

# Amendment and Restatement Deed (Shareholders' Agreement)

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## PARTIES

The Local Authorities listed in Schedule 1

Each a **Shareholder**

New Zealand Local Government Funding Agency Limited  
**Company**

DEED dated 6 July 2020

## PARTIES

The Local Authorities listed in Schedule 1

(each a "**Shareholder**")

New Zealand Local Government Funding Agency Limited

("Company")

## INTRODUCTION

- A. The parties to this deed are parties to the Shareholders' Agreement.
- B. The Shareholders have agreed by ordinary resolution dated 21 November 2019 to amend the Shareholders' Agreement. The purpose of this deed is to record the agreed amendments.

## COVENANTS

### 1. INTERPRETATION

#### 1.1 Definitions: In this deed:

"**Effective Date**" means the date notified by the Subscriber as the Effective Date in accordance with clause 2.1.

"**Shareholders' Agreement**" means the shareholders' agreement dated 7 December 2011 (as amended from time to time) between the Shareholders and the Company.

#### 1.2 **Shareholders' Agreement definitions:** Words and expressions defined in the Shareholders' Agreement (as amended by this deed) have, except to the extent the context requires otherwise, the same meaning in this deed.

#### 1.3 **Miscellaneous:**

- (a) Headings are inserted for convenience only and do not affect interpretation of this deed.
- (b) References to a person include that person's successors, permitted assigns, executors and administrators (as applicable).
- (c) Unless the context otherwise requires, the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.
- (d) A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.

- (e) A reference to any document includes reference to that document as amended, modified, novated, supplemented, varied or replaced from time to time.
- (f) Unless otherwise stated, reference to a clause or schedule is a reference to a clause of or schedule to this deed.
- (g) A reference to "including", "for example" or "such as", when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

## 2. CONDITIONS PRECEDENT

- 2.1 **Effective Date:** The Effective Date shall be the date the Company confirms to the Shareholders that it has received, and found satisfactory to it in form and substance, the documents and evidence specified in schedule 2.

## 3. AMENDMENT AND RESTATEMENT

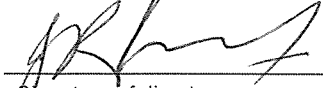
- 3.1 **Amendment and restatement:** With effect on and from the Effective Date, the Shareholders' Agreement shall be amended and restated in the form set out in the appendix to this deed, in accordance with clause 18.7 of the Shareholders' Agreement.
- 3.2 **Full force and effect:** Except to the extent amended by this deed, the Shareholders' Agreement remains in full force and effect.

## 4. GENERAL

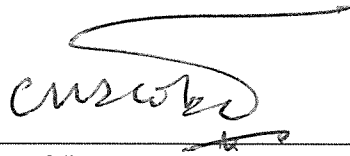
- 4.1 **Counterparts:** In accordance with clause 18.7 of the Shareholders' Agreement (prior to its amendment by this deed), this deed is executed by the Company on behalf of itself and each Shareholder.
- 4.2 **Governing law:** This deed is governed by, and construed in accordance with, New Zealand law. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

EXECUTED AS A DEED

NEW ZEALAND LOCAL GOVERNMENT  
FUNDING AGENCY LIMITED by:

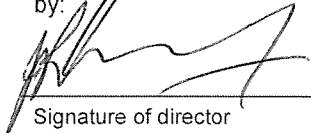
  
\_\_\_\_\_  
Signature of director

JOHN RICHARD AVERY  
Name of director

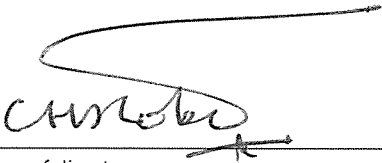
  
\_\_\_\_\_  
Signature of director

CRAG HAMILTON STOBO  
Name of director

On behalf of EACH SHAREHOLDER by its  
authorised attorney NEW ZEALAND LOCAL  
GOVERNMENT FUNDING AGENCY LIMITED  
by:

  
\_\_\_\_\_  
Signature of director

JOHN RICHARD AVERY  
Name of director

  
\_\_\_\_\_  
Signature of director

CRAG HAMILTON STOBO  
Name of director

## SCHEDULE 1

<b>Shareholders</b>
Auckland Council
Bay of Plenty Regional Council
Christchurch City Council
Gisborne District Council
Hamilton City Council
Hastings District Council
Hauraki District Council
Horowhenua District Council
Hutt City Council
Kapiti Coast District Council
Manawatu District Council
Marlborough District Council
Masterton District Council
New Plymouth District Council
Otorohanga District Council
Palmerston North City Council
Selwyn District Council
South Taranaki District Council
Tasman District Council
Taupo District Council
Tauranga City Council
Thames-Coromandel District Council
Waimakariri District Council
Waipa District Council
Wellington City Council
Wellington Regional Council
Western Bay of Plenty District Council
Whakatane District Council
Whanganui District Council
Whangarei District Council
Her Majesty The Queen in Right of New Zealand acting through the Minister of Local Government and the Minister of Finance

## SCHEDULE 2

### Conditions Precedent

1. A duly executed copy of each of the following documents:
  - (a) this deed;
  - (b) an amendment and restatement deed dated on or about the date of this deed in relation to a multi-issuer deed dated 7 December 2011 (as amended and restated on 5 June 2015);
  - (c) an amendment and restatement deed dated on or about the date of this deed in relation to a notes subscription agreement dated 7 December 2011 (as amended and restated on 5 June 2015); and
  - (d) an amendment and restatement deed dated on or about the date of this deed in relation to a guarantee and indemnity dated 7 December 2011.

**APPENDIX**

**Amended and Restated Shareholders' Agreement**

# Shareholders' Agreement

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## PARTIES

Auckland Council, Bay of Plenty Regional Council, Christchurch City Council, Gisborne District Council, Hamilton City Council, Hastings District Council, Hauraki District Council, Horowhenua District Council, Hutt City Council, Kāpiti Coast District Council, Manawatu District Council, Marlborough District Council, Masterton District Council, New Plymouth District Council, Otorohanga District Council, Palmerston North City Council, Selwyn District Council, South Taranaki District Council, Tasman District Council, Taupo District Council, Tauranga City Council, Thames-Coromandel District Council, Wanganui District Council, Waimakariri District Council, Waipa District Council, Wellington City Council, Wellington Regional Council, Western Bay of Plenty District Council, Whakatane District Council, Whangarei District Council and Her Majesty The Queen in Right of New Zealand acting by and through the Minister of Local Government and the Minister Of Finance

each a **Shareholder**

New Zealand Local Government Funding Agency Limited  
**Company**



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**AGREEMENT** dated 7 December 2011 (as amended on 16 November 2012 and 19 November 2013 and amended and restated on 4 June 2015 and by the deed to which this agreement is attached as an appendix)

## **PARTIES**

Auckland Council, Bay of Plenty Regional Council, Christchurch City Council, Gisborne District Council, Hamilton City Council, Hastings District Council, Hauraki District Council, Horowhenua District Council, Hutt City Council, Kāpiti Coast District Council, Manawatu District Council, Marlborough District Council, Masterton District Council, New Plymouth District Council, Otorohanga District Council, Palmerston North City Council, Selwyn District Council, South Taranaki District Council, Tasman District Council, Taupo District Council, Tauranga City Council, Thames-Coromandel District Council, Wanganui District Council, Waimakariri District Council, Waipa District Council, Wellington City Council, Wellington Regional Council, Western Bay of Plenty District Council, Whakatane District Council, Whangarei District Council and Her Majesty The Queen in Right of New Zealand acting by and through the Minister of Local Government and the Minister of Finance

(each a "**Shareholder**")

New Zealand Local Government Funding Agency Limited

("Company")

## **INTRODUCTION**

- A. The Shareholders are shareholders in the Company.
- B. The Shareholders and Company have agreed to enter into this agreement.

## **AGREEMENT**

### **1. INTERPRETATION**

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

"**Acceptance Date**" has the meaning in clause 10.3.

"**Accession Deed**" means a deed in the form set out in schedule 4, or such other form as is approved by the Board.

"**Auditor**" means the Auditor-General (or any nominee of the Auditor-General).

"**Authorisation**" means an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described.

