

Master Trust Deed

Air New Zealand Limited

as the Company

and

The New Zealand Guardian Trust Company Limited

as Supervisor

Dated 12 October 2016 as amended and restated on
8 July 2022

BELL GULLY

AUCKLAND VERO CENTRE, 48 SHORTLAND STREET
PO BOX 4199, AUCKLAND 1140, DX CP20509, NEW ZEALAND
TEL 64 9 916 8800 FAX 64 9 916 8801

Contents

1.	Interpretation	4
2.	Issue and constitution of Bonds.....	10
3.	Status of Bonds	14
4.	The Register.....	16
5.	Payment of principal amount and interest.....	18
6.	Calculation of interest	20
7.	Representations and Warranties	21
8.	Covenants	22
9.	Supervisor's power to enforce, remedy and waive	27
10.	Appointment of and powers and discretions of Supervisor.....	29
11.	Meetings of Bondholders	36
12.	Indemnity of Supervisor.....	36
13.	Resignation, removal and new appointment of Supervisor.....	37
14.	Supervisor's remuneration and expenses	38
15.	Withholding tax.....	39
16.	Transfers and replacements of Bonds.....	41
17.	Disclosure of information	43
18.	Notices	44
19.	Discharge of Deed	45
20.	Invalidity	45
21.	Counterparts	45
22.	Delivery	45

23. Governing law and Jurisdiction..... 45

Execution 45

Schedule 1: Meeting of Bondholders 46

Schedule 2: Form of Series Supplement..... 55

This **Deed** is made on 12 October 2016 as amended and restated on 8 July 2022

between (1) **Air New Zealand Limited (as the Company)**

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

Introduction

- (A) The Company has resolved to establish a bond programme (**Programme**) pursuant to which it may issue Bonds from time to time.
- (B) Bonds will be issued under the Programme on a series by series basis on terms set out in a Series Supplement made between the Company and the Supervisor. The terms of each Series Supplement may modify the terms of this Deed in relation to the relevant Series.
- (C) The Financial Markets Conduct Act 2013 requires the appointment of a supervisor in respect of the Bonds and the execution by the Company and the Supervisor of a trust deed.
- (D) The Supervisor has agreed to act as supervisor and trustee on behalf of the Bondholders in accordance with this Deed.

It is agreed

1. Interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

2022 DOAR means the deed of amendment and restatement dated 8 July 2022 between the parties to this Deed;

Accrued Interest in relation to a Series has the meaning set out in the Series Supplement;

Agency Agreement means, in relation to any Series, the agency agreement between the Company and the person appointed as registrar, calculation agent (if any) and paying agent for that Series, as amended or replaced from time to time;

Approved Issuer Levy has the meaning as defined in clause 15.8 (Approved Issuer Levy);

Auditor means the Qualified Auditor for the time being appointed by the Company;

Authorised Officer means a person appointed by the Company and notified to the Supervisor to act as an authorised officer under this Deed;

Base Rate means, in relation to an Interest Period, the reference rate specified in the Series Supplement for the relevant Bonds;

Bondholder means, at any time, in relation to a Bond, the person named in the Register as the holder of the Bond;

Bond means, at any time, a note, bond or other debt instrument created, constituted and issued pursuant to the terms and conditions set out in this Deed and the Series Supplement applicable to it, and remaining outstanding at that time;

Bond Monies means, in relation to a Bond at any time, the Principal Amount, interest and other monies payable on, or in relation to, that Bond to the Bondholder of that Bond or at the direction of the Supervisor at that time under or pursuant to this Deed and a reference to **Bond Monies** includes any part of them;

Business Day means a “working day” as that term is used in the FMCA and the FMC Regulations and defined in the Legislation Act 2019;

Class means a Series of Bonds, or any two or more Series of Bonds which in the reasonable opinion of the Company (in consultation with the Supervisor) at any particular time, for any particular purpose, constitutes a separate class of Bonds and **Class of Bondholders** means the Bondholders of that Series or those Series of Bonds, as the context requires. For the avoidance of doubt, for the purposes of clause 10.2(a)(vi) and clause 10.5 (*Amendments*) each Series of Bonds is a separate Class;

Consolidated Group means Air New Zealand Limited and its subsidiaries;

Date of Enforcement means the date on which the Supervisor makes a declaration pursuant to clause 9.2 (*Supervisor’s power to accelerate and enforce*);

this Deed means this Deed and, where used or required to be interpreted in relation to a particular Series, means this deed as modified and supplemented by the Series Supplement applicable to that Series;

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

Early Redemption Option means, in relation to a Series of Bonds, the early redemption option (if any) as specified in the Series Supplement for that Series;

Effective Date means as defined in the 2022 DOAR;

Event of Default means any of the following events:

- (a) any Principal Amount or interest on a Bond is not paid within two (2) Business Days of its due date or any other amount payable in respect of a Bond is not paid within five (5) Business Days of its due date; or
- (b) the Company:
 - (i) is insolvent (as defined in the FMCA) or unable to pay its indebtedness as it falls due; or
 - (ii) stops or suspends payment to creditors generally, or begins negotiations or takes any proceedings to reschedule any of its indebtedness to creditors generally in respect of or in expectation of insolvency or being unable to pay its indebtedness as it falls due; or
 - (iii) makes, or proposes to make, an assignment, arrangement or compromise with, or for the benefit of, its creditors generally in respect of or in expectation of insolvency or being unable to pay its indebtedness as it falls due; or
 - (iv) ceases to carry on its business; or

- (c) an order is made or resolution passed (other than where contested in good faith in appropriate proceedings) for the winding-up or dissolution of the Company, except for the purpose of and followed by a reconstruction or reorganisation (not involving or arising out of insolvency) on terms approved by the Supervisor before that step is taken, and is not satisfied, stayed or discharged within sixty (60) days of such step being taken, except where the Company is contesting the same in good faith by appropriate proceedings; or
- (d) the Company is declared at risk pursuant to the Corporations (Investigation and Management) Act 1989, or a statutory manager is appointed in respect of it under that act (including a recommendation by the Financial Markets Authority supporting such an appointment);
- (e) any indebtedness of the Company in respect of borrowed money or under a guarantee of borrowed money of or in excess of \$20,000,000 (or its equivalent in any other currency) is declared due before it would otherwise have been due by reason of any default or event of default (howsoever described) (other than any such indebtedness the liability for which, or associated default or event of default, is being contested in good faith in appropriate proceedings); or
- (f) any event occurs which is specifically mentioned in a Series Supplement for that Series as an event of default for that Series;

Existing Bonds means all Bonds on issue and having the benefit of this Deed immediately prior to the Effective Date;

Extraordinary Resolution means a resolution passed at a meeting of the Bondholders duly convened and held by a majority consisting of not less than 75% of the votes cast on that resolution or, if a poll is required, by not less than 75% of the votes cast on the poll;

First Interest Accrual Date means, in respect of a Bond, the first date from which interest will accrue in respect of that Bond, as set out in the Series Supplement for the Series of which that Bond forms part;

Fixed Rate Bond means a Bond bearing a fixed rate of interest;

Floating Rate Bond means a Bond bearing interest at a margin over the Base Rate;

FMA means the Financial Markets Authority;

FMCA means the Financial Markets Conduct Act 2013;

FMC Regulations means the Financial Markets Conduct Regulations 2014;

FMSA means the Financial Markets Supervisors Act 2011;

Information Memorandum means the product disclosure statement, term sheet or such other document required by law which may replace a product disclosure statement or term sheet (as applicable) together with all documents to be distributed with or which form part of the relevant document, which:

- (a) in each case has been prepared by, or on behalf and with the approval of, the Company in relation to the relevant Series; and
- (b) has been reviewed by the Supervisor;

Interest Payment Date means:

- (a) in relation to a Floating Rate Bond, each date as is specified in the Series Supplement in relation to the Series of which that Floating Rate Bond forms part; and
- (b) in relation to a Fixed Rate Bond, the quarterly, semi-annual or annual dates (or such other dates) specified in the Series Supplement in relation to the Series of which that Fixed Rate Bond forms part;

Interest Period means, in relation to a Floating Rate Bond, each period for calculation of interest on that Bond as specified in clause 6.1(a) (*Interest Periods*) and the relevant Series Supplement;

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

Issue Date means, in relation to a Bond, the date on which it is issued in terms of this Deed, being the date specified in the relevant Series Supplement in respect of such Bond;

Issuer Obligation has the meaning set out in the FMCA, being an obligation imposed on the Company under this Deed (including the terms and conditions applicable to a Series of Bonds), or the terms of any regulated offer of the Bonds, or by the FMCA or any court order relating to the relevant Bonds;

Issue Price means, in relation to a Bond, the price determined by the Company and set out in the relevant Series Supplement as the issue price of that Bond which may be set at a premium or discount to the Principal Amount of the Bond and may differ in respect of different Bonds;

Joint Lead Managers means, in relation to a Series of Bonds, the lead manager or joint lead managers (if any) as specified in the Series Supplement for that Series;

Listing Rules means the listing rules of the NZX in force from time to time;

Margin means, in relation to a Floating Rate Bond, the margin specified at the time of issue in the Series Supplement in respect of that Floating Rate Bond.

Maturity Date means, in relation to a Bond, the date for the repayment of that Bond, being the earlier of:

- (a) (subject to any Early Redemption Option set out in the relevant Series Supplement) the maturity date (if any) specified in the relevant Series Supplement; and
- (b) the Date of Enforcement (if any).

NZ GAAP means generally accepted accounting practice as defined in section 8 of the Financial Reporting Act 2013;

NZX means NZX Limited (a registered exchange regulated under the FMCA);

NZX Debt Market means the debt security market operated by NZX;

Ordinary Resolution means a resolution passed at a meeting of the Bondholders duly convened and held by a majority consisting of more than half of the votes cast on that resolution or, if a poll is required, by more than half of the votes cast on the poll;

Outstanding Money means, at any time, the aggregate indebtedness of the Company to the Bondholders or the Supervisor under this Deed;

Principal Amount means, in relation to a Bond, the principal amount of such Bond as recorded in the Register in respect of that Bond;

Programme has the meaning given to that term in Recital A of the Introduction;

Proxy Closing Time means 48 hours before the time appointed for commencement of the relevant meeting of Bondholders or the taking of a poll of Bondholders;

Qualified Auditor has the meaning set out in the FMCA;

Quoted has the meaning given to it in the Listing Rules;

Record Date means 5:00pm on the day ten (10) days prior to the relevant Interest Payment Date (whether or not such date is a Business Day), or within such lesser period as is approved by NZX;

Register means, in relation to a Series, the register of Bonds kept by the Registrar for that Series in accordance with the provisions of this Deed and the Agency Agreement in which is entered the name and address of each person who is the Bondholder of a Bond, together with certain other information as set out in clause 4.2 (*Details on Register*) and, for the avoidance of doubt, references in this Deed to the **Register** shall be construed as the register for that Series of Bonds;

Registrar means, in respect of any Series, the person named in the relevant Agency Agreement and specified in the Series Supplement for that Series as the registrar, calculation agent and/or paying agent for that Series or any successor agent appointed under the relevant Agency Agreement in relation to that Series and, for the avoidance of doubt, references in this Deed to the **Registrar** shall be construed as the registrar for that Series of Bonds;

Representative means:

- (a) in the case of a Bondholder 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); or
- (b) in the case of a Bondholder 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 1993 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 Bondholder's Bond has devolved by reason of his being a legal representative or an assignee in bankruptcy or liquidator of the Bondholder, or such person's representative appointed or authorised under (i) or (ii) above.

Series means Bonds that are issued under the same Series Supplement;

Series Supplement means a deed supplemental to this Deed (in substantially the form set out in Schedule 2 (*Form of Series Supplement*)) entered into by the Company and the Supervisor pursuant to clause 2.4 (*Series Supplement*) constituting and specifying the terms and conditions applicable to a Series of Bonds; and

Transaction Documents means this Deed, each Series Supplement and each Agency Agreement.

