuer Notice of Resale:** Where clause 3.4 applies, instead of Redeeming Notes in accordance with that clause, the Issuer may subject to compliance with all applicable laws, give a notice ("**Issuer Notice of Resale**") which states that it will sell or procure the sale of Notes ("**Resale**") the subject of that notice to a third party for an amount such that the net proceeds of sale are at least equal to the amount which would have been

paid on Redemption of Notes (determined as if Notes were being Redeemed on the date which would otherwise have been the Redemption Date) ("**Resale Date**") and remit the net proceeds to the Holder on the Resale Date.

- 4.6 **Redemption if Notes not Resold:** If the Issuer elects to Resell and Notes are not Resold on or before the Resale Date, the Notes must be Redeemed on the Resale Date. In this case, the Issuer Notice of Resale will be taken to be an Issuer Notice given in accordance with clause 3.5(c) stating the Issuer will Redeem the Notes on the Resale Date.
- 4.7 **Holder agreement to Resale:** If the Issuer elects to procure Resale under clause 4.5, each Holder is irrevocably taken to offer to sell the Notes the subject of that notice to the relevant third party.
- 4.8 **Power of attorney:** Each Holder irrevocably appoints the Issuer and its Authorised Officers (each an "**Appointed Person**") severally to be the attorney of the Holder and the agent of the Holder with power in the name and on behalf of the Holder to do all such acts and things including signing all documents or transfers as may in the opinion of the Appointed Person be necessary or desirable to be done in order to record or perfect the transfer of the Notes held by the Holder when required according to clause 4.5.

5. PAYMENTS AND OTHER MATTERS

- 5.1 **New Zealand Dollars:** All payments to be made by the Issuer under the Deed and these Conditions will be made in New Zealand Dollars.
- 5.2 **Calculation of Interest Payments:** All calculations of payments will be rounded to four decimal places. For the purposes of making any payment in respect of a Holder's aggregate holding of Notes, any fraction of a cent will be disregarded.
- 5.3 **No set-off:** The Holder has no right to set-off any amounts owing by the Holder to the Issuer against any amount owing by the Issuer.
- 5.4 **Time limit for claims:** A claim against the Issuer for payment according to these Conditions is void unless made within five years of the due date for payment.
- 5.5 **Manner of payment to Holders:** Monies payable by the Issuer or the Supervisor to a Holder may be paid in any manner the Issuer or Supervisor (as the case may be) decides, including:
- (a) by any method of direct credit determined by the Issuer or Supervisor (as the case may be) to the Holder or Holders shown on the Register or to such person or place directed by them;
 - (b) by cheque sent through the post directed to the physical or postal address of the Holder as shown in the Register or, in the case of joint Holders, to the physical or postal address notified to the Registrar for receipt of such monies (and in default of notification, to the physical or postal address shown in the Register as the address of the joint Holder first named in that Register); or
 - (c) by cheque sent through the post directed to such other physical or postal address as the Holder or joint Holders in writing direct.
- 5.6 **Unpresented cheques:** Cheques issued by the Issuer that are not presented within six months of being issued or such lesser period as determined by the Issuer may be cancelled. Where a cheque which is cancelled was drawn in favour of a Holder, the

monies are to be held by the Issuer for the Holder as a non-interest bearing deposit or paid by the Issuer according to the legislation relating to unclaimed monies.

5.7 **Unsuccessful transfers:** Subject to applicable law and the Listing Rules, where the Issuer or Supervisor:

- (a) decides that an amount is to be paid to a Holder by a method of direct credit and the Holder has not given a direction as to where amounts are to be paid by that method;
- (b) attempts to pay an amount to a Holder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful; or
- (c) has made reasonable efforts to locate a Holder but is unable to do so,

the amount is to be held by the Issuer for the Holder as a non-interest bearing deposit until the Holder or any legal personal representative of the Holder claims the amount or the Issuer is otherwise entitled to deal with the money by applicable law.