**"Bill Rate"** means:

- (a) in respect of any rate of interest to be calculated pursuant to this agreement the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45 am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day; or
- (b) if the rate cannot be determined pursuant to paragraph (a) above, the rate determined by the Board in its absolute discretion as a reasonable estimate of the Company's cost of funds on that date.

**"Board"** means the board of directors of the Company.

**"Borrowed Money Indebtedness"** has the meaning given in the Multi-issuer Deed.

**"Borrower Notes"** means notes issued by the Company to Participating Borrowers pursuant to a notes subscription agreement dated on or about the date of this agreement.

**"Business Day"** means a day (other than a Saturday, Sunday or public holiday) on which registered banks are open for business in Christchurch, Wellington and Auckland.

**"Buyer"** has the meaning in clause 10.4.

**"CCO"** means a council-controlled organisation as defined in section 6 of the Local Government Act.

**"CCO Shareholder"** means, in relation to a Participating CCO, a person that holds or controls (directly or indirectly) any equity securities of that CCO.

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

**"Constitution"** means the constitution of the Company.

**"Defaulting Shareholder"** has the meaning given in clause 13.1.

**"Director"** means a director of the Company.

**"Event of Default"** in respect of a Shareholder means an event specified in schedule 5.

**"Event of Review"** has the meaning given in the Multi-issuer Deed.

**"Fair Value"** in respect of Shares means the fair market value of those Shares determined in accordance with clause 1.3.

**"First Opening"** means the initial subscription for, and issue of, Shares in the Company, other than any Shares issued on incorporation of the Company, which shall occur on or about the date of this agreement.

**"Guarantor"** means a guarantor of the obligations of the Company pursuant to a deed of guarantee and indemnity dated on or about the date of this agreement.

**"Guarantor's Equity Commitment"** means the agreement of a Guarantor to subscribe for Redeemable Shares in certain circumstances and being in, or substantially in, the same form for each Guarantor.

**"Incoming Principal Shareholder"** means a Local Authority which is to acquire Ordinary Shares as part of the Second Opening.

**"Independent Director"** means a Director who is not an employee of any Shareholder, employee of a CCO owned (in whole or in part) by any Shareholder, or a councillor of any Local Authority which is a Shareholder, and was not such an employee or councillor at any time in the five years prior to the time of that person's appointment as a Director. For the avoidance of doubt, a director (or former director) of a CCO (that is not a Participating CCO) shall not, by virtue of this reason alone, be precluded from being an Independent Director.

**"Local Authority"** has the meaning in section 5 of the Local Government Act.

**"Local Government Act"** means the Local Government Act 2002.

**"Multi-issuer Deed"** means the deed entered into on or about the date of this agreement between the Company and the Local Authorities named therein.

**"New Zealand Debt Management Office"** means Her Majesty the Queen in right of New Zealand acting by and through the New Zealand Debt Management Office.

**"New Zealand Government"** means Her Majesty the Queen in right of New Zealand acting by and through the Minister of Local Government and the Minister of Finance, as (and for so long as it is) a Principal Shareholder.

**"Nominating Local Authority"** has the meaning given at clause 4.3.

**"Non-Pro Rata Sell-Down Shareholder"** has the meaning given in clause 8.3.

**"Ordinary Resolution"** means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question (and which shall include any resolution signed in accordance with section 122 of the Companies Act).

**"Ordinary Share"** means an ordinary share in the Company.

**"Participating Borrower"** means a Participating Local Authority or a Participating CCO.

**"Participating CCO"** means a CCO that has entered into one or more arrangements to be provided debt funding by the Company.

**"Participating Local Authority"** means a Local Authority that has entered into one or more arrangements to be provided debt funding by the Company.

**"Policies"** means the policies of the Company relating to the following matters, as the same may be amended or updated by the Board or, where relevant, in accordance with clause 5.1:

- (a) dividends;
- (b) liquidity;
- (c) pricing;
- (d) lending;
- (e) investing;
- (f) borrowing; and
- (g) treasury.

For the avoidance of doubt, the dividend policy shall be set out in the Statement of Intent, and the other policies may be set out in such individual documents, or composite documents, as the Board may determine.

**"Principal Shareholders"** means those Shareholders who hold Ordinary Shares (and not just Redeemable Shares).

**"Redeemable Share"** means a redeemable share in the Company having the rights and obligations set out in clause 3.4 of the Constitution.

**"Retained Share Number"** has the meaning given in clause 8.3.

**"Sale Interest"** has the meaning given in clause 10.2.

**"Sale Notice"** has the meaning given in clause 10.2.

**"Second Opening"** means the introduction of Incoming Principal Shareholders, to be effected by way of a transfer of Ordinary Shares held by the then current Principal Shareholders (other than the New Zealand Government), in accordance with clause 8.

**"Securities"** has the meaning given in the Multi-issuer Deed.

**"Sell-Down Shareholder"** has the meaning given in clause 8.2.

**"Seller"** has the meaning given in clause 10.2.

**"Share"** means an Ordinary Share or a Redeemable Share.

**"Shareholder"** means:

- (a) any of the parties to this agreement (other than the Company); and
- (b) any person which acquires Shares and which has executed an Accession Deed or is deemed to have agreed to be bound by this agreement.

**"Shareholders' Council"** means the members constituting the shareholders' council established pursuant to clause 4.

**"Special Resolution"** means a resolution approved by a majority of 75% or more of the votes of those Shareholders entitled to vote and voting on the question (and which shall include any resolution signed in accordance with section 122 of the Companies Act).

**"Specified Sale Number"** has the meaning given in clause 8.2.

**"Statement of Intent"** means a statement of intent for the Company as contemplated by section 64(1) of the Local Government Act initially in the form adopted by the Board on or prior to the date of this agreement, and as the same may be amended or replaced by the Board or, where relevant, in accordance with clause 5.1.

## 1.2 **Interpretation:** Unless the context otherwise requires or specifically otherwise stated:

- (a) headings are to be ignored;
- (b) "including" and similar words do not imply any limitation;

- (c) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this agreement);
- (d) any covenant or agreement on the part of two or more persons binds those persons jointly and severally;
- (e) reference to a party, person or entity includes:
  - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
  - (ii) an employee, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;
- (f) a right or power may be exercised from time to time and at any time;
- (g) the singular includes plural and vice versa;
- (h) one gender includes the other genders;
- (i) references to money are to New Zealand dollars;
- (j) references to times of day or dates are to New Zealand times and dates;
- (k) definitions in the Companies Act have the same meaning in this agreement;
- (l) any word or expression cognate with a definition in this agreement has a meaning corresponding or construed to the definition;
- (m) reference to a clause, sub-clause, schedule or a party is a reference to that clause, sub-clause, schedule or party in this agreement;
- (n) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (o) each schedule and any other attachment forms part of this agreement;
- (p) if there is any conflict between this agreement and the Constitution, this agreement shall prevail;
- (q) **"security interest"** means:
  - (i) in respect of any personal property, a security interest (as defined in the Personal Property Securities Act 1999 ("**PPSA**"));
  - (ii) in respect of any other property or any rights in any other property (in each case to which the PPSA does not apply), any interest which, were the PPSA to apply to that property or those rights, would constitute such a security interest;

- (r) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (s) a reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation;
- (t) reference to "month" or "monthly" means calendar month or calendar monthly; and
- (u) a reference to "year" or "yearly" is a reference to a calendar year.

**1.3 Fair Value:** If it is necessary for any purpose of this agreement to determine the fair market value of Shares:

- (a) the Company and the relevant Shareholder shall, for a period of five Business Days after one of them gives notice to the other, endeavour to agree on the fair market value of those Shares;
- (b) if the Company and the relevant Shareholder do not agree on the fair market value of those Shares within the period of five Business Days referred to in clause 1.3(a), the fair market value shall be determined by an independent valuer agreed upon by the Company and the relevant Shareholder, or failing agreement within five Business Days after the end of that period, appointed on the application of either of them by the president for the time being of the New Zealand Institute of Chartered Accountants or his or her nominee;
- (c) the person appointed as valuer under clause 1.3(b) shall:
  - (i) act as a expert and not as arbitrator;
  - (ii) determine the fair market value of the Shares as soon as possible, which valuation shall be conclusive;
- (d) in determining the fair market value of the Shares, the valuer shall determine the fair market value of all of the Shares in the Company, and shall then determine the fair market value of the Shares in question as the appropriate percentage of the value of all Shares, so that no regard shall be had to the control of the Company, or to any premium for control or discount for lack of control;
- (e) the Company and the relevant Shareholder shall promptly and openly make available to the valuer all information in their possession or under their control relating to the Company to enable the valuer to proceed with the valuation on an informed basis as to the financial position, affairs, performance, and prospects of the Company; and
- (f) the fees and expenses of the valuer shall be paid by the Company and the relevant Shareholder in equal amounts, or in such other manner as the valuer may determine.