1.2 Interpretation

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

borrowed money means any indebtedness for or in respect of money borrowed or raised by whatever means (including acceptances, deposits, finance leases, debt factoring with recourse and the issue of redeemable preference shares) or for the deferred purchase price of assets and services (other than assets or services supplied in the ordinary course of business on normal trade terms);

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

a **company** means any company or body corporate wherever incorporated or domiciled and, where the context so permits, includes an individual;

financial statements includes statements of financial position, financial performance, comprehensive income, movements in equity and cashflows, and the notes relating to any such statements, and **consolidated financial statements** has a corresponding meaning;

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

law means all laws, statutes, regulations and ordinances of New Zealand and all judgments, decrees, injunctions, writs and orders of any New Zealand court;

month means calendar month;

nominal value has the same meaning as Principal Amount;

outstanding means, in relation to Bonds, all the Bonds as from time to time have been issued in accordance with this Deed (including, as at the Effective Date, the Existing Bonds) other than:

- (a) those which have been repaid in accordance with this Deed and the relevant Series Supplement; and
- (b) those which have been purchased or redeemed and which have been deemed cancelled pursuant to clause 2.11 (*Purchase, cancellation, re-issue*) of this Deed;

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

subsidiary of a person includes:

- (a) a subsidiary within the meaning of section 5 of the Companies Act 1993 (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 1993); or
- (b) a subsidiary in accordance with NZ GAAP of that person;

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

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 1993 and FMCA**

Except where otherwise expressly provided in this Deed, words defined in the Companies Act 1993 or the FMCA have the same meanings in this Deed.

(b) **Headings**

The introduction to, and each heading in this Deed, is inserted for convenience only and is 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.

(g) **References to time**

Anything which may be done at any time may also be done from time to time.

1.4 **Non-Business Days**

Anything which is required by this Deed 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.

1.5 No effect

The parties agree that this Deed has no effect to the extent that it contravenes, or is inconsistent with, the FMC Act, the FMC Regulations (together, the **Applicable Laws**) or any term implied in this Deed by the Applicable Laws.

1.6 Cross-references

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

2. Issue and constitution of Bonds

2.1 Constitution of Bonds

The Company may issue Bonds pursuant to this Deed from time to time in such Series, at the times, in the amounts, at the prices, to the persons and on the terms and conditions as determined by the Company. Any Bonds in a Series may or may not be guaranteed and may be issued on the basis that the relevant Bond Monies rank equally with, in priority to (subject to the restrictions in this Deed), or subordinate to any other Series.

2.2 Form of Bonds

Without limitation to clause 2.1 (*Constitution of Bonds*) above, Bonds may be issued on terms such that the Principal Amount is a fixed amount or a reducing amount and/or that interest will be calculated by reference to a specific interest rate (which may be a fixed rate or a margin over a base rate).

2.3 Regulated offer

The Company may elect whether the relevant Series is or is not (as the case may be) offered for issue as a regulated offer in accordance with the Financial Markets Conduct Act.

2.4 Series Supplement

- (a) Bonds shall be constituted and issued in a Series.
- (b) Each Series shall be subject to the terms and conditions set out in a Series Supplement for that Series and (as modified by that Series Supplement) this Deed. To the extent that the Series Supplement for a Series modifies this Deed, or in the event of any conflict between the provisions of that Series Supplement and those of this Deed, that Series Supplement shall prevail over this Deed in relation to that Series.
- (c) The provisions of the relevant Series Supplement and this Deed read together in accordance with this clause 2.4 shall constitute the terms for the Bonds of the relevant Series.

2.5 Creation and issue

- (a) A Series of Bonds shall be constituted by:
 - (i) the Company delivering a completed and signed Series Supplement to the Supervisor and to the Registrar; and

- (ii) the Supervisor signing and returning the Series Supplement to the Company.
- (b) A Series of Bonds shall be issued and created by the Registrar entering the particulars of that constituted Series into the Register in accordance with clause 4.2 (*Details on Register*).
- (c) For the avoidance of doubt, each Existing Bond shall be considered issued and constituted in accordance with this clause.

2.6 Deed binding

This Deed is binding on the Company, the Supervisor, the Bondholders and all persons claiming through or under them respectively and the Bonds are to be held subject to this Deed.

2.7 Payment of Issue Price and Allotment

(a) Payment on application

Each applicant for Bonds must pay to the Company, upon application, the Issue Price for the Bonds set out in his or her application for Bonds.

(b) Issue of Bonds

Subject to acceptance of that application by the Company in full or in part, the Company must issue that Bondholder with the appropriate Principal Amount of Bonds for which the application is accepted on, or as soon as practicable after, the Issue Date, subject to the Company having received payment of the Issue Price and all other conditions of the issue having been satisfied.

(c) Cleared Funds

Unless specified otherwise in a Series Supplement for any Series, the Company is not obliged to pay Accrued Interest to a Bondholder (or the Supervisor on its behalf) under this Deed unless and until the Issue Price for the relevant Bonds has been paid in full and in cleared funds. The Company may also (but need not) forfeit any Bonds issued to a Bondholder if that Bondholder does not pay the Issue Price in full and cleared funds for the relevant Bonds. Any Bonds forfeited under this clause shall be cancelled or transferred by the Company to any person or persons selected by the Company.

(d) Allotment

The Bonds will be allotted in accordance with the Series Supplement for the relevant Series. The Bonds will accrue interest in accordance with the Series Supplement for the relevant Series.

2.8 Form of Bonds

Unless otherwise required under any Applicable Law or as specified in a Series Supplement, Bonds will be issued in uncertificated book entry form in a minimum denomination of \$5,000 (and thereafter in multiples of \$1,000) by entry of the details specified in clause 4.2 (*Details on Register*) on the Register.

2.9 Covenant to observe this Deed

(a) Indebtedness

The Company acknowledges its indebtedness to each Bondholder, and to the Supervisor on behalf of the Bondholders, in relation to the payment or repayment of the Principal Amount of, and interest and any other amount payable under, each Bond upon and subject to this Deed (including the relevant Series Supplement).

(b) Payment

The Company covenants with the Supervisor that it will:

- (i) pay all amounts payable in relation to the Bonds in accordance with clause 5 (*Payment of principal amount and interest*); and
- (ii) comply with, perform and observe all the provisions of this Deed in relation to a Series of Bonds.

(c) Payment in satisfaction of obligations

Each payment in respect of the Bonds duly made to the Bondholders or the Supervisor in accordance with this Deed will be in satisfaction, to the extent of the amount paid, of the relevant obligation of the Company to the Bondholders 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 by the Company under this Deed in respect of the Bonds (other than those covenants intended to be for the benefit of the Supervisor for its own account) for the Bondholders generally.

2.10 Bondholder absolute owner

Subject to clause 4.5 (*Recognition of transmission of Bonds*), each of the Company and the Supervisor is, notwithstanding any notice to the contrary, entitled to treat the registered holder of any Bond 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).

2.11 Purchase, cancellation, re-issue

Subject to any provisions to the contrary in the Series Supplement for a Series, the Company may purchase Bonds from any person at any time on the market or by private treaty at any price. Upon purchase by the Company, such Bonds so purchased will be deemed to be immediately cancelled but the Company may, at any time, re-issue any such Bonds previously purchased by the Company to a third party, but shall not be obliged to do so. In relation to each Bond which is cancelled (and not re-issued), neither the Company nor the Supervisor will have any further liabilities or obligations in respect of that Bond or the relevant Bondholder. In relation to each Bond which is re-issued, each such Bond shall be issued subject to this Deed (including the relevant Series Supplement for the relevant Series of Bonds), except in respect of the Issue Date which shall be adjusted accordingly and, for the avoidance of doubt, any Bonds re-issued shall rank equally with each other and with any Bonds already on issue. For the avoidance of doubt, a restriction in a Series Supplement on prepayment of Bonds in that Series shall not of itself be a restriction on the purchase of those Bonds.

2.12 Validity of issued Bonds

Neither the Supervisor nor any person named as a Bondholder in the Register in relation to any Bond need be concerned or obliged to enquire whether any Bond purporting to be evidenced by the Register has been issued in accordance with this Deed, a Series Supplement or the Listing Rules. Each Bond issued for valuable consideration will be deemed to be validly issued and constituted by this Deed (including the relevant Series Supplement) notwithstanding that the issue of such Bond was in breach of any provision of this Deed, but without prejudice to the Supervisor's rights under or in accordance with this Deed (including the relevant Series Supplement) against the Company in respect of any such breach.

2.13 Payment of brokerage or commission

The Company may pay a commission, procuration, application or issue fee or brokerage to any person or company in respect of subscribing for, or obtaining issues for the Bonds.

2.14 Unclaimed payments

Any payment made by the Company or the Supervisor to any Bondholder 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 (unless the Company has in the interim received notice of a change of address to be entered in the Register and made payment to the Bondholder at this changed address) be held by the Company in a separate bank account (such bank account to be held with a bank, and on terms, as the Supervisor shall, until the Maturity Date, reasonably require) for the Bondholder 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 five years (less one day) from the original date of payment may be retained by the Company together with accrued interest (if any), but less any deductions required by law and the Company and the Supervisor will have no further liability in respect of the amount concerned, and the amount concerned is taken to be forfeited to the Company for the Company's benefit and shall no longer be treated as being an unclaimed amount.

2.15 Reinstatement

If any payment made to the Supervisor or to any Bondholder by or on behalf of the Company is avoided by law, such payment will be deemed not to have discharged or affected the liability of the Company in respect of which that payment was made. In this circumstance, the Supervisor, the Bondholder and the Company 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.

3. Status of Bonds

3.1 Status

Each Bond is a direct, unsecured and unconditional obligation of the Company.

3.2 Ranking

Unless otherwise stated in the relevant Series Supplement, Bonds rank and will at all times rank equally without any preference or priority among themselves and at least equally with all present and future unsecured and unsecured indebtedness of the Company (except indebtedness preferred solely by operation of law and subject to laws affecting creditors' rights generally and equitable principles of general application).

3.3 Enforcement by Supervisor

(a) Enforcement by Supervisor

Subject to the express provisions of this Deed, and in addition to the Bondholders' rights pursuant to section 104(2) of the FMCA, the Supervisor holds its rights and benefits under this Deed (including the right to enforce the Issuer Obligations) in trust for the Bondholders and the Supervisor may enforce the provisions of the Bonds or this Deed.

(b) Claims by Bondholders

No Bondholder may claim against the Company for any amount owing to him or her under any Bond or this Deed to the extent that the Supervisor has claimed, or has determined to claim for, such amount on behalf of such Bondholder, and any claim made contrary to this clause must be withdrawn by such Bondholder.

(c) Enforcement by Bondholders

No Bondholder may proceed against the Company or the Supervisor for the enforcement or performance of any provision of this Deed that is solely for the benefit of the Supervisor.

(d) Contract and Commercial Law Act 2017

For the purposes of Part 2, Subpart 1, of the Contract and Commercial Law Act 2017, the Company acknowledges that this Deed is made for the benefit of and is intended to be enforceable by any person who is from time to time a Bondholder, and the Supervisor.

3.4 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 FMCA or the FMC Regulations 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 Bondholder at any time seeking a judgment or order declaratory of the rights or obligations of any Bondholder or any party to this Deed; or

(c) **Other proceedings**

the right of the Supervisor or a Bondholder, in the circumstances expressly permitted by this Deed, to take any action permitted by this Deed.

4. The Register

4.1 Establish and maintain Register

The Company shall appoint and maintain the appointment of the Registrar for each Series and cause the Registrar to establish and maintain the Register for each Series in accordance with this Deed and all relevant legal requirements. There shall be a separate Register for each Series but one or more such Registers may be maintained by the same Registrar.

4.2 Details on Register

The Register must show:

(a) **Name and address**

the name, address and account details for payments of each person registered as a Bondholder;

(b) **Allotment Date**

the allotment date of each Bond;

(c) **Other details**

the Issue Price, Principal Amount, Interest Rate, Interest Payment Dates and the Maturity Date applicable to each Bond and the security identification number (FIN) or register number of each Bondholder if applicable;

(d) **Transfers**

details of all transfers of the Bonds, including the date of registration of each transfer;

(e) **Nature**

the nature of the Bonds;

(f) **Cancellation**

all cancellations or redemptions of Bonds;

(g) **Series**

the Series to which any Bonds relate; and

(h) **Other information**

such other information as may be required by law or by the Supervisor.