5.8 **Payment to Joint Holders:** A payment to any one of joint Holders will discharge the Issuer's liability in respect of the payment.

5.9 **Cessation of Rights:** Upon Redemption and payment of all amounts due in respect of a Note on the Redemption Date, all other rights conferred, or restrictions imposed, by that Note will no longer have effect.

6. ISSUE AND TRANSFER

6.1 **Effect of entries in Register:** Each entry in the Register in respect of a Note constitutes:

- (a) an unconditional and irrevocable undertaking by the Issuer to the Holder to make all payments of principal and interest in respect of that Note according to these Conditions; and
- (b) an entitlement to the other benefits given to the Holder under these Conditions in respect of that Note.

6.2 **Confirmation:** At the request of a Holder, or otherwise as required by the FMC Act or any other applicable law, the Issuer shall procure the Registrar to issue a confirmation which complies with the FMC Act and any other applicable law and is in the form agreed between the Issuer and the Registrar, or, in respect of any Listed Notes, a Statement complying with the Listing Rules (if applicable). A confirmation 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.

6.3 **Transfers:** Notes may be transferred in minimum aggregate Principal Amounts of \$1,000 or such lesser amount as the Issuer may from time to time permit subject to this clause 6 ("**Minimum Transfer Amount**"), provided that, following any such transfer, the transferor and the transferee each holds Notes with a minimum aggregate Principal Amount of \$5,000 ("**Minimum Holding**"). A registered bank under the Reserve Bank of New Zealand Act 1989 or a Primary Market Participant (as defined in the NZX Listing Rules), may transfer Notes at any time with a Principal Amount less than the Minimum Transfer Amount.

6.4 Form of Transfer:

- (a) Subject to these Conditions and the Deed, a Holder may transfer any Note held by the Holder by:
 - (i) **Written instrument:** a written instrument of transfer in the usual or common form signed by the transferor and the transferee; or
 - (ii) **NZX System:** means of the settlement system operated by NZX; or
 - (iii) **NZClear System:** means of the NZClear System; or
 - (iv) **Other method:** any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with the Listing Rules, and which is approved by the Issuer and the Registrar and delivered to the office of the Registrar.
- (b) Each instrument of transfer must be accompanied by:
 - (i) any other evidence (including legal opinions) that the Issuer or the Registrar reasonably requires to prove:
 - (A) the title of the transferor; or
 - (B) the transferor's right to transfer the Notes; or
 - (C) the identity of the transferor and/or the transferee; and
 - (ii) if the form of the transfer is executed by some other person on behalf of the transferor or, in the case of the execution of the form of transfer on behalf of a corporation by its officers, the authority of that person to so execute that transfer.

6.5 Registration process:

- (a) Subject to clause 6.5(b), neither the Issuer nor the Registrar shall charge a fee to any Holder for:
 - (i) registering transfers of Notes; or
 - (ii) splitting Statements in relation to Notes; or
 - (iii) issuing Statements (where bound to do so) and transmission receipts in relation to Notes; or
 - (iv) using holder or identification numbers in relation to Holders; or
 - (v) noting transfer forms in relation to Notes.
- (b) The Issuer and the Registrar may:
 - (i) charge a fee where Statements are issued to replace a lost or destroyed Statement; and
 - (ii) require the payment of any taxes and other governmental charges payable as a result of the registration of any holding of Notes or the transfer of Notes.

- (c) Neither the Issuer nor the Registrar will refuse to register or fail to register or give effect to a transfer of Notes except as permitted by the Deed and these Conditions, any applicable law or the Listing Rules.
- (d) Subject to clause 6.6, a transfer of a Listed Note will be effected by the Registrar within the time prescribed by the Listing Rules.