## 2. BUSINESS OF COMPANY

- 2.1 **Business:** The Company shall carry on the business of raising debt funding (both domestically and internationally), and providing debt funding to Local Authorities and CCOs (as defined in the Multi-issuer Deed).
- 2.2 **No other activity:** The Company shall not engage in any business or activity which is not the business or activity specified in clause 2.1, or considered by the Board to be reasonably related or incidental to or in connection with that business or activity.
- 2.3 **CCO:** The Company shall at all times be a CCO.
- 2.4 **Objectives:** In accordance with the Local Government Act, in carrying on its business, the objectives of the Company will be to:
- (a) achieve the objectives of the Shareholders (both commercial and non-commercial) as specified in the Statement of Intent;
  - (b) be a good employer;
  - (c) exhibit a sense of social and environmental responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so; and
  - (d) conduct its affairs in accordance with sound business practice.
- 2.5 **Policies:** The business of the Company shall be carried on in accordance with the Policies and Statement of Intent, except as approved under clauses 3.9 and 5.1.

## 3. BOARD

- 3.1 **Number of Directors:** The Principal Shareholders shall ensure that:
- (a) the number of Directors shall not at any time be more than seven nor less than four; and
  - (b) no less than a majority of Directors shall be Independent Directors.
- 3.2 **Appointment by Shareholders:** A person may be appointed or removed as a Director at any time by an Ordinary Resolution. The Directors at the date of this agreement are Paul Joseph Anderson, John Richard Avery, Mark Alan Butcher, Philip Wade Cory-Wright, Abigail Kate Foote and Craig Hamilton Stobo who, subject to the previous sentence and to clause 3.3 below, continue in office and are deemed to have been appointed pursuant to this agreement.
- 3.3 **Rotation of Directors:** Beginning at, and including, the annual meeting for 2013, two Directors comprising one Director who is an Independent Director and one Director who is not an Independent Director (unless there are only Independent Directors, in which case both shall be Independent Directors) shall retire from office at the annual meeting of the Company in each year. The Directors to retire shall be that Independent Director, and that non-Independent Director, who have been longest in office since their last election (or if there are only Independent Directors, those Independent Directors who have been longest in office since their last election). If two or more relevant Directors were last elected on the



same day, the Directors to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Director shall be eligible for re-election.

- 3.4 **Re-election of retiring Director:** A Director retiring by rotation at a meeting shall, if standing for re-election, be deemed to have been re-elected unless:
- (a) some other person is elected to fill the vacated office; or
  - (b) it is resolved not to fill the vacated office; or
  - (c) a resolution for the re-election of that Director is put to the meeting and lost.
- 3.5 **Nomination of Directors:** No person may be elected as a Director at a meeting (other than a Director retiring at the meeting) unless, not more than three months nor less than two months before the meeting, that person has been nominated by a Principal Shareholder entitled to attend and vote at the meeting by written notice to the Company and Shareholders' Council accompanied by the consent in writing of that person to the nomination. Notice of every valid nomination of a Director received by the Company before the closing date for nominations shall be sent by the Company to all persons entitled to attend the meeting together with, or as part of, the notice of meeting.
- 3.6 **Remuneration:** No remuneration or compensation for loss of office may be paid to a Director, and no other benefit may be provided to a Director, unless approved by Ordinary Resolution, provided that from the date of this agreement (unless and until altered with the approval of an Ordinary Resolution) the following fees shall be paid to Directors:
- (a) a fee of \$75,000 per annum to the Director acting as chairman of the Board, if that Director is an Independent Director;
  - (b) a fee of \$35,000 per annum to each other Director;
  - (c) a fee of \$10,000 per annum to the Director acting as chairman of the audit and risk committee; and
  - (d) a fee of \$7,500 per annum to each other Director appointed as a member of the audit and risk committee.
- 3.7 **Payment of expenses:** Notwithstanding the provisions of clause 3.6, Directors are entitled to be paid for all reasonable travel, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or otherwise in connection with the business of the Company.
- 3.8 **Board meetings:** Board meetings shall be held not less than once in each quarter in each year.
- 3.9 **Board decisions:** The following decisions of the Company shall be made by a resolution of the Board, and may not be delegated to any other person:
- (a) whether to take, and the nature of, any legal, enforcement or other action following the occurrence of an Event of Review;
  - (b) whether to take, and the nature of, any legal, enforcement or other action (including declaring any Securities to be immediately due and payable) following

an "Event of Default" (as defined in the Multi-issuer Deed) or a default under clauses 7.6, 7.7, 7.8 or 7.9 of the Multi-issuer Deed;

- (c) without limiting clause 5.1, the preparation of a Statement of Intent as and when required by the Local Government Act; and
- (d) without limiting clause 5.1, any amendment of, or departure from, the Policies or Statement of Intent.

3.10 **Conflict of Interest:** No Director shall vote on a matter relating to any of the following:

- (a) a matter as described in clause 3.9(a) as concerns a Participating Local Authority, if that Director is (or was, at any time in the five years prior to the matter being put to the vote) an employee or councillor of the relevant Participating Local Authority or an employee (which term does not include acting only as a director) of a Participating CCO owned (in whole or in part) by the Participating Local Authority;
- (b) a matter as described in clause 3.9(b) as concerns a Participating Local Authority, if that Director is (or was, at any time in the five years prior to the matter being put to the vote) an employee or councillor of the relevant Participating Local Authority or an employee (which term does not include acting only as a director) of a Participating CCO owned (in whole or in part) by the Participating Local Authority;
- (c) any amendment of, or departure from, the pricing Policy, if a Director is (or was at any time in the five years prior to the matter being put to vote):
  - (i) an employee or councillor of a Participating Local Authority; or
  - (ii) an employee (which term does not include acting only as a director) of a Participating CCO; or
  - (iii) an employee or councillor of a CCO Shareholder;
- (d) a matter as described in clause 3.9(a) as concerns a Participating CCO, if that Director is (or was, at any time in the five years prior to the matter being put to the vote) an employee or councillor of a CCO Shareholder of the relevant Participating CCO or an employee (which term does not include acting only as a director) of the Participating CCO; and
- (e) a matter as described in clause 3.9(b) as concerns a Participating CCO, if that Director is (or was, at any time in the five years prior to the matter being put to the vote) an employee or councillor of a CCO Shareholder of the relevant Participating CCO or an employee (which term does not include acting only as a director) of the Participating CCO.

#### 4. SHAREHOLDERS' COUNCIL

- 4.1 **Establishment:** The Shareholders shall ensure that a Shareholders' Council is established, maintained and operated in accordance with this agreement. The Shareholders' Council shall have no more than ten, and no less than five, members. The initial members of the Shareholders' Council shall be Alan Adcock, Mohan De Mel, Douglas Marshall, Matt Potton,

Murray Staite, Mike Timmer, Brian Trott, Matthew Walker and Warwick Hayes (together with any person appointed by the New Zealand Government in accordance with clause 4.4).