4.3 Disclosure and inspection of Register

The Company will ensure that the Registrar:

- (a) permits inspection of the Register in accordance with sections 221 and 222 of the FMCA; and
- (b) without limiting sub-paragraph (a) above, make available for inspection, and provide copies of, or extracts from, the Register to the extent required by, and in accordance with, the FMCA, FMC Regulations and any other applicable law (which includes, but is not limited to, providing to a person who so requests, a copy of, or an extract from, the Register in accordance with the procedures set out in sections 223 and 224 of the FMCA),

provided that the Company and the Supervisor may, at all reasonable times during normal office hours upon reasonable notice to the Registrar and subject to applicable laws, inspect and take extracts from the Register without payment of any fee.

4.4 Change in details

Any change of name or address of any Bondholder or any change in any other information required to be inserted in the Register in relation to any Bondholder must immediately be notified to the Registrar in writing by the Bondholder, or, if a joint holding, by all the joint Bondholders and, following such notice, the Registrar must alter the Register accordingly.

4.5 Recognition of transmission of Bonds

Each executor or administrator of a deceased Bondholder (not being one of several joint Bondholders) and, in the case of the death of one or more of several joint Bondholders, each survivor of a joint Bondholder, is the only person recognised by the Company as having any title to the relevant Bond.

4.6 Registration of transmission of Bonds

Each person becoming entitled to a Bond on the death or bankruptcy of a Bondholder, upon producing evidence to the satisfaction of the Company of his or her entitlement to that Bond, may be registered as the Bondholder. The Company may retain any amount payable upon the Bond to which any person is so entitled until that person is so registered or duly transfers the Bond.

4.7 Register conclusive

Each of the Supervisor and the Company is:

- (a) **Rely on Register**

entitled to rely upon the entries in the Register as constituting the sole and conclusive record of each Bond and as to the person entitled to the Bond;

- (b) **No enquiries**

not obliged to make further enquiry as to the status in relation to this Deed, or ownership, of any securities or indebtedness of the Company, or of any claim, entitlement or interest, not so entered in the Register;

(c) Correct Register

to have the power, in its absolute discretion, to authorise the correction of the Register upon being satisfied that the Register is incorrect (provided that a correction authorised by the Supervisor shall always override a correction authorised by the Company in respect of the same subject matter, absent manifest error), and, in the case of the Supervisor, to be deemed to have accepted trusteeship in respect of the Bonds and on behalf of the Bondholders of any such Bonds as shown by the Register so corrected as from the date of correction;

(d) Supervisor not liable

in the case of the Supervisor, not liable to the Company or any Bondholder or former Bondholder for relying on the Register or for accepting in good faith as valid any detail recorded on the Register subsequently found to be forged, irregular or not authentic; and

(e) Company not liable

in the case of the Company, not liable to the Supervisor or any Bondholder or former Bondholder for relying on the Register or for accepting in good faith as valid any detail recorded on the Register subsequently found to be forged, irregular or not authentic.

4.8 Compliance with law

The Company shall comply with all statutory requirements relating to the keeping of the Register. The Company shall ensure that the Register is audited in accordance with applicable auditing and assurance standards (as defined by reference to section 6 of the FMCA) by the Auditor (or such other Qualified Auditor that is acceptable to the Supervisor) annually within 4 months of the Company'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 4.8 are not being complied with.

5. Payment of principal amount and interest

5.1 Bonds**(a) Principal amount**

- (i) Subject to clause 5.1(a)(ii), the Company shall, on the Maturity Date of each Bond, pay or cause to be paid to, or to the order of, the Supervisor the Principal Amount of that Bond in accordance with the terms applicable to that Bond.
- (ii) Notwithstanding clause 5.1(a)(i), the Company shall, on the Maturity Date of each Bond, unless and until otherwise requested by the Supervisor, pay or cause to be paid to, or to the order of, the relevant Bondholder the Principal Amount of that Bond in accordance with the relevant Series Supplement. Such payment shall operate as a payment to the Supervisor in satisfaction (to the extent of the amount paid) of the Company's obligations under clause 5.1(a)(i).

(b) Interest

- (i) Subject to clause 5.1(b)(ii), the Company shall, as and when due and payable in accordance with the terms applicable to each Bond,

unconditionally pay or cause to be paid to, or to the order of, the Supervisor all interest and other amounts payable in respect of that Bond in accordance with the terms applicable to that Bond.

- (ii) Notwithstanding clause 5.1(b)(i), the Company shall, as and when due and payable in accordance with the Series Supplement applicable to each Series of Bonds, unless and until otherwise requested by the Supervisor, pay or cause to be paid to, or to the order of, the relevant Bondholder all interest and other amounts payable in respect of that Bond in accordance with the terms applicable to that Bond and in accordance with the relevant Agency Agreement. Such payment shall operate as a payment to the Supervisor in satisfaction (to the extent of the amount paid) of the Company's obligations under clause 5.1(b)(i).

(c) **Early redemption**

In relation to a Series of Bonds, where the Early Redemption Option is specified as applicable in the relevant Series Supplement, the Company may elect to redeem the Bonds in that Series for cash by giving notice to the Supervisor and to each relevant Bondholder in accordance with the Series Supplement for the relevant Bonds of the date on which the Company will redeem the Bonds (the **Early Redemption Date**). On the Early Redemption Date, the Company will redeem each Bond in the relevant Series in accordance with the Series Supplement for the relevant Bonds.

5.2 Interest

Subject to the terms of a Series Supplement for a Series of Bonds, the Company shall pay interest on each Interest Payment Date:

- (a) on each Floating Rate Bond for each Interest Period, at the rate per annum equal to the aggregate of the Base Rate for that Interest Period (as determined by the Registrar for the relevant Series) and the Margin for that Floating Rate Bond; and
- (b) on each Fixed Rate Bond, at the Interest Rate for that Fixed Rate Bond.

5.3 Basis of calculation of interest

- (a) Other than as set out in a Series Supplement:
 - (i) in the event of any dispute as to the amount of interest payable to a Bondholder on an Interest Payment Date in respect of a Floating Rate Bond, a certificate by the Company as to the amount of interest payable to a Bondholder on an Interest Payment Date is, in the absence of manifest error, conclusive and binding on the Bondholder;
 - (ii) where the first Interest Payment Date is less than ten (10) Business Days after the relevant Issue Date, interest payable on the first Interest Payment Date will be paid by the Company to the first registered Bondholder of a Bond regardless of any transfer of the Bond prior to the first Interest Payment Date; and
 - (iii) where an Interest Payment Date for a Fixed Rate Bond is not a Business Day, interest will be paid on the next Business Day without adjustment, interest or further payment as a result thereof.

- (b) A Series Supplement may specify that interest on a Bond shall be:
- (i) payable in equal instalments; or
 - (ii) calculated on the basis of a 365 day year,

(or a combination thereof). If a Series Supplement fails to specify the basis of calculation interest shall be calculated on the basis set out in clause 6.1(b) (*Basis for calculation*) or 6.2 (*Fixed Rate Bonds*) (as applicable).

5.4 Non-payment

Each Bond will cease to bear interest from its Maturity Date unless the Issuer has failed to make payment of the Principal Amount in full on that date in accordance with this Deed (including the relevant Series Supplement). In such event, interest will continue to accrue (after, as well as before, any judgment) up to but excluding the date on which payment in full of the Principal Amount is made.

5.5 Default interest

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

6. Calculation of interest

6.1 Floating Rate Bonds

(a) Interest Periods

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

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

(b) **Basis for calculation**

Interest shall be calculated on the Principal Amount of each Floating Rate Bond, on the basis of the number of days in the relevant Interest Period and a year of 365 days, unless otherwise provided in the relevant Series Supplement. Interest shall accrue from day to day and shall be paid to the Bondholder in arrear on the Interest Payment Date for that Interest Period.

6.2 **Fixed Rate Bonds**

Interest shall be calculated on the Principal Amount of each Fixed Rate Bond from (and including) the First Interest Accrual Date and will be payable in arrear in equal quarterly, semi-annual, annual or other instalments on each Interest Payment Date for that Fixed Rate Bond or as otherwise provided in the relevant Series Supplement.

7. **Representations and Warranties**

7.1 **Representations and warranties**

The Company represents and warrants to the Supervisor that:

(a) **Status**

it is a company duly incorporated and validly existing under the laws of its jurisdiction of incorporation;

(b) **Capacity**

it has the power to enter into, exercise its rights and perform and comply with its obligations under, each Transaction Document;

(c) **Appropriate Action**

everything required to be done (including the obtaining of any necessary consents and the passing of all necessary resolutions) to:

- (i) enable it lawfully to enter into, exercise its rights and perform and comply with its obligations under, each Transaction Document; and
- (ii) ensure that its obligations under each Transaction Document are legal, valid, binding and enforceable,

has been duly done;

(d) **No Contravention**

its entry into, exercise of its rights and performance of and compliance with its obligations under, each Transaction Document does not and will not:

- (i) contravene any law to which it is subject; or
- (ii) contravene any of the documents constituting it; or
- (iii) exceed any limitation on, or constitute an abuse of, the powers of its directors or officers; or

(iv) contravene any agreement to which it is a party or which is binding on any of its assets;

(e) **Binding Obligations**

its obligations under each Transaction Document are legal, valid, binding and enforceable (subject to laws relating to creditor's rights generally and to the application of equitable principles);

(f) **No Default**

except as notified to the Supervisor in writing, no Event of Default has occurred and remains unremedied, or will result from the execution and delivery of each Transaction Document; and

(g) **Consents and other authorisations**

all consents and other authorisations required by it, or otherwise appropriate for it to obtain, in connection with each Transaction Document, and the transactions contemplated by such document, have been obtained or effected and are in full force and effect.

7.2 Series Supplement

In respect of a Series, the Company shall make such further representations and warranties as are set out in the Series Supplement for that Series.

7.3 Repetition

- (a) The representations and warranties contained in clause 7.1 (*Representations and warranties*) shall be deemed to be repeated for the benefit of the Supervisor and the Bondholders of each Series on the Issue Date and each Interest Payment Date of each Bond.
- (b) In respect of a Series, the representations and warranties referred to in clause 7.2 (*Series Supplement*) shall be deemed to be repeated for the benefit of the Supervisor and the Bondholders of that Series on the Issue Date and each Interest Payment Date of each Bond forming part of that Series.

8. Covenants

8.1 Company covenants

The Company covenants with the Supervisor that, for so long as any Bonds are outstanding, it will:

(a) **Notify Event of Default**

notify the Supervisor promptly and in any event within ten (10) Business Days of it becoming aware that an Event of Default has occurred and is continuing;

(b) **Comply with laws**

comply with and observe all laws and all requirements and orders of any government agency, which are material in the context of the business of the Company;

(c) **Corporate Existence**

maintain its corporate existence and will not amalgamate, merge or consolidate with any person unless the resulting or surviving entity assumes, to the satisfaction of the Supervisor, the obligations of the Company under the Bonds;

(d) **Authorisations**

ensure that each consent or other authorisation required for:

(i) the execution, delivery and performance by it of each Transaction Document; and

(ii) the validity and enforceability of each Transaction Document,

is obtained and promptly renewed and maintained in full force and effect;

(e) **Quotation of Bonds**

use reasonable endeavours to ensure that the Bonds are, upon their issue, Quoted and that such quotation is maintained;

(f) **Annual report and shareholder information**

send to the Supervisor:

(i) a copy of each annual and semi-annual report which it prepares in accordance with Listing Rule 10.4 and makes available to Bondholders in accordance with Listing Rule 10.4.4, at the same time as those reports are available to Bondholders; and

(ii) a copy of any notice, report or other document sent to shareholders or Bondholders generally;

(g) **Compliance with legislation etc.**

at all times comply with the FMCA, FMC Regulations, Companies Act 1993, Financial Reporting Act 2013, the Listing Rules and all other applicable laws;

(h) **Offering documents**

not issue a Disclosure Document or Advertisement (each as defined in the FMCA) in respect of the issue of any Bonds without prior notice to the Supervisor, and not include any statement in any such Disclosure Document, or any Advertisement (each as defined in the FMCA) for the Bonds, concerning the Supervisor, without the prior written consent of the Supervisor;

(i) **Report of contravention**

if the Company 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, report to the Supervisor in writing of the contravention or possible contravention and advise the Supervisor of the steps (if any) that it has taken or intends to take in light of the contravention or possible contravention, and the date by which the steps were taken or are to be taken;

(j) Insolvency

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

- (iii) disclose to the Supervisor all information relevant to that matter that is in its possession or under its control and that was obtained in the course of, or in connection with, the performance of its functions as issuer of the Bonds; and
- (iv) advise the Supervisor of the steps (if any) that it intends to take in respect of that matter and the date by which the steps are to be taken.