- 6.6 **Refusal to register transfers:** The Issuer may direct the Registrar to refuse to register any transfer of Notes where these Conditions, the Deed, any Listing Rule or any applicable legislation permits or requires the Issuer to do so. The Registrar shall refuse to register any transfer where the Deed, these Conditions or the Listing Rules or any applicable law requires the Issuer or the Registrar to refuse to register the transfer.
- 6.7 **Notice of refusal to register:** Where registration of a transfer of Notes is refused under clause 6.6, the Issuer must direct the Registrar to give written notice of the refusal and the precise reasons for the refusal to the party lodging the transfer, if any, within five Business Days after the date on which the transfer was lodged. The failure to give such a notice will not invalidate the decision not to register.
- 6.8 **Retention of transfers:** The Issuer must direct the Registrar to retain all instruments of transfer of Notes which are registered, but any instrument of transfer of Notes the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.
- 6.9 **Powers of attorney:** Any power of attorney granted by a Holder empowering the donee to deal with, or transfer Notes, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Issuer, the Supervisor, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received by the Registrar.
- 6.10 **Transmission by operation of law:** Any person becoming entitled to any Note by operation of law (including the death or bankruptcy of any Holder) may, upon producing such evidence of entitlement as is acceptable to the Registrar, obtain registration as the Holder of such Note or execute a transfer of such Note. This provision includes any case where a person becomes entitled as a survivor of persons registered as joint Holder.
- 6.11 **Sale of less than Minimum Holding:** The Board may at any time give notice to any Holder holding less than a Minimum Holding of Notes that if at the expiration of three months after the date the notice is given the Holder still holds Notes which are less than a Minimum Holding, the Board may exercise the power of sale of those Notes set out in this clause 6.11, if the Notes are Listed, subject to and in accordance with the Listing Rules. If that power of sale becomes exercisable:
- (a) if the Notes are Listed, the Board may arrange for the sale of those Notes through NZDX or in some other manner approved by NZX;
 - (b) the Holder shall be deemed to have authorised the Issuer to act on the Holder's behalf and to execute all necessary documents for the purposes of that sale;
 - (c) the Issuer shall account to the Holder for the net proceeds of sale of the Notes (after deduction of reasonable sale expenses), which shall be held on trust for the Holder by the Issuer and paid to the Holder on surrender of any Statement for the Notes sold; and

- (d) the title of a purchaser of any Notes sold pursuant to this clause 6.11 shall not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.

6.12 **Address, account details and tax residency of transferee:** A transferee of Notes must designate to the Registrar an address, and a bank account to which payments under or in respect of the Notes transferred to it are to be made and the address and account so designated will be the address and account of such Holder for all purposes of the Deed and these Conditions. The transferee shall also give written notice to the Registrar of its residency for taxation purposes.

6.13 **Reliance on documents:** The Issuer and the Registrar shall be entitled to accept and assume the authenticity and genuineness of any instrument of transfer or other document, and will not incur any liability for registering any instrument of transfer which is subsequently discovered to be a forgery or otherwise defective, unless the Issuer or the Registrar had actual notice of such forgery or defect at the time of registration of such instrument of transfer.

6.14 **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) No Offer Document or any advertisement 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.
- (c) By its purchase of Notes, each Holder agrees to indemnify the Issuer in respect of any loss, cost, liability or expense sustained or incurred by the Issuer as a result of a breach by the Holder of the restrictions contained in this clause 6.14.

SCHEDULE 2 MEETINGS OF HOLDERS

1. CONVENING MEETINGS

- 1.1 **Request for meeting:** The Issuer or the Supervisor at any time may, and the Issuer upon a request in writing by the Supervisor or Holders holding together not less than 5 per cent. of the aggregate Principal Amount of the Notes must, convene a meeting of the Holders. Whenever the Issuer or the Supervisor convenes any such meeting it must give notice to the other, to NZX and to the Holders.
- 1.2 **Place for meetings:** Meetings will be held in Wellington, or such other place as the Supervisor approves.
- 1.3 **Nature of business:** Any request by Holders holding together not less than 5 per cent. of the aggregate Principal Amount of the Notes to convene a meeting must state the nature of the business proposed to be dealt with at the meeting.