- 4.2 **Role:** The role of the Shareholders' Council shall be to advise Shareholders on certain matters (with Shareholders, and not the Shareholders' Council, to make decisions with respect to those matters). The Shareholders' Council shall:
- (a) review the performance of the Company and the Board, and report to Shareholders on these matters on a periodic basis, being no less frequently than every six months;
  - (b) make recommendations to Shareholders as to the appointment, removal, re-election, replacement and remuneration of Directors. For this purpose, the Shareholders' Council may request information from, and meet with, Directors (or persons nominated for election as Directors);
  - (c) make recommendations to Shareholders as to any matters which require the approval of Shareholders pursuant to clause 5.1; and
  - (d) endeavour to ensure that Shareholders are fully informed on matters concerning the Company, and endeavour to co-ordinate Shareholders on decisions required of Shareholders with respect to governance of the Company.
- 4.3 **Appointment of Nominating Local Authority by Shareholders:** A Principal Shareholder may be appointed or removed as a nominator to the Shareholders' Council ("**Nominating Local Authority**") at any time by an Ordinary Resolution, provided that no more than nine Nominating Local Authorities may be so appointed.
- 4.4 **Appointment of members of the Shareholders' Council:** Each Nominating Local Authority may appoint one member of the Shareholders' Council, and remove and replace any member so appointed by it, in each case, by notice to the Company. Each member appointed by a Nominating Local Authority must be an employee or councillor of that Nominating Local Authority. In addition, the New Zealand Government (for so long as it is a Shareholder) may appoint one other member of the Shareholders' Council, and remove and replace such other member so appointed by it, in each case, by notice to the Company.
- 4.5 **Notification and consent:** Each member of the Shareholders' Council appointed by a Nominating Local Authority must give consent in writing to the appointment (which consent shall confirm that the person shall comply with the terms of this agreement as they apply to members of the Shareholders' Council). Notice by a Nominating Local Authority of the appointment of a member and consent from that person to the appointment must be received by the Company before any member may attend a meeting of the Shareholders' Council.
- 4.6 **Rotation of Nominating Local Authorities:** Beginning at, and including, the annual meeting for 2013, the Shareholders shall ensure that two Nominating Local Authorities shall retire from office at the annual meeting of the Company in each year. The Nominating Local Authorities to retire shall be those who have been longest in office since their last election. If two or more of those Nominating Local Authorities were last elected on the same day, the Nominating Local Authority to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Nominating Local Authority shall be eligible for re-election.

- 4.7 **Re-election of retiring Nominating Local Authority:** A Nominating Local Authority retiring by rotation at a meeting shall, if standing for re-election, be deemed to have been re-elected unless:
- (a) some other Principal Shareholder is elected to fill the vacated office; or
  - (b) it is resolved not to fill the vacated office; or
  - (c) a resolution for the re-election of that Nominating Local Authority is put to the meeting and lost.
- 4.8 **Nomination of Nominating Local Authority:** No Principal Shareholder may be elected as a Nominating Local Authority at a meeting (other than a member retiring at the meeting) unless, not less than one week prior to the notice of that meeting being sent to Shareholders, that Principal Shareholder has notified the Company in writing that it wishes to seek that election. The Company shall give notice that the Principal Shareholder is seeking that election to all persons entitled to attend the meeting together with, or as part of, the notice of meeting.
- 4.9 **Meetings:** Meetings of the Shareholders' Council shall be held not less than once in each quarter in each year.
- 4.10 **Quorum:** A quorum for a meeting of the Shareholders' Council shall be a majority of members. No business shall be transacted at a meeting of the Shareholders' Council if a quorum is not present.
- 4.11 **No remuneration:** No remuneration will be paid to the members of the Shareholders' Council for carrying out their functions as members of the Shareholders' Council.
- 4.12 **Expenses:** The Company will reimburse the members of the Shareholders' Council for any reasonable expenses incurred in carrying out their functions as members of the Shareholders' Council, including the reasonable fees and expenses of professional advisers engaged by the Shareholders' Council.
- 4.13 **Information, assistance etc:** The Company and the Shareholders agree that:
- (a) the Company, each Director and each Principal Shareholder shall provide the Shareholders' Council with such reasonable information and assistance as is required by the Shareholders' Council to carry out the role set out in clause 4.2;
  - (b) without limiting clause (a), the Company shall provide the Shareholders' Council with such information and reports as are required by the Statement of Intent;
  - (c) the Shareholders' Council shall provide to the Company, for distribution to Shareholders, a report of its recommendations concerning any of the matters referred to in clause 4.2(b) and 4.2(c) to be considered by a meeting of Shareholders, and the Company shall distribute that report with the notice of meeting for that meeting (or the written resolution to be signed by Shareholders, as the case may be); and
  - (d) if requested by the Shareholders' Council, the Company shall distribute a report for the Shareholders' Council as to the matters referred to in clause 4.2(a) and 4.2(d)

to Shareholders with reports delivered to Shareholders under clause 12.3(a) or clause 12.3(b).

**4.14 Resignation of a member:** A member of the Shareholders' Council:

- (a) may resign by notice in writing to the Company; and
- (b) shall be deemed to resign if:
  - (i) that person is no longer an employee or councillor of the Nominating Local Authority of which the person was an employee or councillor at the time of appointment to the Shareholders' Council; or
  - (ii) the Principal Shareholder who appointed that member is no longer a Nominating Local Authority.

Where a member of the Shareholders' Council resigns or is deemed to resign under this clause, the Nominating Local Authority of whom that member was an employee or councillor, may appoint a replacement member to the Shareholders' Council in accordance with clause 4.4.

**4.15 Resignation of a Nominating Local Authority:** A Nominating Local Authority:

- (a) may resign by notice in writing to the Company; and
- (b) shall be deemed to resign if that Nominating Local Authority is no longer a Principal Shareholder.
- (c) Where a Nominating Local Authority resigns or is deemed to resign, the member of the Shareholders' Council appointed by that Nominating Local Authority shall be deemed to resign also.

**4.16 Deemed Nominating Local Authorities:** The Principal Shareholders, of whom the members of the Shareholders' Council as at 7 December 2011 were employees or councillors, are each deemed to be a Nominating Local Authority as at the date of the amendment to this agreement to provide for Nominating Local Authorities, and each such Nominating Local Authority is deemed to have an election date of 7 December 2011 for the purposes of clause 4.6. All members of the Shareholders' Council as at the date of the amendment to this agreement to provide for Nominating Local Authorities are deemed to have been appointed in accordance with clauses 4.4 and 4.5 by the Nominating Local Authority of which they are an employee or councillor, or the New Zealand Government (as applicable), at that time.

**4.17 Other:** Except as provided in this agreement, the Shareholders' Council may regulate its own procedure.

## **5. SHAREHOLDER APPROVAL**

**5.1 Restrictions:** Neither the Board nor any Shareholder shall take or permit any action to cause any of the following to occur in respect of the Company unless it is approved by an Ordinary Resolution or, if required by law or in relation to clause 5.1(k), a Special Resolution:

- (a) any alteration to, or revocation of, the Constitution;

- (b) any alteration or amendment to this agreement;
- (c) subject to clause 5.1(k), any alteration to, or departure by the Company from any of the policies set out in schedule 1, whether such an alteration or departure will occur by way of amendment to, or departure from, a Policy or the Statement of Intent, or by way of the adoption of a new Statement of Intent or a new Policy;
- (d) the payment of dividends other than in cash;
- (e) **[not used]**
- (f) any issue of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares except:
  - (i) pursuant to the First Opening;
  - (ii) the issue of Borrower Notes, or the issue of Redeemable Shares on the conversion of any Borrower Notes; and
  - (iii) the issue of any Redeemable Shares pursuant to a Guarantor's Equity Commitment;
- (g) any purchase or other acquisition by the Company of its own Shares and any redemption of Shares (other than of Redeemable Shares in accordance with clause 6.4);
- (h) any consolidation, division, or subdivision of Shares;
- (i) the giving of any financial assistance for the purpose of, or in connection with, the purchase of Shares, except any financial assistance given for the purpose of, or in connection with:
  - (i) a Guarantor's Equity Commitment; and
  - (ii) Borrower Notes, or the conversion of any Borrower Notes; or
- (j) the acquisition or subscription of any shares in a body corporate, except as is consistent with the Policy concerning investing by the Company, and except for the formation of a wholly-owned subsidiary of the Company (and any subsequent subscription of shares in such a subsidiary); or
- (k) any alteration to, or departure by the Company from, the following policy set out in schedule 1 whether such an alteration or departure will occur by way of amendment to, or departure from, a Policy, or by way of the adoption of a new Policy:

the Board may not approve a CCO to borrow from the Company unless 100% of the equity securities carrying voting rights at a meeting of shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities and the Crown (if applicable).