8.2 Company's accounts and certificate of directors

The Company covenants with the Supervisor that, while any Bonds are outstanding, the Company will, no later than three months after the end of each of its financial years and financial half-years, deliver to the Supervisor the reports and other information referred to in sub-paragraphs (a) (*Directors' certificate*), (b) (*Company's and Consolidated Group accounts*) and (c) (*Auditor's Report*) below and make available to each Bondholder in accordance with the Listing Rules, the information referred to in sub-paragraph (b) (*Company's and Consolidated Group accounts*) below:

(a) Directors' certificate

a certificate, in such form and including such content as agreed with the Supervisor from time to time, signed by two directors on behalf of the board of directors of the Company certifying 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):

- (i) whether any matter has arisen relating to the Company which would adversely affect the ability of the Company to perform its obligations under this Deed or the Bonds and, if so, details of that matter;
- (ii) that the Company has duly observed, performed and complied in all respects with its obligations under this Deed and each Series Supplement (and, if not, details of the contravention);
- (iii) whether any Bonds have been redeemed, cancelled, or purchased by the Company or any of its subsidiaries and, if so, details of the redemption, cancellation or purchase;
- (iv) that all interest due on the Bonds has been paid; and
- (v) that no Event of Default has occurred;

(b) Company's and Consolidated Group accounts

to the extent not provided pursuant to clause 8.1(f) (*Annual report and shareholder information*), a copy of the audited financial statements for the Company and the Consolidated Group for the preceding financial year and a copy of the unaudited financial statements for the Consolidated Group for the preceding half-year; and

(c) Auditor's Report

at the same time as the audited annual financial statements for the Company are provided in accordance with clause 8.2(b) (*Company's and Consolidated Group accounts*), a separate report by the Auditors (addressed to the Supervisor), in such form and including such content as agreed with the Supervisor from time to time, stating:

- (i) whether, in the course of performing their duties as Auditor, they have become aware of any non-payment by the Company of any interest under the Bonds;
- (ii) the aggregate Principal Amount of Bonds on issue and outstanding at the balance date;
- (iii) in their opinion, there is reasonable assurance that, in all material respects, the Register has been duly maintained in accordance with the FMCA and correctly contains the information required by the FMCA;
- (iv) whether in the performance of their duties as Auditor 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 FMCA, and if so giving particulars thereof;
- (v) whether their audit has disclosed any matter calling in the Auditor's opinion for further investigation by the Supervisor in the interests of the Bondholders, and providing particulars of such matters;
- (vi) that, since the last report by the Auditor (or the date of this Deed, whichever is later), they have perused the certificates given by the directors of the Company pursuant to clause 8.2(a) (*Directors' certificate*); and
- (vii) 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 certificates by the directors are inaccurate or incorrect.

8.3 Requested Information

The Company covenants that it will make available or provide to the Supervisor or a person authorised by it for these purposes all documents and records relating to the Company and any report or other information (which may be about any matter relevant to the Supervisor's performance of its functions and include forward-looking reports) that the Supervisor or its authorised person, by written notice, requires the Company to make available or provide within the timeframe and in the manner specified by the Supervisor or its authorised person in that notice, provided that such timeframe and manner are reasonable in the circumstances.

8.4 Auditors**(a) Appointment**

The Company must, before recommending the appointment or re-appointment of a person as an auditor of the Company:

- (i) consult with the Supervisor on such appointment or re-appointment and the nature and scope of any assurance engagement in relation to the Company's compliance with this Deed;

- (ii) ensure that any comments of the Supervisor concerning the proposed Auditor are brought to the attention of the persons appointing or re-appointing the Auditor;
- (iii) give the Supervisor an opportunity to be a party to the assurance engagement for the purpose of the Supervisor obtaining assurance of matters relevant to the exercise or performance of the Supervisor's powers or duties; and
- (iv) ensure that the terms of appointment of the Auditor, whether the Auditor is conducting an audit, review or other engagement, include that the Auditor will give the Supervisor an opportunity to meet with the Auditor, without any representative of the Company being present, to raise or discuss:
 - (A) at the beginning of such engagement, any issues or concerns relevant to the exercise or performance of the Supervisor's powers or duties; and
 - (B) matters arising in the performance of such engagement and to answer any questions the Supervisor may have concerning such engagement.
- (v) procure that the Auditors shall:
 - (A) acknowledge the obligations imposed on the Auditor under the FMCA; and
 - (B) to the extent applicable, carry out the audit of the financial statements referred to in clause 8.2(b) (Company's and Consolidated Group accounts) in accordance with NZ GAAP.

(b) **Resignation**

The Company must notify the Supervisor if the Auditor resigns from appointment, or declines to accept appointment or re-appointment, and must pass on to the Supervisor any explanation provided by the Auditor for resigning its appointment or declining to accept appointment or re-appointment. The Company must not attempt to prevent any person who has resigned its appointment as an auditor, or declined to accept an appointment or re-appointment as an auditor, from offering an explanation, or disclosing to the Supervisor the reason for resigning or declining appointment or re-appointment.

8.5 **Series Supplement**

In respect of each Series, the Company undertakes to the Supervisor that it will, for so long as any Bonds of that Series are outstanding:

(a) **Transaction Documents**

comply in all material respects with and perform in all material respects its obligations under each Transaction Document for that Series;

(b) **Agency Agreement**

comply in all material respects with and perform in all material respects its obligations under the Agency Agreement for that Series and use all reasonable endeavours to ensure that the Registrar for that Series also does so;

(c) Registrar

give notice to the Bondholders of that Series and the Supervisor of any resignation or removal of the Registrar for that Series and the appointment of any replacement Registrar promptly following such event, provided that any resignation or removal of the Registrar shall not be effective until the new Registrar approved by the Supervisor is duly appointed;

(d) Register

ensure that a Register for that Series is maintained and cause the Registrar for that Series to keep the Register for that Series pursuant to the Agency Agreement for that Series;

(e) Listing

if any Bonds have been quoted on the NZX Debt Market:

- (i) take all reasonable steps to ensure that those Bonds remain quoted on the NZX Debt Market; and
- (ii) in respect of the relevant Series, comply with all material obligations imposed by the Listing Rules applicable to debt securities;

(f) Notices

send to the Bondholders such statements or notices as may be required pursuant to applicable law or the Listing Rules; and

(g) Additional undertakings

comply with such further undertakings as are set out in the Series Supplement for that Series.

9. Supervisor's power to enforce, remedy and waive

9.1 Enforcement of Bondholders' rights

The Supervisor shall hold in trust for the benefit of all Bondholders:

- (a) the right to enforce any obligations or duties that the Company has under this Deed and the FMCA (including the right to enforce the Company's obligation to repay to a Bondholder the Principal Amount of the Bonds held by that Bondholder, together with interest thereon, in accordance with the terms of this Deed and any Information Memorandum);
- (b) if applicable, any charge or security for repayment of the Bonds; and
- (c) the right to enforce any other duties that any other person may have under this Deed or the FMCA in relation to the Bonds.

9.2 Supervisor's power to accelerate and enforce

If at any time an Event of Default occurs and subsists, the Supervisor may, and shall if directed to do so by the Bondholders by an Extraordinary Resolution, exercise any or all of the following rights:

- (a) by notice to the Company declare that all or part of the Outstanding Money is immediately due and payable, whereupon the Company shall immediately pay to the Supervisor all relevant Outstanding Money together with all other fees and expenses payable under this Deed; or
- (b) at the cost of the Company, appoint a firm of independent accountants or other experts to review and report to the Supervisor on the affairs, financial condition and business of the Company.

9.3 Supervisor may remedy

If the Company fails to pay any moneys due and payable under this Deed then, without prejudice to any other rights and remedies of the Supervisor, the Supervisor may (at its sole discretion) pay any such moneys. All moneys so paid by the Supervisor will be payable by the Company to the Supervisor upon demand in writing, together with all costs, charges or expenses properly incurred by the Supervisor in that payment.

9.4 Waiver by Supervisor

Subject to clause 10.5 (*Amendments*) (to the extent any waiver operates as a temporary amendment), any applicable law and any direction or request given by the Bondholders to the Supervisor by way of Extraordinary Resolution, the Supervisor may from time to time by notice in writing to the Company 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 the Company of any of the provisions of this Deed or a Series Supplement, provided the Supervisor is satisfied that the interests of the Bondholders will not be materially prejudiced as a result. Any such waiver will be binding on all Bondholders but will not affect the rights of the Supervisor and the Bondholders in respect of any other breach. 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.

9.5 Statutory Exemption

If the Company is granted an exemption, or an exemption is applicable to the Company, in relation to any obligation imposed upon the Company by or pursuant to the Financial Reporting Act 2013, the FMCA, the FMC Regulations or the Listing Rules which is materially the same or analogous to any obligation of the Company under this Deed, a Series Supplement or any Bonds then provided two Authorised Officers of the Company certify that such amendment, temporary variation or waiver will not have a material adverse effect on the Company or be materially and adversely prejudicial to the general interests of Bondholders, the Supervisor may:

- (a) agree to amend or temporarily vary this Deed, provided that the Supervisor complies with clause 10.5 (*Amendments*) and any other applicable law; or
- (b) waive any breach or anticipated breach of such obligation in a manner which is consistent with the relevant exemption.

10. Appointment of and powers and discretions of Supervisor

10.1 Appointment

The Company hereby appoints the Supervisor, and the Supervisor accepts appointment, as Supervisor for the Bondholders in respect of the Bonds, with the rights, powers, duties and obligations set out in this Deed or by applicable law.

10.2 Powers

In addition to, and subject to, the powers, authorities and discretions which may be vested in the Supervisor by law, and to facilitate the discharge of its duties under this Deed, it is expressly declared that:

(a) **General responsibilities and duties**

the Supervisor:

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

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

(b) **Applications to court**

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

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

and it may support or oppose any such application to the court made by or at the instance of the FMA or any Bondholder (where applicable). The Supervisor shall, in accordance with clause 12 (*Indemnity of Supervisor*), be indemnified by the Company against all expenses incurred in relation to any such application or proceedings. Without in any way limiting its right to apply to the court under this clause, the Supervisor agrees that if it makes an application prior to the Commencement of Liquidation, it will use reasonable endeavours to notify the Company prior to making any such application and, to the extent practicable, will consult with the Company in relation to such application;

(c) **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, stockbroker, financial adviser, auditor, chartered accountant or other expert (in each case in any relevant jurisdiction and whether obtained by the Company, the Supervisor or otherwise), even though it may subsequently be found to contain some error or not be authentic;

- (ii) (other than as set out in this Deed) a certificate or report signed by any two directors or one director and one Authorised Officer, of the Company 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;

(d) Resolution of Bondholders

the Supervisor will not be liable to the Company or any Bondholder for anything done or omitted to be done, in good faith, in giving effect to a direction to it by the Bondholders, including the giving effect to any resolution purporting to have been passed at any meeting of the Bondholders 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;

(e) Proceeds of Bonds

the Supervisor will not be liable to the Company or any Bondholder for the receipt or application by the Company of the Issue Price or be bound to see to the application of those proceeds or letters of allotment to the persons entitled to them;

(f) Breach of Deed or Bonds

except to the extent it is obligated to do so by law, the Supervisor will not be bound to take steps to ascertain whether or not the Company has committed any breach of the provisions of this Deed, a Series Supplement or any of the Bonds (and shall be entitled to assume without enquiry that no such breach is occurring or has occurred) unless:

- (i) the Supervisor has become aware that, has received specific advice that, a breach has, or appears to have, occurred or threatens to occur, from the directors of the Company or the Auditors; or
- (ii) the Supervisor has received notice of the occurrence of an Event of Default;

(g) Duty of care

the Supervisor will not be liable to the Company or the Bondholders or any other person unless the Supervisor has acted fraudulently, in gross negligence, in wilful breach of trust or law or the Supervisor or any of its officers, employees, attorneys or agents has acted contrary to the duty set out in clause 10.2(a)(vii) (*General responsibilities and duties*);

(h) Exercise of trusts, powers, authorities, discretions and responsibilities

- (i) 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 with reasonable care and diligence, it will not be responsible for any loss, damage, cost or expense that may result from the exercise or non-exercise of such; and