2. NOTICE OF MEETING

- 2.1 The Issuer must ensure that written notice of the time and place of a meeting of Holders is sent to the following at least 15 Business Days before the meeting:
- (a) every Holder entitled to receive notice of the meeting;
 - (b) the Supervisor; and
 - (c) every Director and an Auditor of the Issuer.
- 2.2 The notice must state:
- (a) 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;
 - (b) the text of any Special Resolution to be submitted to the meeting; and
 - (c) the right of a Holder to appoint a proxy.
- 2.3 If a Special Resolution is to be submitted to the meeting:
- (a) a draft of the proposed notice of the meeting must be given to the Supervisor at least 10 Business Days before the notice is given under regulation 3.1 (or any lesser period approved by the Supervisor); and
 - (b) the notice of the meeting must be accompanied by a document containing the Supervisor's comments on the proposed Special Resolution (but only if the Supervisor has provided those comments in writing to the Issuer at least 5 Business Days before the notice is given under regulation 3.1).
- 2.4 An irregularity in a notice of a meeting is waived if:
- (a) all Holders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Holders agree to the waiver; or

- (b) the Supervisor indicates at the meeting that the Supervisor is satisfied that the irregularity has not resulted in and is unlikely to result in any material prejudice to the Holders.

2.5 The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Holder does not invalidate the proceedings at that meeting.

2.6 If a meeting of Holders is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting that is adjourned.

3. CHAIRPERSON

3.1 A person (who may, but need not, be a Holder) nominated in writing by the Supervisor will be entitled to chair every such meeting, but if no such nomination is made, or if at any meeting the person nominated is not present within 15 minutes after the time appointed for the holding of such meeting, the Holders present must choose one of their number to chair the meeting.

4. QUORUM

4.1 No business may be transacted at a meeting of Holders if a quorum is not present.

4.2 A quorum for a meeting of Holders at which a Special Resolution is to be submitted is present if Holders or their proxies are present who hold Notes with a combined Principal Amount of no less than 25% of the Principal Amount of the Notes held by those persons who are entitled to vote on the business to be transacted by the meeting.

4.3 A quorum for any other business at a meeting of Holders is present if Holders holding at least 10% of the Principal Amount of the Notes are present in person or by proxy and in any case at least 2 Holders or their proxies must be present.

4.4 Despite subclause 4.1, if a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) in the case of a meeting called under section 120(1)(b) or (c) or 161(1)(b) or (c) of the FMC Act, the meeting is dissolved; and
- (b) in the case of any other meeting, the meeting is adjourned to the day that is 10 Business Days after the date appointed for the meeting at the same time and place, or to such other date, time, and place as the Supervisor may appoint, and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the Holders or their proxies present are a quorum.

4.5 To avoid doubt, a Holder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

5. ATTENDANCE AND VOTING AT MEETINGS

5.1 **Attendance at meetings:** Other than the Supervisor, the Issuer and their representatives (who may attend but may not vote (except in the case of the Supervisor where it is acting on behalf of a Holder)), no person will be entitled to attend and vote at any meeting of the Holders or to join with others in requesting the convening of any such meeting unless he or she is a person registered as Holder on the Register or is a representative of such person. In this clause, a representative of a Holder means:

- (a) in the case of a Holder being an individual, a person appointed by an instrument by way of proxy or by power of attorney (in either case, in a form satisfactory to the Supervisor);
- (b) in the case of a Holder being a corporation either:
 - (i) a person appointed by an instrument by way of proxy or by power of attorney; or
 - (ii) a person authorised pursuant to clause 10 of the First Schedule to the Companies Act or in the case of a corporation sole a person authorised pursuant to its constitution; or
- (c) a person upon whom the ownership of a Holder's Note has devolved by reason of his being a legal representative or an assignee in bankruptcy or liquidator of the Holder, or such person's representative appointed or authorised under (i) or (ii) above.