## 6. SHARES

6.1 **Classes:** The Company may issue the following classes of Shares only:

- (a) Ordinary Shares;
- (b) Redeemable Shares, pursuant to a Guarantor's Equity Commitment or the conversion of the Borrower Notes; and
- (c) any other class of Shares approved by Shareholders under clause 5.1(f).

6.2 **Shareholders:** Only a Local Authority or the New Zealand Government may be a Shareholder, and no person may become a Shareholder without entering into an Accession Deed (so as to be bound by this agreement) or being deemed to have agreed to be bound by this agreement. No person may become the holder of any Ordinary Shares (other than the New Zealand Government) unless that person is a Guarantor and has entered into a Guarantor's Equity Commitment.

6.3 **Calls:** Calls on any Ordinary Shares which are not fully paid up shall be made at such times, and in such amounts, as determined by the Board, provided that the Board has determined that there is a risk of imminent default by the Company under its Borrowed Money Indebtedness. Any call on Ordinary Shares shall be made proportionately across all Ordinary Shares which are not fully paid up on issue at the time the call is made. Payment of a call shall be made within 10 Business Days of notice of the call being provided to a Shareholder.

6.4 **Redemption:** In the event the Company determines to redeem any Redeemable Shares, any redemption must be effected, if the redemption is required by a Guarantor's Equity Commitment, in accordance with the Guarantor's Equity Commitment and otherwise:

- (a) such that the Redeemable Shares are redeemed in the order in which they were issued; and
- (b) if Redeemable Shares were issued at the same time, proportionately across the holders of such Redeemable Shares (in accordance with the number of Redeemable Shares held).

6.5 **Additional funding:** A Shareholder shall not have any obligation to contribute any funding to the Company except as expressly set out in this agreement or in any other legally binding documentation entered into between the Company and that Shareholder.

## 7. FIRST OPENING

7.1 **Initial shareholdings:** Immediately following the First Opening (which shall take place on or about the date of this agreement), each Principal Shareholder as at the date of this agreement (in this clause 7 an "**Original Principal Shareholder**") will hold the number of Shares as set out in schedule 2.

7.2 **Reimbursement:** From the proceeds received pursuant to the First Opening, the Company shall pay to each Local Authority listed in schedule 3 the amount listed alongside its name in that schedule, in reimbursement of payments made by such Original Principal Shareholder

to New Zealand Local Government Association Inc. ("NZLGA") to fund the establishment costs of the Company.

7.3 **Repayment:** The parties acknowledge that the New Zealand Government has made an advance to NZLGA to assist with the funding of the establishment costs of the Company. The Company shall pay to the New Zealand Government an amount of \$950,000.00 by way of set off from the amount to be paid by the New Zealand Government to the Company pursuant to the First Opening. Following such payment and notwithstanding the terms of any facility or other agreement between NZLGA and the New Zealand Government, the New Zealand Government shall forgive (in writing) the advance made by it to NZLGA.

7.4 **NZLGA funds:** Following completion of the payments referred to in clauses 7.2 and 7.3, each Original Principal Shareholder shall direct NZLGA (in writing) to pay to the Company all moneys which remain held by NZLGA from payments made to it by that Original Principal Shareholder as referred to in clauses 7.2 and 7.3 (to the extent not required by NZLGA to pay establishment costs).

## 8. SECOND OPENING

8.1 **Board to determine:** The Board shall determine when, and if, the Second Opening is to occur, and shall provide the then current Shareholders with not less than 25 Business Days' notice of the Second Opening in accordance with clause 8.2.

8.2 **Pro rata sell down:** In the Second Opening, each Principal Shareholder (other than the New Zealand Government) ("**Sell-Down Shareholder**") shall, subject to the following provisions of this clause 8, be required to transfer a number set by the Company of the Ordinary Shares held by the Sell-Down Shareholder to Incoming Principal Shareholders (as directed by the Company) (which number may comprise a number of paid up Ordinary Shares, and a number of Ordinary Shares which are not fully paid up, as set by the Company). The Company shall, subject to the following provisions of this clause 8, set that number for each Sell-Down Shareholder such that:

- (a) if the Sell-Down Shareholder holds Ordinary Shares which are not fully paid up, the Ordinary Shares to be transferred are such that, following the transfer, the Sell-Down Shareholder would hold paid up Ordinary Shares, and Ordinary Shares which are not fully paid up, in the same proportion as prior to the transfer;
- (b) the proportion of Ordinary Shares to be transferred by each Sell-Down Shareholder shall be the same, other than:
  - (i) where a Sell-Down Shareholder would, as a result of such a transfer, hold less than 100,000 fully paid Ordinary Shares, in which case the Company shall set the number of Shares for that Sell-Down Shareholder as the maximum number which could be transferred by that Sell-Down Shareholder without the Sell-Down Shareholder thereafter holding less than 100,000 fully paid Ordinary Shares; and
  - (ii) as considered reasonable by the Company to allow for rounding; and
- (c) Auckland Council, Christchurch City Council, Hamilton City Council, Tasman District Council, Tauranga City Council, Wellington City Council, Wellington Regional Council, Western Bay of Plenty District Council and Whangarei District



Council shall, following that transfer, retain (in aggregate) 51% of all Ordinary Shares, provided that this clause 8.2(c) shall have no application if such Local Authorities did not hold (in aggregate) 51% of all Ordinary Shares immediately prior to the Second Opening.

The Company shall provide each Sell-Down Shareholder with written notice of the number of Ordinary Shares which it (subject to the following provisions of this clause 8) is required to transfer as part of the Second Opening ("**Specified Sale Number**"), and the numbers of paid up Ordinary Shares and Ordinary Shares which are not fully paid up comprised in the Specified Sale Number, not less than 25 Business Days before the date of the Second Opening.

- 8.3 **Non-pro rata sell down:** If a Sell-Down Shareholder ("**Non-Pro Rata Sell-Down Shareholder**") wishes to sell less than the Specified Sale Number, within five Business Days of receipt of the notice under clause 8.2, the Non-Pro Rata Sell-Down Shareholder shall provide the Company with written notice of the number of Ordinary Shares of the Specified Sale Number that it wishes to retain ("**Retained Share Number**"). Any such notice shall also set out the number of paid up Ordinary Shares, and Ordinary Shares which are not fully paid up, comprised in the Retained Share Number, which numbers must be in the same proportion as they are comprised in the Specified Sale Number (and if they are not, the notice shall be disregarded). If no such written notice is given by a Sell-Down Shareholder, then (subject to the following provisions of this clause 8) such Sell-Down Shareholder shall be obliged to transfer the Specified Sale Number of Ordinary Shares (comprised of such numbers of paid up Ordinary Shares, and Ordinary Shares which are not paid up, as were specified in the notice of the Company under clause 8.2) as part of the Second Opening.
- 8.4 **Other Shareholders:** If one or more Non-Pro Rata Sell-Down Shareholders serves a notice in accordance with clause 8.3, the Company shall, within three Business Days of the expiry of the five Business Day period specified in clause 8.3, issue a written notice offering the other Sell-Down Shareholders the opportunity to transfer additional Ordinary Shares pursuant to the Second Opening, by providing them with written notice of the total number of Retained Share Numbers of all Non-Pro Rata Sell-Down Shareholders (which shall include notice of the aggregate paid up Ordinary Shares, and aggregate Ordinary Shares which are not paid up, comprised in the total Retained Share Numbers). Each other Sell-Down Shareholder shall, if it so wishes, provide written notice to the Company of any additional Ordinary Shares (which may not exceed as concerns paid up Ordinary Shares, and Ordinary Shares which are not paid up, the aggregate numbers set out in the notice of the Company) that such Sell-Down Shareholder wishes to transfer as part of the Second Opening within five Business Days of receipt of such notice from the Company, provided that any such notice must be such that, if a transfer were made of the Ordinary Shares referred to in that notice (together with a transfer of the Specified Sale Number), the Sell-Down Shareholder would continue to hold no less than 100,000 fully paid Ordinary Shares and the same proportions of paid up, and not paid up, Ordinary Shares, and any notice which does not satisfy those requirements shall be disregarded.
- 8.5 **Consequences:** If:
- (a) no notice is received from Sell-Down Shareholders in accordance with clause 8.4, each Non-Pro Rata Sell-Down Shareholder shall be obliged to transfer the Specified Sale Number of Ordinary Shares (comprised of such numbers of paid up Ordinary Shares, and Ordinary Shares which are not paid up, as were specified in the notice of the Company under clause 8.2) in the Second Opening;

- (b) notices are received from Sell-Down Shareholders in accordance with clause 8.4, the Company shall determine:
  - (i) for each Non-Pro Rata Sell-Down Shareholder, the number of paid up Ordinary Shares, and Ordinary Shares which are not paid up, by which the Specified Sale Number of the Non-Pro Rata Sell-Down Shareholder shall be reduced (which may not exceed the numbers set out in the notice given by the Non-Pro Rata Sell-Down Shareholder under clause 8.3); and
  - (ii) for each Sell-Down Shareholder which gave notice under clause 8.4, the number of paid up Ordinary Shares, and Ordinary Shares which are not paid up, by which the Specified Sale Number of the Non-Pro Rata Sell-down Shareholder shall be increased (which may not exceed the numbers set out in the notice given by the Sell-Down Shareholder under clause 8.4).