- (ii) the Supervisor may refrain from exercising any discretion, power or authority vested in it by this Deed (except those discretions, powers or authorities it is required to exercise by law) until it has a direction to act from the Bondholders given by Extraordinary Resolution and the Supervisor shall not be responsible for any loss or cost that may result from the non-exercise of the relevant discretion;

(i) **Power to delegate**

the Supervisor must not delegate any of its functions under clauses 10.2(a)(i) to (iii) (*General responsibilities and duties*) unless such delegation is expressly permitted by the FMCA or permitted by, and then subject to conditions imposed under, the FMSA but may, for the avoidance of doubt, delegate its other functions. Where the Supervisor may delegate its functions, it may, whenever it thinks it expedient in the interests of the Bondholders to do so:

- (i) 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 any 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, subject to clause 10.4 (*Supervisor's right to be Indemnified*), consent to, approve or oppose any application to court by the Company or by or at the instance of any Bondholder;

(j) **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;

(k) **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;

(l) **Duties to Company**

the Supervisor has no duties and responsibilities under this Deed to any Bondholder which is the Company or any of its subsidiaries;

(m) **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 and in any currency 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 (less any customary fees and expenses incurred in connection with such investments), and for these purposes to buy and sell currencies, and all income from such investments will belong to the person in respect of whom such moneys are held by the Supervisor;

(n) **Attend general meetings**

any representative of the Supervisor is entitled to attend any general meeting of the Company or meeting of Bondholders 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 Bondholders;

(o) **Listing Rules**

subject to compliance by the Supervisor with its obligations under the FMCA and the FMC Regulations, the Supervisor shall not be required to monitor compliance by the Company or any other party with the Listing Rules and, in the absence of notice to the contrary from the Company or NZX, shall be entitled to assume that the Company is so complying. 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;

(p) **Materiality**

the Supervisor may determine whether or not a failure by the Company to perform any obligation under the provisions of this Deed or a Series Supplement is in its opinion capable of remedy or will have a material adverse effect on the Bondholders and any such determination shall be conclusive and binding upon the Bondholders;

(q) **Engage expert**

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

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

Where the Supervisor engages an expert pursuant to this clause 10.2(q) (*Engage expert*), the Company shall provide reasonable assistance to the expert to allow the expert to provide the assistance and the fees and expenses of the expert, which must be reasonable in the circumstances, shall be paid by the Company.

10.3 **Discretion to consult Bondholders**

Subject to clause 17 (*Disclosure of information*), following any breach of this Deed by the Company or the occurrence of any circumstances which may result in such a breach which the Supervisor reasonably considers may have a material adverse effect on the Bondholders, the Supervisor may, in its absolute discretion:

- (a) require the Company to report to the Bondholders, or any of them, the circumstances and nature of such breach and any other information concerning the Company or any other person which the Supervisor has received under or in relation to this Deed or the Bonds and which it reasonably considers to be material to the Bondholders or any of them; and
- (b) invite the Bondholders 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 relating to the Bonds or as to any action or omission to act by the Supervisor in relation to the breach or any matter or thing,

and if the Company fails to so report, the Supervisor may, subject to clause 17 (*Disclosure of information*), itself do so.

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.

10.4 **Supervisor's right to be indemnified**

Subject always to section 105 of the FMCA, 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 the Supervisor and each of its officers, employees or agents are first indemnified by the Bondholders to its 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.

10.5 **Amendments**

(a) **Right to amend**

The provisions of this Deed may not be amended or replaced unless the amendment or replacement is made:

- (i) with the consent of the Supervisor in accordance with clause 10.5(b) (*Supervisor's consent to amendments*); or
- (ii) (despite anything 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 FMCA, sections 22(7) or 37(6) of the FMSA or any other power to amend or replace this Deed under an enactment.

(b) **Supervisor's consent to amendments**

Subject to section 112(2)(b) of the FMCA, the Supervisor must not consent to an amendment to or replacement of, this Deed under clause 10.5(a)(i) (*Right to amend*) unless either:

- (i) *Authorised by Extraordinary Resolution*

the amendment or replacement is approved by, or is contingent on approval of the Bondholders by way of an Extraordinary Resolution of the Bondholders or each Class of Bondholders that is or may be adversely affected by the amendment or replacement (as applicable); or

- (ii) *No material adverse effect to Bondholders*

the Supervisor is satisfied that amendment or replacement does not materially adversely affect the Bondholders,

and 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 FMCA on the basis set out in the certificate.

(c) **Other provisions relating to modifications to this Deed**

- (i) Within five (5) Business Days after an amendment to, or replacement of, this Deed, the Company, must ensure that notice of the amendment or replacement and a copy of the certificate relating to such amendment or replacement (if any), is lodged with the Registrar of Financial Service Providers.
- (ii) Any such modification or addition will be binding on all Bondholders. No such modification or addition will be effective unless it is in writing signed by both the Company and the Supervisor.
- (iii) The Supervisor may act under clause 10.5(b)(ii) (*Supervisor's consent to amendments*) without obtaining the consent of the Bondholders.
- (iv) The Company must, within ten (10) Business Days after a deed is executed under clause 10.5(b)(ii) (*Supervisor's consent to amendments*) either:
 - (A) send a notice that contains a description of the amendment to every Bondholder at the Bondholder's last known address; or
 - (B) in relation to any Bond listed on the NZX or where otherwise required by law or the Listing Rules, make an announcement that contains a description of the amendment to the NZX.
- (v) The requirements for clause 10.5(c)(iv) do not apply if the Supervisor notifies the Company that clause 10.5(c)(iv) does not need to be complied with (if, for example, the Supervisor considers that notification is not required or that it would be appropriate to give notice of amendment in some other manner).

(d) **Amendments to Agency Agreement**

For the avoidance of doubt, the Company does not require the consent of the Supervisor or any Bondholder to enter into, or amend any term of, an Agency Agreement.

10.6 Fiduciary relationship

The Supervisor may not be a Bondholder 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 Bondholder in any trustee, agency, nominee or other representative capacity, or from being a creditor or shareholder of, or having any other interest in, the Company, or of any of its subsidiaries or from acting in any other fiduciary, contractual, agency or representative capacity for a Bondholder or the Company or any of its subsidiaries. The Supervisor may enter into any transaction with any such person in the ordinary course of business and will not be accountable to the Bondholders or any other person for any profits arising from such transactions.

10.7 Trusts Act 2019

- (a) The Supervisor must comply with the mandatory duties imposed on it under sections 23, 24, 26 and 27 (and, where applicable, section 25) of the Trusts Act 2019, and any contrary provision in this Deed or any terms and conditions applicable to a Series of Bonds shall be deemed to apply subject to those mandatory duties.
- (b) The provisions of the Trusts Act 2019 specified in Schedule 2 of that Act shall (to the extent permitted by that Act) be modified or excluded by any contrary provision in this deed or in any terms and conditions applicable to a Series of Bonds.

11. Meetings of Bondholders

11.1 Regulation of meetings

Each meeting of Bondholders is to be convened and held in accordance with Schedule 1 (*Meeting of Bondholders*). References in Schedule 1 (*Meeting of Bondholders*) to a meeting of Bondholders will apply with all necessary modifications to a Class of Bondholders.

11.2 Represent Bondholders

The Supervisor may, of its own volition or in accordance with any directions or in accordance with an Extraordinary Resolution, represent Bondholders in any investigation, negotiation, action, transaction, matter or proceedings affecting the interests of Bondholders.

12. Indemnity of Supervisor

12.1 Indemnity

The Supervisor and each of its officers, employees, attorneys or agents are entitled to be indemnified by the Company and out of any moneys it holds upon the trusts of this Deed 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 arising out of:

(a) **Fraud, bad faith or dishonesty**

fraud, gross negligence, wilful breach of trust or law or dishonesty on the part of the Supervisor or any of its officers, employees, attorneys or agents; or

(b) **Breach of duty of care**

any failure by the Supervisor to show the degree of care, diligence and skill required under clause 10.2(a)(vii) (*General responsibilities and duties*),

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 and the Company shall so indemnify the Supervisor, in each case, together with the remuneration and reimbursements of the Supervisor as provided for in this Deed in the absence of any such moneys.

12.2 Limitation on Indemnity

Notwithstanding anything else in this Deed, the Supervisor's rights to be indemnified in relation to the performance of the Supervisor's licensee obligations (as that term is defined under section 4 of the FMSA) under this Deed shall not apply to any liability which arises from a failure by the Supervisor to properly perform its duties under clauses 10.2(a)(iv) and (vii) (*General responsibilities and duties*) and no other provision of this Deed that is contrary to the foregoing shall have any effect.

13. Resignation, removal and new appointment of Supervisor

13.1 Retirement / removal of Supervisor

(a) Subject to clause 13.1(b) of this Deed:

(i) **Resignation by Supervisor**

the Supervisor may resign at any time without assigning any reason upon giving ninety (90) days' notice (or such lesser period of notice as the Company may agree) in writing to the Company;

(ii) **Removal by Company**

the Company may at any time without assigning any reason upon giving at least ninety (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);

(iii) **Extraordinary Resolution**

the Bondholders may by way of an Extraordinary Resolution remove the Supervisor; and

(iv) **Removal under Financial Markets Supervisors Act 2011**

the Supervisor may be removed by the Company or the FMA under Part 2 of the FMSA.

(b) The Supervisor may not:

(i) be removed or resign under clause 13.1(a)(i) (*Resignation by Supervisor*), (ii) (*Removal by Company*) or (iii) (*Extraordinary Resolution*) unless:

(A) all functions and duties of the position have been performed; or

(B) another licensed supervisor has been appointed and accepted the appointment in its place (in accordance with clause 13.2 (*Appointment of new Supervisor*)); or

(C) the court consents; and

(ii) be removed under clause 13.1(a)(ii) (*Removal by Company*) without the FMA's consent.

13.2 Appointment of new Supervisor

(a) **Appointment by the Company subject to approval by Bondholders**

The power to appoint a new Supervisor or Supervisors of this Deed is vested in the Bondholders by way of an Extraordinary Resolution and in the Company, but no new supervisor may be appointed by the Company unless such appointment is first approved by an Extraordinary Resolution. Upon the Supervisor notifying the Company that it wishes to resign, or upon the Company wishing to appoint a new

supervisor, the Company must promptly call a meeting of the Bondholders for the purposes of approving an appointment of a new supervisor and, if such approval is given, the Company may exercise its power of appointment.

(b) **Appointment by Bondholders**

If the Company, within sixty (60) days of receiving notice of the Supervisor's intention to resign, fails to call a meeting of the Bondholders in accordance with clause 13.2(a) (*Appointment by the Company subject to approval by Bondholders*) or to exercise the power vested in it under that clause to appoint a new supervisor or new supervisors, in either case, the Bondholders may by Extraordinary Resolution exercise such power to the exclusion of the Company.

(c) **Notification of new Supervisor**

The Company must notify all Bondholders of the identity of any new supervisor appointed as soon as reasonably possible following such appointment.

14. **Supervisor's remuneration and expenses**

14.1 **Basic remuneration**

The Company 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 Company and the Supervisor.

14.2 **Expenses**

The Company will also pay all costs, charges, taxes or duties (including reasonable legal expenses on a solicitor and client basis) 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 (including any supplemental deed);

(b) **Exercise of powers**

any proper exercise by the Supervisor of any power or discretion conferred on the Supervisor or upon any Bondholder by, or in relation to, this Deed or in respect of the Bonds, or the performance of its duties;

(c) **Breach by Company**

any breach, default or non-compliance by the Company or any other person of or with any obligation under this Deed or in respect of the Bonds;

(d) **Meetings of Bondholders**

the convening and holding of any meeting of Bondholders 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 14.1 (*Basic remuneration*).

14.3 **Liability not terminated**

The remuneration and payments payable under this clause 14 will continue to be payable until the trusts of this Deed are finally wound up (whether or not the Company is in liquidation or the trusts of this Deed are in the course of administration by or under the direction of the court).

15. **Withholding tax**

15.1 **Deductions or withholdings**

All amounts payable under a Bond 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 for in this clause 15) without any deduction or withholding on account of any taxes; and
- (c) without deduction or withholding on account of any other amount whether by way of set-off or otherwise (except as provided in this clause 15).