5.2 **Voting at meetings:** At a meeting, the persons registered as Holders in the Register at the Proxy Closing Time will be exclusively entitled to vote in respect of Notes recorded in their name, in person or by representative. For the purpose of establishing voting entitlements at a meeting, the Register will be closed as of close of business on the Business Day immediately preceding the day on which the Proxy Closing Time falls and will remain closed until after the relevant meeting has been closed or adjourned.

5.3 **Holder's representations:** The Supervisor, or any of its officers or employees, may be appointed a representative of a Holder.

5.4 **Supervisor must attend meetings:** To be validly constituted, the Supervisor must be present at every meeting convened in accordance with this schedule.

6. PROXIES

6.1 **In writing:** The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney, or if the appointor is a corporation either under seal or signed on its behalf by an officer, attorney, director or other person who has actual authority to appoint a proxy on behalf of such corporation.

6.2 **Right to speak:** A person appointed to act as a proxy need not be a Holder and a proxy of a Holder has the right to speak at the meeting.

6.3 **Instrument of appointment:** The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority certified in such manner as the Supervisor approves must be deposited at such place as (or a facsimile copy of such proxy and power of attorney must be received at such facsimile number as) the Supervisor or the Issuer with the approval of the Supervisor may in the notice convening the meeting direct or (if no such place is appointed) at the registered office of the Issuer not later than the Proxy Closing Time. A proxy form shall be sent with each notice of meeting of Holders and:

- (a) shall, so far as the subject method and form of the resolutions reasonably result provide for 2-way voting on all resolutions, enabling the Holders to instruct the proxy as to the casting of the vote; and
- (b) shall not be sent with any name or office (e.g. chairperson or directors of the Issuer) filled in as proxy holders.

6.4 **Form of instrument of appointment:** An instrument of proxy may be in any usual common form or in such other form as the Supervisor approves and may make provision for directions to be given by the appointor to vote in favour of or against any proposed resolution.

6.5 **Validity of proxy:** A proxy will, unless it states otherwise, be valid for any adjournment of the meeting as well as for the meeting to which it relates and need not be witnessed. Notwithstanding any provision contained in an instrument of proxy, no instrument of proxy will be valid after the expiration of 12 months from the date of its execution, although this provision does not apply to the appointment of an attorney or representative otherwise than by an instrument of proxy.

6.6 **Appointment of chairperson:** An instrument of proxy in favour of:

- (a) the chairperson of the Issuer; or
- (b) the chairperson of the meeting, or "the Chairperson",

(however expressed) will be valid and effectual as though it were in favour of a named person and will in the case of paragraph (a) above constitute the person holding the office of the chairperson of the Issuer and in the case of paragraph (b) above the person who chairs the meeting for which the proxy is used (whether an adjournment or not) the lawful proxy of the appointor.

7. Rights of representatives

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

8. VOTING PROCEDURE AND POLLS

8.1 **Voting on resolutions:** A resolution put to the vote of a meeting will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or the Supervisor or by one or more Holders holding or representing not less than five per cent. of the aggregate Principal Amount of the Notes. Unless a poll is so demanded a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

8.2 **Holders' entitlement to votes:** On a show of hands each person present at the meeting and entitled to vote (whether personally, by proxy or as a representative) will have one vote only. On a poll every Holder who is present in person, by proxy or by a representative will have one vote for each dollar of the Principal Amount of every Note held by the Holder.

8.3 **Conduct of poll:** If a poll is required, it will be taken in such manner as the chairperson may direct and the result of such poll will be deemed to be the resolution of the meeting at which the poll was required.

8.4 **Casting vote:** In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded will be entitled to a casting vote in addition to the votes (if any) to which the chairperson may be entitled as a Holder or on behalf of Holders.