In making that determination the Company shall act fairly and equitably as between Shareholders. The determination of the Company shall be final and binding on all parties, and each Sell-Down Shareholder shall be obliged to transfer the Specified Sale Number of Ordinary Shares as so reduced or increased by the Company (comprised of such numbers of paid up Ordinary Shares, and Ordinary Shares which are not paid up, as so determined by the Company) as part of the Second Opening.

- 8.6 **Notice:** The Company shall give notice to all Sell-Down Shareholders of the number of Ordinary Shares which it is required to transfer as part of the Second Opening, and the number of paid up Ordinary Shares and Ordinary Shares which are not paid up comprised in that number, in accordance with clauses 8.2 to 8.5, within three Business Days of the expiry of the five Business Days referred to in clause 8.4, if clause 8.5(a) is applicable, and otherwise within three Business Days of its determination under clause 8.5(b).
- 8.7 **Price:** Any Ordinary Shares to be transferred as part of the Second Opening shall be transferred at a price per share equal to the amount paid up on that share at the time of the Second Opening.
- 8.8 **Terms of sale:** The purchase of any Ordinary Shares as part of the Second Opening shall be effected on the following terms:
  - (a) each Sell-Down Shareholder shall transfer the Ordinary Shares which it is obliged to transfer as part of the Second Opening to such Incoming Principal Shareholder as notified to such Sell-Down Shareholder by the Company pursuant to clause 8.6;
  - (b) the purchase of the Ordinary Shares shall be settled on the date of the Second Opening;
  - (c) each Sell-Down Shareholder shall transfer to each Incoming Principal Shareholder good title to the Ordinary Shares free of any security interest; and
  - (d) on settlement of the purchase of the Ordinary Shares, each Incoming Principal Shareholder shall pay the purchase price to the relevant Sell-Down Shareholder in cleared funds, the Sell-Down Shareholder shall deliver to the relevant Incoming Principal Shareholder a transfer of the Ordinary Shares in a form reasonably

acceptable to that Incoming Principal Shareholder, and each Incoming Principal Shareholder and Sell-down Shareholder shall enter into and deliver to the Company an Accession Deed in accordance with clause 10.11. If any Shareholder fails to enter into that Accession Deed, it shall nevertheless be conclusively deemed to have done so. The Board shall take all necessary steps to cause the Incoming Principal Shareholder to be registered as holder of the relevant Ordinary Shares.

- 8.9 **Clause 10:** Nothing in clause 10 (except clause 10.11) applies to a transfer of Ordinary Shares in the Second Opening.

## 9. SECTION 107 CONSENTS

- 9.1 **Consent:** Each Shareholder hereby consents:

- (a) for the purposes of section 107(d) of the Companies Act, to any redemption from time to time, in accordance with this agreement and the Constitution, of any of the Redeemable Shares by the Company, being otherwise than in accordance with sections 69 to 72 of the Companies Act;
- (b) for the purposes of section 107(e) of the Companies Act, to financial assistance (if any) being given by the Company from time to time for the purpose of, or in connection with, the purchase of any Shares, otherwise than in accordance with sections 76 to 80 of the Companies Act, where such assistance is in the form of:
  - (i) any loan, advance or other financial accommodation given by the Company which funds (directly or indirectly) the subscription by a Participating Borrower of Borrower Notes, or of the Redeemable Shares issued on conversion of Borrower Notes, and any incidental assistance; or
  - (ii) any loan, advance or other financial accommodation given by the Company which funds (directly or indirectly) the subscription by a Guarantor of Redeemable Shares pursuant to the Guarantor's Equity Commitment, and any incidental assistance; and
- (c) for the purposes of section 107(2) of the Companies Act, to any issue of Redeemable Shares from time to time pursuant to conversion of Borrower Notes, or pursuant to a Guarantor's Equity Commitment, being otherwise than in accordance with sections 42, 44 or 45 of the Companies Act.

- 9.2 **No withdrawal:** Each Shareholder covenants that it shall not withdraw any consent provided under clause 9.1. If any Shareholder does withdraw any such consent, this shall constitute a breach of this agreement which shall be an Event of Default.

- 9.3 **Not exhaustive:** For the avoidance of doubt, nothing in this clause 9 prohibits or restricts the Board or the Company from redeeming any Shares, providing financial assistance for the purpose of, or in connection with, the purchase of any Shares or issuing any Shares without consent under section 107 of the Companies Act, where permitted under the Companies Act, and subject to the other terms of this agreement.

## 10. PRE-EMPTIVE RIGHTS

- 10.1 **No sale:** No Principal Shareholder shall directly or indirectly sell, transfer, or dispose of the legal or beneficial ownership of, or the control of, any of its Ordinary Shares otherwise than in compliance with clause 8, this clause 10 or clause 13. No interest in, or control of, any Ordinary Share may be sold, transferred or disposed of except the full legal and beneficial ownership of an Ordinary Share.
- 10.2 **Sale notice:** If any Principal Shareholder ("**Seller**") wishes to sell, transfer or otherwise dispose of the legal or beneficial ownership of, or the control of, any of its Ordinary Shares ("**Sale Interest**"), that Shareholder shall give notice (a "**Sale Notice**") to the other Principal Shareholders specifying:
- (a) the precise nature of the Sale Interest (including the number of Shares involved, which must be an equal proportion of any paid up, and unpaid, Ordinary Shares held by the Seller),
  - (b) the price which the Seller wishes to receive for the Sale Interest; and
  - (c) any other terms and conditions of sale of the Sale Interest (which shall be described sufficiently precisely to enable an acceptance of the offer in the Sale Notice to constitute a binding contract).
- 10.3 **Acceptance of Sale Notice:** Each Principal Shareholder other than the Seller may, not later than the date ("**Acceptance Date**") 10 Business Days after the giving of the Sale Notice, give notice to the Seller that that Principal Shareholder wishes to acquire the Sale Interest on the terms specified in the Sale Notice.
- 10.4 **Terms of sale:** A Principal Shareholder which gives notice to the Seller in accordance with clause 10.3 that it wishes to acquire the Sale Interest (a "**Buyer**") shall be entitled and bound (subject to clause 10.5) to acquire the Sale Interest. If more than one Principal Shareholder gives notice to the Seller that it wishes to acquire the Sale Interest, those Principal Shareholders shall be entitled and bound to acquire the Sale Interest in proportion to their respective holdings of Ordinary Shares. The purchase of the Sale Interest shall be effected at the price, and on the terms and conditions, specified in the Sale Notice, and, subject to anything to the contrary in the Sale Notice, on the following terms:
- (a) the purchase of the Sale Interest shall be settled on the date 10 Business Days after the Acceptance Date, or if clause 10.5 applies, 10 Business Days after the last of the consents referred to in clause 10.5 is obtained;
  - (b) if there is more than one Buyer, the purchase of the Sale Interest by all Buyers shall be settled simultaneously;
  - (c) the Seller shall transfer to each Buyer good title to its relevant part of the Sale Interest free of any security interest; and
  - (d) on settlement of the purchase of the Sale Interest each Buyer shall pay the relevant purchase price to the Seller in cleared funds, and the Seller shall deliver to each Buyer a transfer of its relevant part in the Sale Interest in a form reasonably acceptable to that Buyer. All Shareholders and the Board shall take all necessary steps to cause the Buyer to be registered as holder of the relevant Shares.