15.2 **NRWT**

New Zealand non-resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Bondholders who receive such payments subject to the New Zealand NRWT rules (as defined in section YA 1 of the Income Tax Act 2007). If the Company is lawfully able to pay Approved Issuer Levy in respect of any payment of interest (or deemed interest) to a non-resident Bondholder, the Company, or the person making payment on its behalf, shall (unless the Company has been instructed in writing by a Bondholder not to do so) if a Series Supplement provides that the Company is obliged to do so pay the Approved Issuer Levy at the minimum rate permitted by law to the appropriate authority and shall deduct the amount paid (if any) from the interest (or deemed interest) payable to that Bondholder in lieu of deducting New Zealand non-resident withholding tax at the rate otherwise applicable from that payment. In the event of any change of law to the Approved Issuer Levy regime, the Company reserves the right not to pay Approved Issuer Levy.

15.3 **RWT**

New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Bondholders who are resident in New Zealand for income tax purposes (and who do not derive interest jointly with a non-resident, in which case non-resident withholding tax will apply at the applicable rate for joint holders) or who otherwise receive such payment subject to the New Zealand RWT rules (as defined in section YA 1 of the Income Tax Act 2007) unless:

- (a) evidence of the Bondholder's RWT-exempt status (as defined in section YA 1 of the Income Tax Act 2007) is provided to the Company or the Company, or the person making payment on its behalf has confirmed the Bondholder's RWT-exempt status (in accordance with section RE 29 of the Income Tax Act 2007), on or before the Record Date for the relevant payment; and

- (b) the Company is permitted by the terms of section RE 5(2) of the Income Tax Act 2007 to make the payment free of resident withholding tax.

15.4 **Indemnity**

If, in respect of any Bond, the Company or the Supervisor becomes liable to make any payment of, or on account of, tax payable by any Bondholder, then the Company or the Supervisor (as applicable) shall be indemnified by the relevant Bondholder (and, as concerns the Supervisor, also by the Company) in respect of such liability. Any monies paid by the Company or the Supervisor in respect of such liability may be recovered from the Bondholder as a debt due to the Company or the Supervisor (as applicable) and may be withheld from any further payments (if any) to that Bondholder. Nothing in this clause 15.4 will prejudice or affect any other right or remedy of the Company or the Supervisor.

15.5 **No gross-up**

The Company shall not be required to and will not make any additional payment by way of gross-up or otherwise with respect to the deduction or withholding from any payment made in respect of the Bonds pursuant to clause 15.2 (*NRWT*) or 15.3 (*RWT*).

15.6 **Maximum rate**

Deductions of non-resident or resident withholding tax will be made at the maximum rates from time to time applicable unless a Bondholder provides evidence to the Company that a lesser rate is applicable.

15.7 **Tax status**

The Company and the Registrar shall be entitled for the purpose of this clause 15 to rely, without further enquiry, upon any evidence produced or statement made by, or on behalf of, a Bondholder in relation to that Bondholder's tax status or tax residency, and to regard the Bondholders entered in the Register as the only beneficial owners of, or the only persons who beneficially derive interest under, the relevant Bonds.

15.8 **Approved Issuer Levy**

For the purposes of this clause 15 **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 Bond, the levy payable or otherwise satisfied by the Company in accordance with section 86I and/or section 86J of the Stamp and Cheque Duties Act 1971 to enable the payment of such interest to be made to any person not resident in New Zealand for tax purposes with a deduction for non-resident withholding tax at the rate of zero percent pursuant to section RF 12(2) and section RF 12(3) of the Income Tax Act 2007.

16. **Transfers and replacements of Bonds**

16.1 **Transfers**

Bonds may be transferred in minimum Principal Amounts of \$1,000 or such lesser amount as the Company may from time to time permit subject to this clause 16, provided that, following any such transfer each of the transferor (if it holds any Bonds following such transfer) and, the transferee holds Bonds, with a minimum Principal Amount of \$5,000 (or in the case of amounts held by NZX registered brokers and registered banks \$1,000) (the **Minimum Holding**).

16.2 Form of Transfer

Subject to this Deed, a Bondholder may transfer any Bond held by him or her by:

(a) **Written instrument**

a written instrument of transfer in the usual or common form signed by the transferor and the transferee; or

(b) **TCS Bancs system**

means of the settlement and registration system operated by NZX; or

(c) **Other method**

any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with any Listing Rules, and which is approved by the Company.

16.3 Registration process

(a) **Transfers other than through TCS Bancs**

The following provisions apply to instruments of transfer other than any transfer under clause 16.2(b) (*TCS Bancs system*) the instrument of transfer must be left at the Registry accompanied by such evidence as the Registrar requires to prove the transferor's title to, or right to transfer, the Bonds including the relevant holder number, together with evidence that any applicable duties and taxes required to be paid by any relevant legislation in order for the Bonds to be transferred have been paid; and

(b) **Fees**

The Company will direct the Registrar not to charge a fee to any Bondholder for:

- (i) registering transfers of Bonds; or
- (ii) issuing transmission receipts in relation to Bonds; or
- (iii) using holder or secure identification numbers (FINs) in relation to Bondholders; or
- (iv) effecting conversions between sub-registers (if any) of the Register; or
- (v) noting transfer forms in relation to Bonds.

16.4 Transfers must be registered

Subject to this clause 16, the Company must direct the Registrar not to refuse to register or fail to register or give effect to, a transfer of Bonds.

16.5 Refusal to register transfers

The Company may direct the Registrar to refuse to register any transfer of Bonds where this Deed, any Listing Rules or any applicable legislation permits, or requires the Company to do so.

16.6 Notice of refusal to register

Where registration of a transfer of Bonds is refused under clause 16.5 (*Refusal to register transfers*), the Company 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 (5) 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.

16.7 Retention of transfers

The Company is to direct the Registrar to retain all instruments of transfer of Bonds which are registered, but any instrument of transfer of Bonds the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.

16.8 Powers of attorney

Any power of attorney granted by a Bondholder empowering the donee to deal with, or transfer Bonds, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Company, the Supervisor, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received at the Registry.

16.9 Transmission by operation of law

Any person becoming entitled to any Bond by operation of law (including the death or bankruptcy of any Bondholder) may, upon producing such evidence of entitlement as is acceptable to the Company, obtain registration as the Bondholder of such Bond or execute a transfer of such Bond. This provision includes any case where a person becomes entitled as a survivor or persons registered as joint Bondholder.

16.10 Notices

All notices given to Bondholders in accordance with this clause or the Conditions will be irrevocable.

16.11 Sale of less than Minimum Holding

The Company may at any time give notice to any Bondholder holding less than a Minimum Holding of Bonds that if at the expiration of three months after the date the notice is given the Bondholder still holds Bonds which are less than a Minimum Holding, the Company may exercise the power of sale of those Bonds set out in this clause 16.11. If that power of sale becomes exercisable:

- (a) the Company may arrange for the sale of those Bonds through NZX or in some other manner approved by NZX;
- (b) the Bondholder shall be deemed to have authorised the Company to act on the Bondholder's behalf and to execute all necessary documents for the purposes of that sale;
- (c) the Company shall account to the Bondholder for the net proceeds of sale of the Bonds (after deduction of reasonable sale expenses), which shall be held on trust for the Bondholder by the Company and paid to the Bondholder promptly following receipt; and

- (d) the title of a purchaser of any Bonds sold pursuant to this clause 16.11 shall not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.

17. Disclosure of information

Notwithstanding any other provision of this Deed, the Company is not required to provide any information to a Bondholder where:

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

but may be required, in accordance with this Deed, to provide such information to the Supervisor. The Company may require that the Supervisor undertakes to keep such information confidential (including as against Bondholders) 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 Bondholders.

18. Notices

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 email addressed to:

- (a) in the case of the Company:

Air New Zealand Limited
Air New Zealand House
185 Fanshawe Street
Auckland 1010

Attention: Corporate Legal Services
Email: Legal.notices@airnz.co.nz

With a copy (in relation to notices relating to payment):

To: Treasury
Email: Treasurysupport@airnz.co.nz

- (b) in the case of the Supervisor:

The New Zealand Guardian Trust Company Limited
Level 6, 191 Queen Street
Auckland 1011

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

- (c) in the case of a Bondholder, the postal or electronic address of such Bondholder last entered in the Register,

or, in the case of (a) or (b) above, such other address as the Company or the Supervisor may from time to time in writing nominate to the others. Each Notice will be deemed to be given:

- (d) in the case of personal delivery, when delivered, and in the case of post, two (2) Business Days after the date of posting;
- (e) if sent by email, notices will be deemed to be given on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purposes of this clause 18),

but if the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time), it is deemed to have been received at 9.00am the next Business Day.

19. Discharge of Deed

The Supervisor will, upon being reasonably satisfied that no moneys are actually or contingently owing under this Deed or any Bond, or that provision for such obligations has been made, execute (at the cost of the Company) a discharge of this Deed whenever requested by the Company so to do, but any such discharge will be without prejudice to any indemnity given by the Company in favour of the Supervisor or any unremedied breach or unperformed obligation under this Deed.

20. Invalidity

If any provision of this Deed or the Bonds 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.

21. Counterparts

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

22. Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by the Company immediately on the earlier of:

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

23. Governing law and Jurisdiction

23.1 Governing Law

This Deed is governed by the laws of New Zealand.

23.2 Submission to jurisdiction

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

Execution

Executed and delivered as a deed

[Intentionally deleted]

Schedule 1: Meeting of Bondholders

Pursuant to Regulation 77 of the FMC Regulations, this Schedule 1 shall govern proceedings at meetings of Bondholders other than to the extent prohibited under Regulation 77(2) of the FMC Regulations.

1. Convening meetings

(a) **Meeting required by law**

The Company shall, whenever required to do so pursuant to the Companies Act 1993, the FMCA, the FMC Regulations or any other applicable law, convene a meeting of the Bondholders or a Class of Bondholders.

(b) **Request for meeting**

The Company:

- (i) at any time, may; and
 - (ii) upon a request in writing by:
 - (A) the Supervisor;
 - (B) Bondholders holding together not less than 5 per cent of the aggregate Principal Amount of the Bonds then on issue and outstanding in that Class of Bondholders; or
 - (C) Bondholders as provided for in the Listing Rules;
- must,

convene a meeting of the Bondholders. Whenever the Company convenes any such meeting it must give notice of such meeting in accordance with clauses 2 (*Notice to Bondholders*) and 3 (*Notice of meeting*) of this Schedule and the Company shall give notice to NZX (at any time while the Bonds are quoted) and to the Bondholders.

(c) **Place for meetings**

Meetings will be held in Auckland, or such other place as the Supervisor approves.

(d) **Nature of business**

Without limiting clause 3(b) (*Contents of notice*) below, any request by Bondholders holding together not less than 5 per cent of the aggregate Principal Amount of the Bonds then on issue and outstanding to convene a meeting must state the nature of the business proposed to be dealt with at the meeting.

(e) **Methods of holding meetings**

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

- (i) being assembled together at the time and place appointed for the meeting;

- (ii) participating in the meeting by means of audio, audio and visual, or electronic communication provided that the Supervisor approves such means and each Bondholder or its Representative complies with any conditions imposed by the Supervisor in relation to the use of such means; or
- (iii) by a combination of both of the methods described in clause 1(e)(i) and (ii) of this Schedule above.

2. Notice to Bondholders

Notice of any meeting must be given to every Bondholder entered in the Register at the close of business fourteen (14) days prior to the date of despatch of the notice. Each notice shall be delivered either electronically (if so requested by the Bondholder or as otherwise provided for under law) to the email address provided by the Bondholder or by ordinary post to the address last entered in the Register in respect of a Bondholder.

3. Notice of meeting

(a) Notice period

At least fifteen (15) Business Days' notice (excluding the day on which the notice is given and including the day on which the meeting is held) specifying the day, time and place of meeting (the **Notice of Meeting**) must be given by the Company to:

- (i) every Bondholder entitled to receive notice of the meeting;
- (ii) the Supervisor;
- (iii) every director and the Auditor of the Company; and
- (iv) the NZX.

(b) Contents of notice

A Notice of Meeting need not contain the agenda of the meeting, nor specify the terms of the resolutions to be proposed (except in the case of a resolution to be passed as an Extraordinary Resolution where the text of the proposed resolution must be set out), but must state:

- (i) the nature of the business to be transacted at the meeting in sufficient detail to enable a Bondholder to form a reasoned judgement in relation to it; and
- (ii) the right of a Bondholder to appoint a Representative.