- 8.5 **Timing of poll:** A poll demanded on the election of a chairperson or on a question of adjournment must be taken forthwith. A poll demanded on any other question must be taken either immediately or at such time (not being more than 30 days from the date of the meeting) and place as the chairperson may direct. The result of such 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.
- 8.6 **Continuance of meeting following poll:** The demand for a poll will not prevent the continuance of a meeting for the transaction of business other than the question on which the poll has been demanded.
- 8.7 **Voting on poll:** 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 such votes or cast all such votes in the same way.
- 8.8 **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 votes 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.
- 8.9 **Validity of votes cast:** A vote given in accordance with the terms of an instrument of proxy or power of attorney or other form 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 other form of appointment or the authority under which the proxy was executed or the transfer of the Notes in respect of which the vote is given provided that no intimation in writing of such death, insanity, liquidation, revocation or transfer is received by the Supervisor or the Issuer at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 8.10 **Resolution binding on Holders:** A resolution passed at a meeting of the Holders duly convened and held in accordance with this deed will be binding upon all the Holders whether present or not at such meeting.

9. SPECIAL RESOLUTIONS

- 9.1 A meeting of the Holders, in addition to the powers expressed in this deed, but without prejudice to any powers conferred on the Supervisor by this deed, has the following powers exercisable by Special Resolution namely:
- (a) **Sanction proposal in respect of the deed or Notes:** to sanction, either unconditionally or conditionally, any proposal by the Issuer for any modification, abrogation, novation, variation of, or arrangement in respect of, the rights of the Holders against it arising under this deed or the Notes;
 - (b) **Assent to modification of the Conditions or the deed:** to assent to any proposal for modification of the Conditions or this deed which is proposed by the Issuer;
 - (c) **Authorise execution of documents:** to authorise any person or persons to concur in and execute all such documents and do all such acts and things as may be necessary to carry out and give effect to any Special Resolution;
 - (d) **Discharge liability:** to discharge or exonerate any person or persons from any liability in respect of any act or omission for which such person or persons may have become responsible under this deed or the Notes;

- (e) **Authorise, direct or sanction:** to give any authority, direction or sanction or approval which under the provisions of this deed or the Notes is required to be given by Special Resolution;
- (f) **Remove Supervisor:** to request the removal of the Supervisor and to approve the appointment of a new supervisor;
- (g) **Appoint committee of Holders:** to appoint any persons (whether or not Holders) as a committee or committees to represent the interest of the Holders and to confer upon such committee or committees any powers or discretions which the Holders could themselves exercise by Special Resolution; and
- (h) **Direct or request Supervisor:** to direct or request the Supervisor to take such action or do such things as the Supervisor may lawfully do under this deed and to authorise the Supervisor to deduct its costs and expenses from any amount received by the Supervisor on account of Holders, to the extent such additional authority may be required.

A Special Resolution or ordinary resolution passed in accordance with this schedule will be binding upon all the Holders and each of the Holders and the Supervisor (subject to the provisions of the Supervisor's indemnity contained in the deed) will be bound to give effect to that resolution accordingly and the passing of any such Special Resolution or ordinary resolution will, as between the Holders and the Supervisor, be conclusive evidence that the circumstances justify the passing thereof.

10. MINUTES

- 10.1 Minutes of all resolutions and proceedings at every meeting of Holders must be made and duly entered in records to be from time to time maintained for that purpose at the expense of the Issuer by the Supervisor. Any such minutes signed by the chairperson of the meeting at which such resolutions were passed or proceedings transacted, or by the chairperson of the next succeeding meeting of the Holders, will be prima facie evidence of the matters recorded in them. Until the contrary is proved, every meeting whose proceedings have been so minuted and signed will be deemed to have been duly held and convened and all resolutions passed or proceedings transacted to have been duly passed and transacted. Copies of all minutes must be given by the Supervisor to the Issuer as soon as possible after each meeting.