10.5 **Consents:** Each Buyer and the Seller shall use their reasonable endeavours, with all due speed and diligence, to obtain all necessary consents to the sale and purchase of the Sale Interest, including any consent required from any governmental or regulatory agency or authority. If any necessary consent is:

- (a) not granted within 20 Business Days after the Acceptance Date; or
- (b) granted on terms and conditions that are not reasonably acceptable to the party affected thereby,

the Seller or any Buyer may, by notice to all Principal Shareholders, terminate the obligation to buy and sell the Sale Interest created by clause 10.4.

10.6 **Sale to other Local Authorities:** If:

- (a) no notice is given to the Seller pursuant to, and within the time specified in, clause 10.3; or
- (b) the obligation to buy and sell the Sale Interest is terminated pursuant to clause 10.5 by reason of a consent required on the part of any Buyer not being granted, or being granted on terms and conditions not reasonably acceptable to any Buyer,

the Seller may, subject to clauses 10.8 and 10.11 within 60 Business Days of the date of the Sale Notice, transfer the Sale Interest to a Local Authority or the New Zealand Government for a price not less than, and on terms and conditions no more favourable than, specified in the Sale Notice. For this purpose, terms and conditions offered to another Local Authority or the New Zealand Government shall not be considered to be more favourable to a buyer than those specified in the Sale Notice by reason only:

- (c) that the terms offered to that person include normal and reasonable warranties; or
- (d) of inclusion in the terms offered to that person of terms which give no material value to a buyer.

10.7 **Assistance:** For the purpose of clause 10.6, each Shareholder shall provide such assistance as may reasonably be required by the Seller for the purposes of enabling the Seller to solicit offers for, and sell, the Sale Interest including:

- (a) allowing prospective purchasers and their advisers to carry out reasonable due diligence enquiries (subject to those persons entering into appropriate confidentiality arrangements); and
- (b) enabling completion of any such sale to take place.

10.8 **Approval of purchaser:** The Seller shall not transfer a Sale Interest to any person unless the Seller has obtained the prior written approval of the Board to registration pursuant to clause 12.5 of the Constitution (which approval may be granted or not in accordance with clause 12.5 of the Constitution).

10.9 **Clause to apply again:** If:

- (a) notice is given to the Seller pursuant to clause 10.3, but the obligation to buy and sell the Sale Interest is terminated pursuant to clause 10.5 (other than for the reason specified in clause 10.6(b));

(b) the Seller proposes to sell, transfer, or otherwise dispose of the Sale Interest outside the period referred to in clause 10.6, or at a price, or on terms and conditions more favourable to a buyer than, specified in the Sale Notice; or

(c) the Seller does not obtain the approval referred to in clause 10.8,

clauses 10.1 to 10.9 shall again apply.

10.10 **Redeemable Shares:** Clauses 10.1 to 10.9 shall not apply to Redeemable Shares. No Shareholder shall directly or indirectly sell, transfer, or dispose of the legal beneficial ownership of, or control of, any of its Redeemable Shares except with the prior written approval of the Board (which approval may be granted or not, at the discretion of the Board).

10.11 **Accession Deed:** Whenever a Shareholder transfers the legal or beneficial ownership of any Shares to a person who is not a party to this agreement, that person and that Shareholder shall enter into and deliver to each other an Accession Deed. Each person entering into an Accession Deed shall also deliver to the Company such evidence as it reasonably requires in order to be satisfied that that Accession Deed is valid, binding, and enforceable as against that person. The Company is irrevocably authorised to execute each Accession Deed on behalf of all Shareholders (other than the transferring Shareholder).

10.12 **Security:** Notwithstanding the other provisions of this clause 10, a Shareholder shall, subject to obtaining the prior written consent of the Board (which approval may be granted or not, at the discretion of the Board), be permitted to grant a security interest over its Shares subject to the holder of the security interest agreeing, in a form reasonably acceptable to the Company, to be bound by this agreement.

10.13 **Amalgamation:** Nothing in clauses 10.1 to 10.11 shall apply to a Local Authority succeeding, by process of law, to the Shares of another Local Authority, pursuant to an amalgamation of Local Authorities.

## 11. PROTECTED TRANSACTION

11.1 [Not used]

11.2 [Not used]

11.3 **Protected transaction:** Each Principal Shareholder (other than the New Zealand Government) warrants that, for the purposes of section 117 of the Local Government Act, the entry by it into, and the performance by it of, this agreement, is:

- (a) in compliance with the Local Government Act;
- (b) not contrary to any provision of the Local Government Act;
- (c) within the capacity, rights and powers of the relevant Principal Shareholder; and
- (d) for the purpose authorised by the Local Government Act or any other statute.

## 12. FINANCIAL

12.1 **Records:** The Board shall ensure that proper accounting and other records of the Company are maintained in accordance with generally accepted accounting practice (as defined in section 5 of the Local Government Act) and all relevant legal requirements.

12.2 **Audit:** The Board shall ensure that the financial statements of the Company are audited by the Auditor as at the end of each financial year (as defined in section 5 of the Local Government Act).

12.3 **Reporting:** The Company must provide reports to Shareholders in accordance with the requirements of the Local Government Act, including:

- (a) by the end of February in each year, the Board must deliver to Shareholders a report on the Company's operations during the six month period ending on 31 December in the previous year in accordance with section 66 of the Local Government Act; and
- (b) by the end of September in each year, the Board must deliver to Shareholders, and make available to the public, a report on the Company's operations during the year ending on the preceding 30 June in accordance with section 67 of the Local Government Act.

The Company must provide to Shareholders a copy of its unaudited financial statements for the six month period ending on 31 December in the previous year together with the half-yearly report to be delivered pursuant to clause 12.3(a).

12.4 **Debenture Trust Deed Notifications:** The Company shall:

- (a) to the extent known by the Company, notify each Shareholder (in writing) of any Event of Default affecting any other Shareholder or Guarantor as soon as reasonably practicable after its occurrence, and of the steps taken or proposed to be taken in relation to such Event of Default, provided that:
  - (i) the Company's obligation under this clause 12.4(a) only applies in respect of Securities of which it is the Holder; and
  - (ii) the Company shall not be liable for:
    - (aa) any failure to provide such notification to a Shareholder; or
    - (bb) any inaccurate, incomplete or incorrect information given in such a notification, provided the notification is given by the Company in good faith; and
- (b) promptly notify each Shareholder (in writing) if the Board determines that there is a risk of imminent default under any Borrowed Money Indebtedness;
- (ba) to the extent known by the Company, promptly notify each Shareholder (in writing):
  - (i) if any Event of Default (as defined in the Multi-issuer Deed) occurs in relation to a Participating CCO; or

- (ii) where there is a risk that the CCO Shareholder will not be able to meet an obligation to pay any amount uncalled and/or unpaid in respect of its Participating CCO;
- (c) within one Business Day of receipt of a written request from a Shareholder or the Shareholder's Trustee, notify the Shareholder and the Shareholder's Trustee (in writing) of the "nominal amount" of the Security Stock:
  - (i) held by the Company in respect of the Shareholder's obligations under each of the Multi-issuer Deed and, where the Shareholder is a Guarantor, the Equity Commitment Deed; and
  - (ii) where the Shareholder is a Guarantor, held by the Security Trustee in respect of the Shareholder's obligations under the Guarantee,

in each case, as at the date of the Company's notification.

In this clause 12.4, "Holder", "Security Trustee", "Trustee", "Security Stock", "Equity Commitment Deed" and "Guarantee" each have the meaning given in the Multi-issuer Deed.

- 12.5 **SOI reporting:** The Company must provide quarterly reports to the Shareholders' Council in accordance with any requirements of the Statement of Intent (which shall include, without limitation, to the extent known by the Company, details of any Event of Review occurring in any quarter, and the steps taken (or proposed to be taken) by the Company in relation to that Event of Review, and provided that clause 12.4(a)(ii) shall also apply to any such notification (or failure to provide any such notification) concerning an Event of Review).