(c) Additional requirements for notice if Extraordinary Resolution to be voted on

If an Extraordinary Resolution is to be submitted to the meeting:

- (i) a draft of the proposed Notice of Meeting must be given to the Supervisor at least ten (10) Business Days before such Notice of Meeting is given under clause 3(a) (*Notice period*) of this Schedule (or any lesser period approved by the Supervisor); and
- (ii) the Notice of Meeting, when given under clause 3(a) (*Notice period*) of this Schedule, must be accompanied by a document containing the Supervisor's

comments on the proposed Extraordinary Resolution, provided that the Supervisor has provided those comments in writing to the Company at least five (5) Business Days before the Notice of Meeting is given, or any lesser period approved by the Company.

(d) **Waiver of irregularity in notice of meeting**

An irregularity in a Notice of Meeting (including, for the avoidance of doubt a shorter notice period than that specified in clause 3(a) (*Notice period*) of this Schedule) is waived (and a meeting will be deemed to have been duly called) if:

- (i) all the Bondholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity or if all such Bondholders agree to the waiver; or
- (ii) 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 Bondholders.

(e) **Accidental omission**

The accidental omission to give notice to, or the non-receipt of notice by, any person entitled to notice (including NZX, but not the Company or the Supervisor) will not invalidate the proceedings of any meeting.

4. **Chairperson**

A person (who may, but need not, be a Bondholder) 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 Bondholders present must choose one of their number to chair the meeting.

5. **Quorum**

Quorum requirements

A quorum for a meeting of Bondholders is present if:

(a) **Meeting at which Extraordinary Resolution is to be submitted**

at a meeting of Bondholders at which an Extraordinary Resolution is to be submitted, Bondholders or their proxies who hold (or represent) Bonds with a Principal Amount of no less than 25% of the nominal value of the Bonds held by those persons who are entitled to vote are present or have cast votes under clause 13 (*Electronic voting*) of this Schedule are present;

(b) **Meeting at which other business to be considered**

at any meeting of Bondholders other than a meeting of Bondholders of the kind described in clause 5(a) of this Schedule, two or more Bondholders holding or representing not less than 10 per cent of the aggregate Principal Amount of the Bonds then on issue and outstanding are present in person or by proxy.

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

6. Lack of quorum and adjournment

(a) Adjournment for lack of quorum

If, within 30 minutes after the time appointed for any meeting of Bondholders, a quorum is not present:

- (i) in relation to a meeting called by the Company on receiving a request under clause 1(b)(ii)(B) (*Request for meeting*) of this Schedule, the meeting is dissolved; and
- (ii) in the case of any other meeting, the meeting will stand adjourned to the day that is ten (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.

(b) Quorum at adjourned meeting

At an adjourned meeting, if a quorum is not present within 30 minutes after the time appointed for the meeting, two or more persons present in person or by proxy holding Bonds (whatever the number of Bonds so held or represented) will form a quorum and have the power to pass any resolution and to decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place (including the passing of an Extraordinary Resolution) had a quorum been present at such meeting.

(c) Business at adjourned meeting

In addition to paragraph (a) above, the chairperson may with the consent of (and will if directed by) any meeting by way of ordinary resolution adjourn the same from time to time and from place to place, but no business may be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.

(d) Notice of adjourned meeting

If a meeting of Bondholders is adjourned for less than thirty (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.

7. Attendance and voting at meetings

(a) Attendance at meetings

Other than the Supervisor, the Company 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 Bondholder)), no person will be entitled to attend and vote at any meeting of the Bondholders or to join with others in requesting the convening of any such meeting unless he or she is a person registered as Bondholder on the Register or is a Representative of such person.

(b) **Voting at meetings**

At a meeting, the persons registered as Bondholders in the Register at the Proxy Closing Time will be exclusively entitled to vote in respect of Bonds 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 on which the Proxy Closing Time falls and will remain closed until after the relevant meeting has been closed or adjourned.

(c) **Bondholder's representations**

The Supervisor, or any of its officers or employees, may be appointed as a Representative of a Bondholder.

(d) **Attendance of Supervisor**

The Company must ensure that the Supervisor:

- (i) is permitted to attend any meetings of Bondholders; and
- (ii) receives the notices and communications that any Bondholder is entitled to receive in relation to a meeting of Bondholders; and
- (iii) may be heard at any meetings of Bondholders on any part of the business of the meeting that concerns the Supervisor's functions or the Bondholders for whom the Supervisor is acting; and
- (iv) may appoint the chairperson of any meeting of Bondholders.

8. Proxies

(a) **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.

(b) **Right to speak**

A person appointed to act as a proxy need not be a Bondholder and a proxy of a Bondholder has the right to speak at the meeting.

(c) **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 certified copy of such power or authority must be deposited at such place as (or a scanned copy of such proxy and power of attorney must be received at such email address as) the Company may in the notice convening the meeting direct or (if no such place, email address is appointed) at the registered office of the Company not later than the Proxy Closing Time.

A proxy form shall be sent with each notice of meeting of Bondholders and:

BELL GULLY

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

So far as is practicable, resolutions shall be formed in a manner which facilitates 2-way voting instructions for proxy holders.

(d) 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. In the absence of any such direction the proxy may vote as he or she sees fit.

(e) 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.

(f) Appointment of chairperson

An instrument of proxy in favour of:

- (i) the chairperson of the Company; or
- (ii) 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 (i) above constitute the person holding the office of the chairperson of the Company and in the case of paragraph (ii) above the person who chairs the meeting for which the proxy is used (whether an adjournment or not) the lawful proxy of the appointor.

9. Rights of Representatives

A Representative of a Bondholder 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 Bondholder concerned.

10. Voting procedure and polls

(a) Voting on resolutions

A resolution put to the vote of a meeting will be decided on a show of hands unless:

- (i) 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 Bondholders

holding or representing not less than five per cent of the aggregate Principal Amount of the Bonds then on issue and outstanding; or

- (ii) the resolution to be voted on is an Extraordinary Resolution in which case a poll must be taken when voting on such Extraordinary Resolution.

Unless a poll is so demanded or required 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.

(b) **Bondholders' 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 Bondholder who is present in person, by proxy or by a Representative will have one vote for each dollar of the Principal Amount of every Bond held by the Bondholder.

(c) **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.

(d) **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 thirty (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.

(e) **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.

(f) **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.

(g) **Joint Bondholders**

In the case of joint Bondholders, 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 Bondholders, 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.

(h) **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 Bonds 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 Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

(i) **Resolution binding on Bondholders**

A resolution passed at a meeting of the Bondholders duly convened and held in accordance with this Deed will be binding upon all the Bondholders whether present or not at such meeting.

11. Resolutions

11.1 Extraordinary Resolutions

A meeting of the Bondholders, 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 Extraordinary Resolution namely:

(a) **Sanction proposal in respect of the Deed or Bonds**

to sanction, either unconditionally or conditionally, any modification, abrogation, novation, variation of, or arrangement in respect of, the rights of the Bondholders against the Company arising under this Deed or in relation to the Bonds;

(b) **Assent to modification of the Deed**

to assent to any proposal for modification of this Deed;

(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 Extraordinary Resolution;

(d) **Discharge liability**

subject to section 542 of the FMCA, 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 in relation to the Bonds;

(e) **Authorise, direct or sanction**

to give any authority, direction or sanction or approval which under the provisions of this Deed or the Bonds is required to be given by Extraordinary Resolution;

(f) **Remove Supervisor**

to request the removal of the Supervisor and to approve the appointment of a new supervisor;

(g) **Appoint committee of Bondholders**

to appoint any persons (whether or not Bondholders) as a committee or committees to represent the interest of the Bondholders and to confer upon such committee or

committees any powers or discretions which the Bondholders could themselves exercise by Extraordinary 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 Bondholders, to the extent such additional authority may be required.

11.2 **Binding Effect of resolutions**

An Extraordinary Resolution or Ordinary Resolution passed in accordance with this Schedule 1 will be binding upon all the Bondholders and each of the Bondholders and the Supervisor (subject to the provisions of the Supervisor's indemnity contained in this Deed) will be bound to give effect to that resolution accordingly and the passing of any such Extraordinary Resolution or Ordinary Resolution will, as between the Bondholders and the Supervisor, be conclusive evidence that the circumstances justify the passing thereof.

12. **Minutes**

Minutes of all resolutions and proceedings at every meeting of Bondholders must be made and duly entered in records to be from time to time maintained for that purpose at the expense of the Company 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 Bondholders, 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 Company as soon as possible after each meeting.

13. **Electronic voting**

Provided it is permitted by law, the Company may permit, in relation to a particular meeting of Bondholders or generally:

- (a) the appointment of proxies or Representatives of Bondholders to be made by electronic means;
- (b) postal votes to be cast by electronic means; and
- (c) to the extent permitted by law, votes to be cast on resolutions at meetings of Bondholders by electronic means.

The procedures in relation to such electronic appointment or electronic voting shall be those required by law (if any) together with any other procedures determined by the Company. If the Company permits electronic appointment of proxies or Representatives of Bondholders or electronic voting in accordance with this clause, such electronic appointments may be made or electronic votes cast notwithstanding any other provision of this Deed.

Schedule 2: Form of Series Supplement

This **Series Supplement** is made on

Between (1) Air New Zealand Limited (**Company**)

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

Introduction

This is a Series Supplement entered into pursuant to clause 2.4 (*Series Supplement*) of the Master Trust Deed to provide for the constitution and issue of the Bonds described herein.

It is agreed

1. Interpretation

1.1 Master Trust Deed

The terms of the Master Trust Deed shall apply in this Series Supplement and to the Bonds constituted by this Series Supplement except to the extent modified in this Series Supplement. To that extent, or in the event of any conflict between the provisions of this Series Supplement and those of the Master Trust Deed, the provisions of this Series Supplement shall prevail over those of the Master Trust Deed.

1.2 Additional or modified defined terms

In this Series Supplement, unless the context otherwise requires:

Accrued Interest means all interest on the Principal Amount of the Bonds which has accrued and is payable in accordance with this Series Supplement;

Base Rate means [**•**]; [*Relevant only to a floating rate bond*]

Bond means a bond issued on the terms and conditions set out in this Series Supplement;

Date of Enforcement means the date on which the Supervisor declares the Bonds immediately due and payable following the occurrence of an Event of Default;

an **Event of Default** is continuing unless it has been remedied to the satisfaction of the Supervisor or waived by the Supervisor;

Face Value means \$[**•**];

Interest Rate means [**•**];

Issue Date means each date of issue of the Bonds pursuant to this Series Supplement;

Margin means [•]; *[Relevant only to a floating rate bond]*

Master Trust Deed means the master trust deed dated [•] and made between the Company and the Supervisor;

Maturity Date means, for the purposes of paragraph (a) of the definition of Maturity Date in the Master Trust Deed, [•];

Minimum Holding has the meaning given to it in clause 16.1 (*Transfers*) of the Master Trust Deed;

Offer means [•];

Registrar means [•];

Series Supplement means this deed and, for the avoidance of doubt, includes the terms of the Master Trust Deed as applied in this Deed in accordance with, and subject to, clause 1.1 (*Master Trust Deed*) above; and

Specified Principal Amount means [•].

1.3 **Modification of other terms in Master Trust Deed**

The terms **Bondholder**, **Bonds**, **Bond Monies** and **Register** have the meanings given to them in the Master Trust Deed but, in this Series Supplement, refer only to the Bonds of this Series, to the Bondholders of those Bonds, to the Bond Monies in respect of those Bonds and to the Register in relation to this Series.

2. **Form of Bonds**

2.1 **Issue of Bonds**

The aggregate Principal Amount of Bonds that may be issued pursuant to this Series Supplement is \$[•]. The Bonds issued pursuant to this Series Supplement constitute a Series and shall be described as[•]. Each Bond shall be issued for its Face Value.

2.2 **Status**

The Bonds constitute direct, unsecured, unsubordinated obligations of the Company and rank pari passu and without priority or preference among themselves and with all other unsecured, unsubordinated obligations of the Company, except indebtedness preferred by law.

None of the Company's directors, the directors of the Company's subsidiaries, the Supervisor or any other person guarantees the Company's obligations under the Master Trust Deed, this Deed or the Bonds in any way.

2.3 **Interest rate basis**

The Bonds are [Fixed][Floating] Rate Bonds.

2.4 Selling restrictions

- (a) Bonds may only be offered for sale or sold in conformity with all applicable laws and regulations in any jurisdiction in which they are offered, sold or delivered and the selling restrictions contained in the terms of the Information Memorandum.
- (b) No offer, sale or delivery of the Bonds or distributions of any advertisements or other offering material in relation to any Bonds may be made in or from any jurisdiction except in circumstances that will result in compliance with all applicable laws and regulations and where compliance with all such applicable laws and regulations will not impose any obligations on the Company.

2.5 Specified Principal Amount

The Specified Principal Amount for each Bondholder of Bonds is a minimum of\$[•] [and multiples of\$[•] thereafter].

2.6 Time for payments

Any mailing or direct credit of a payment by the Company to a Bondholder will occur prior to 5.00pm on the relevant Interest Payment Date (or, if that date is not a Business Day, the next Business Day after that date) or other date on which payment is required to be made.

2.7 Other matters

The Bonds carry no right to participate in any offering of securities by the Company, and the Company reserves the right at all times to issue securities to any person in any manner.

3. Terms and conditions of the Series [•] Bonds

3.1 Term

The term of the Bonds is the period from the applicable Issue Date for the Bonds until the Maturity Date.

3.2 Interest Rate and calculation of interest

- (a) Each Bond bears interest on the Principal Amount at the Interest Rate.
- (b) Interest for each Interest Period shall be calculated in accordance with clause 3.3 (*[Interest periods and] Interest Payment Dates*).
- (c) Interest will cease to accrue on the date on which each Bond is repaid.

3.3 [Interest Periods and] Interest Payment Dates

- (a) The Interest Payment Dates for the Bonds shall be[•] and[•] in each year, commencing[•] and ending on the Maturity Date. Interest on the Bonds shall be paid in [arrear].
- (b) [Subject to clause 5 (*Exclusion of certain terms from Master Trust Deed*)], each

BELL GULLY

Interest Period in relation to the Bonds is a period of[•] months, other than the first Interest Period which shall be from the First Interest Accrual Date until, but excluding, the Interest Payment Date falling on[•].]

3.4 [Accrued Interest

Accrued Interest accrued during each Interest Period is payable on the Interest Payment Date falling at the end of that Interest Period. The amount of interest payable on a Bond on each Interest Payment Date shall be determined as follows:

$$\text{Interest Payment} = \frac{\text{Principal Amount of Bond} \times \text{Interest Rate}}{2}$$

Provided that, if the applicable Interest Period is not a full six-month Interest Period (for example if an Event of Default occurs (and subsists) and the Supervisor declares the Bonds immediately due and payable), the interest payable on a Bond for such period will be calculated based on the number of days in that period and a 365-day year as follows:

$$\text{Interest payment} = \frac{\text{days in relevant Interest Period}}{365} \times \text{Principal Amount of Bond} \times \text{Interest Rate}$$

3.5 Payments

All payments in relation to a holding of Bonds may be satisfied by direct credit to any bank account nominated in writing (prior to the Record Date) by the Bondholder entered in the Register on the Record Date. Such direct credit will occur prior to 5 p.m. on the relevant Interest Payment Date (or, if that date is not a Business Day, the next Business Day after that date) or other date on which payment is required to be made.

3.6 First Interest Accrual Date

The First Interest Accrual Date for a Bond shall be [•].

3.7 Final redemption

Unless previously repaid, prepaid, redeemed or purchased and cancelled the Company will redeem all of the Bonds on the earlier of the Maturity Date (without the need for the Bondholder to give notice that repayment is required) or the Date of Enforcement for an amount equal to the aggregate of:

- (a) the Principal Amount of each Bond;
- (b) all Accrued Interest in respect of each Bond; and
- (c) any other amount due and payable in respect of the Bonds.

3.8 [Early redemption

The Bonds are issued with an Early Redemption Option meaning that the Company may redeem the Bonds on any Early Redemption Date (as defined in clause 5.1(c) (*Early redemption*) of the Master Trust Deed) for an amount equal to:

- (a) [•]; [and]
- (b) all Accrued Interest in respect of each Bond; [and]
- (c) any other amount due and payable in respect of the Bonds[./ and]
- (d) [•]

3.9 Default Interest

Any Default Interest due and payable by the Company pursuant to clause 5.5 (*Default interest*) of the Master Trust Deed shall be paid within five (5) Business Days of the last day of each month during which Default Interest accrues.

4. Issue

4.1 Conditions precedent to first issue of Bonds

The Company shall not be entitled to issue any Bonds constituted by this Series Supplement until such time as the Supervisor has confirmed to it in writing that it has received the following and found them satisfactory in form and substance:

- (a) a certificate from an officer of the Company and any other Guarantor in substantially the form set out in Annexure A to this Series Supplement;
- (b) a legal opinion from [•] to (and able to be relied upon by) the Supervisor regarding the enforceability and due execution of the Transaction Documents;
- (c) a duly executed original of each of:
 - (i) the Agency Agreement;
 - (ii) the Master Trust Deed; and
 - (iii) this Series Supplement,
 each duly executed by all relevant parties;
- (d) a letter dated the first Issue Date from the Company in substantially the form set out in Annexure B to this Series Supplement;
- (e) [a copy of the Information Memorandum for the offer of Bonds];
- (f) confirmation from the solicitors to the Company that each of the Master Trust Deed, this Series Supplement, the Information Memorandum and register entry in respect of the Bonds complies with the Financial Markets Conduct Act and the Listing Rules;

[other]

[Note: Insert conditions as relevant]

4.2 Conditions precedent on issuance

In addition to the requirements set out in clause 4.1 (*Conditions precedent to first issue of Bonds*), the Company shall not issue any Bonds unless the representations and warranties contained in clause 7.1 (*Representations and warranties*) of the Master Trust Deed and clause 6.1 (*Company's representations and warranties*) of this Series Supplement are true and correct in all material respects by reference to the facts and circumstances existing as at each Issue Date for those Bonds.

5. Exclusion of certain terms from Master Trust Deed

5.1 Certain definitions and clauses of Master Trust Deed excluded

Notwithstanding any term of the Master Trust Deed to the contrary, the following definitions and clauses of the Master Trust Deed will not apply to any Bonds issued pursuant to this Series Supplement:

[#]

5.2 Amendment of excluded clauses

For the avoidance of doubt, the Company does not require the consent of the Supervisor or any Bondholder to amend any term of the Master Trust Deed to the extent excluded pursuant to clause 5.1 (*Certain definitions and clauses of Master Trust Deed excluded*) of this Series Supplement.

6. Representations and undertakings

6.1 Company's representations and warranties

(a) The Company repeats the representations and warranties in clause 7.1 (*Representations and warranties*) of the Master Trust Deed on each Issue Date and on each Interest Payment Date by reference to the facts and circumstances then existing.

(b) Pursuant to clause 7.2 (*Series Supplement*) of the Master Trust Deed, the Company represents and warrants to the Supervisor that:

(i) [insert]

6.2 Company's undertakings

In addition to the undertakings set out in clause 8.5(g) (*Additional undertakings*) of the Master Trust Deed, the Company undertakes to the Supervisor that, for so long as any Bonds are outstanding:

(a) [insert]

6.3 Approved Issuer Levy

[For the purposes of clause 15.2 (*NRWT*) of the Master Trust Deed, where payment of Approved Issuer Levy would remove the liability to deduct non-resident withholding tax,

BELL GULLY

the Company shall pay Approved Issuer Levy in accordance with clause 15.2 (*NRWT*) of the Master Trust Deed (unless otherwise directed in writing by the relevant Bondholder).]

OR

[For the purposes of clause 15.2 (*NRWT*) of the Master Trust Deed, the Company has elected not to register this Series for Approved Issuer Levy as at the date of this Series Supplement.]

7. Additional Events of Default

For the purposes of the Master Trust Deed the following shall each be an additional Event of Default in relation to this Series:

[#]

8. Miscellaneous

8.1 Counterparts

This Series Supplement may be signed in any number of counterparts, all of which together constitute one and the same instrument, and either of the parties may execute this Series Supplement by signing any such counterpart.

8.2 Delivery

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

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

8.3 Governing law

This Series Supplement shall be governed by and construed in accordance with New Zealand law.

8.4 Submission to jurisdiction

The Company submits to the non-exclusive jurisdiction of the New Zealand courts for the purpose of any legal proceedings arising out of this Series Supplement.

Execution

Executed and delivered as a deed.

SIGNED on behalf of **Air New Zealand Limited** by:

[Director/Attorney]

[Director/Attorney]

Print Name

Print Name

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

Authorised Signatory

Authorised Signatory

Witness

Print Name

Occupation

Address

Annexure A: Form of Officer's Certificate

TO: The New Zealand Guardian Trust Company Limited (the Supervisor)

I, [name], [title] of [company name] (the **Company**), certify as follows:

1. Board resolutions

1.1 The board of directors of the Company (**Board**) has passed all necessary resolutions to:

- (a) approve the transactions (**Transactions**) contemplated by the documents listed in the schedule (**Documents**), and the Documents themselves; and
- (b) authorise signing of the Documents by or on behalf of the Company in the manner in which they have actually been signed.

1.2 The resolutions were duly passed at a meeting of the Board which was properly convened and in respect of which all quorum requirements were duly observed.

1.3 The resolutions remain in full force and effect.

2. Directors' self interested transactions

2.1 To the best of my knowledge and belief and after making due enquiry of each director (as that term is defined in section 126 of the Companies Act 1993 (the **Act**)) of the Company, none of the directors (as so defined) of the Company has an interest (as that term is defined in section 139 of the Act) in the Transactions.

2.2 In approving the Documents and the Transactions, the Board, after taking into account all relevant factors, is of the view that the Company is receiving or will receive fair value under them.

3. Corporate benefit

3.1 In approving the Documents and the Transactions, the Board, after taking into account all relevant factors, is of the view that the Company's entry into and performance of the Documents and the Transactions is in the best interests of the Company.

4. Shareholder resolutions

4.1 It has been determined that the Transactions do not constitute a Major Transaction for the purposes of section 129 of the Act.

5. Due execution

5.1 Each of the Documents has been properly signed and delivered by the Company.

5.2 The Company is entering into the Documents solely for its own benefit and not as trustee or nominee or agent of any third party.

6. Solvency

- 6.1 I am not aware of any liquidation proceedings which have been commenced against the Company by any person, or which are intended or anticipated by the Company.
- 6.2 Having taken into account all relevant factors the Board is of the view that the value of the consideration or benefit received, or to be received, by the Company under the Transactions is not less than the value of the consideration provided, or to be provided, by the Company.

7. Financial assistance

- 7.1 The Transactions do not include or involve any provision by the Company (directly or indirectly) of financial assistance in connection with the acquisition of a share issued or to be issued by the Company.

8. Constitution

- 8.1 The copy of the constitution of the Company held on its records as maintained at the office of the Registrar of Companies at Auckland as at the date of this certificate is complete and includes all alterations to date.

9. Authorisations

- 9.1 All consents and other authorisations required by the Company in connection with the entry into, execution and performance of the Documents and the Transactions have been obtained on an unconditional and unqualified basis and remain in full force and effect.

10. Amendments

- 10.1 [The Documents have not been amended.] **OR** [A copy of any amendments to the Documents is attached to this certificate. The Documents have not otherwise been amended.]

Date:

Signed by:

SCHEDULE

1. Master Trust Deed dated [•] between the Company and the Supervisor.
2. Series Supplement between the Company and the Supervisor in respect of Series [•] Bonds dated[•].
3. [Agency Agreement dated[•] between the Company and[•] Limited.]
4. Any other agreement, notice or document required under or in connection with the documents referred to above.

Annexure B: Form of Closing Letter

[Date]

To: The New Zealand Guardian Trust Company Limited

Series Supplement- Series[•] Bonds

We refer to the Series Supplement relating to [\$][•] Bonds dated on or about the date of this letter between Air New Zealand Limited and yourself as Supervisor (**Deed**). Terms defined in the Deed have the same meaning in this letter.

We confirm that the representations and warranties contained in clause 7.1 (*Representations and warranties*) of the Master Trust Deed [and clause [•] of the Deed] are true and correct in all material respects by reference to the facts and circumstances existing today.

SIGNED on behalf of **Air New Zealand Limited** by:

Director

Director

Print Name

Print Name