### 13. DEFAULT

- 13.1 **Consequences:** If an Event of Default occurs in respect of a Shareholder (the "Defaulting Shareholder"):
- (a) the Company may, while that Event of Default continues, by notice in writing to the Defaulting Shareholder require that the Defaulting Shareholder transfer all of its Shares to a Local Authority, the New Zealand Government or the Company, as the Board may determine, at Fair Value. Clauses 11.2 to 11.4 of the Constitution shall apply to any such required transfer as if it were the sale of a forfeited Share under those provisions. Clause 10 (other than clause 10.11) of this agreement shall not apply to any such transfer;
  - (b) while that Event of Default continues, the Defaulting Shareholder shall not be entitled to exercise any votes attaching to its Shares; and/or
  - (c) while that Event of Default continues, the Defaulting Shareholder shall not be entitled to receive any dividends or other distributions which may become payable in respect of any of its Shares, provided that, if the Event of Default is remedied, the amount of any accrued but unpaid dividends or other distributions will be paid to the Defaulting Shareholder as soon as reasonably practicable following such Event of Default becoming remedied (after deduction of any amounts owing to the Company by such Defaulting Shareholder).



13.2 **Default interest:** If any party does not pay any amount payable under this agreement on the due date for payment ("**Due Date**") that party shall pay to the other party interest (both before and after judgment) on that amount. That interest:

- (a) shall be paid at the Bill Rate plus five per cent. per annum;
- (b) shall be paid by instalments at intervals of ten Business Days from the Due Date; and
- (c) shall be calculated on a daily basis from and including the Due Date until the unpaid amount is paid in full.

The right of a party to require payment of interest under this clause does not limit any other right or remedy of that party.

13.3 **Other remedies:** Clauses 13.1, and 13.2 are without prejudice to any other right, power or remedy under this agreement, at law, or otherwise, that any person has in respect of a default by any party. The parties agree that no sale of a Share under clause 11.1 of the Constitution may be made except at a price which is equal to or greater than Fair Value, and that nothing in clause 10 (except clause 10.11) shall apply to any such sale.

#### 14. **CONFIDENTIALITY**

14.1 **Confidentiality Obligation:** Subject to clause 14.2, each Shareholder and, in respect of (a) and (b) below only, the Company, shall keep confidential, and make no disclosure of:

- (a) the existence and contents of this agreement;
- (b) all information obtained from the Shareholders under this agreement or in the course of negotiations in respect of this agreement; and
- (c) all information obtained from the Company, or developed or held for the purposes of the Company,

(together "**Information**").

14.2 **Exceptions:** Information may be disclosed by a Shareholder or the Company if:

- (a) written consent to the disclosure is given by the party to which the Information relates;
- (b) disclosure is required by law, is necessary to comply with the listing rules of any recognised stock exchange, or if the Company determines disclosure in any prospectus, investment statement, product disclosure statement, offering memorandum or offer or disclosure document of the Company is necessary or desirable; or
- (c) disclosure is necessary to obtain the benefits of, and fulfil obligations under, this agreement or as necessary for the enforcement of, or any proceedings or claims with respect to, this agreement (or any other agreements or deeds which concern the Company);

- (d) that Information already is, or becomes, public knowledge other than as a result of a breach of clause 14.1 by that Shareholder or the Company (as the case may be); or
- (e) disclosure is made to a lawyer, accountant or other professional adviser of that Shareholder or the Company.

## 15. NOTICES

15.1 **Writing:** Each notice or other communication to be given or made under this agreement to any person must:

- (a) **Writing:** be given or made in writing by email or letter and be signed by the sender or an authorised officer of the sender;
- (b) **Address:** be given or made to the recipient at the address or email address and marked for the attention of the person (if any), from time to time designated by the recipient to the other for the purposes of this agreement;
- (c) **Deemed delivery:** not be effective until received by the recipient, and any such notice or communication shall be deemed to be received:
  - (i) (if given or made by letter) when left at the address of the recipient or 5 Business Days after being put in the post, postage prepaid, and addressed to the recipient at that address; or
  - (ii) (if given or made by email) when dispatched in tangible, readable form by the sender to the email address advised by the recipient from time to time,

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

15.2 **Initial address and numbers:** The initial address, email address and person (if any) designated for the purpose of this agreement, are set out in schedule 6.

## 16. DISPUTES

16.1 **Arbitration:** Any dispute, difference or claim arising out of or in connection with this agreement, or the subject matter of this agreement, including any dispute as to its existence or validity ("**Dispute**") will be referred to arbitration by a single arbitrator. The arbitration will be commenced by a party giving notice to the other parties stating the subject matter and details of the Dispute and requiring the Dispute to be referred to arbitration. The arbitrator will be appointed by the parties, or failing agreement within 10 Business Days after, and exclusive of, the date of giving the notice, will be appointed at the request of a party by the president or vice-president for the time being of the New Zealand Law Society or the nominee of such president or vice-president. The place of arbitration will be Auckland.

16.2 **Appeals on points of law:** The parties waive any right to seek a determination by the court of a preliminary point of law (pursuant to section 4, Second Schedule to the Arbitration Act

1996) and to appeal on a question of law (pursuant to section 5, Second Schedule to the Arbitration Act 1996).

16.3 **Costs:** The parties will bear their own costs (including legal costs) and an equal share of the costs of the award in relation to the arbitration, unless the arbitrator determines that a party shall bear some proportion of, or all of, the costs of any other party because of impropriety, lack of cooperation or unreasonable conduct by that party.

16.4 **Binding:** The determination of an arbitrator appointed pursuant to clause 16.1 shall be binding on the parties.

## 17. WARRANTIES

17.1 **Warranties:** Each party represents and warrants that:

- (a) **Power:** it has full legal capacity and power to enter into this agreement and to carry out the transactions that it contemplates;
- (b) **Authorisations:** it holds each Authorisation that is necessary or desirable to:
  - (i) execute this agreement and to carry out the transactions that it contemplates;
  - (ii) ensure that this agreement is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business, and it is complying with any conditions to which any of these Authorisations is subject;
- (c) **Documents effective:** this agreement constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally); and
- (d) **No contravention:** neither its execution of this agreement nor the carrying out by it of the transactions that it contemplates, does or will:
  - (i) contravene any law to which it or any of its property is subject or any order that is binding on it or any of its property;
  - (ii) contravene any Authorisation;
  - (iii) contravene any undertaking or instrument binding on it or any of its property; or
  - (iv) require it to make any payment or delivery in respect of any financial accommodation or financial instrument before it would otherwise be obliged to do so.

17.2 **Consultation:** Without limiting clause 17.1, each Shareholder which is a Local Authority represents and warrants to each other party that it has complied with section 56 of the Local Government Act in connection with its subscription for and/or acquisition of Shares in the Company.

## 18. GENERAL

18.1 **Term:** This agreement shall terminate on the earlier of:

- (a) the date on which the liquidation of the Company is completed; and
- (b) the date on which one person owns all of the Shares.

18.2 **No partnership, joint venture:** Nothing in this agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between any of the Shareholders, and a Shareholder may not make, or allow to be made, any representation that any such relationship exists between any of the Shareholders. A Shareholder shall not have authority to act for, or to incur any obligation on behalf of, any other Shareholder, except as expressly provided for in this agreement. No Shareholder has any obligation of good faith or similar obligation to any other Shareholder.

18.3 **Counterparts:** This agreement is deemed to be signed by a party if that party has signed or attached that party's signature to any of the following formats of this agreement:

- (a) an original; or
- (b) a facsimile copy; or
- (c) a photocopy; or
- (d) a PDF or email image copy;

and if every party has signed or attached that party's signature to any such format and delivered it in any such format to the other parties, the executed formats shall together constitute a binding agreement between the parties.

18.4 **Entire agreement:** This agreement constitutes the entire agreement between the parties relating to the subject matter of this agreement and supersedes and cancels any previous agreement, understanding or arrangement whether written or oral.

18.5 **Severance:** If any provision of this agreement is, or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and shall not affect the enforceability, legality, validity or application of any other provision of this agreement.

18.6 **Further assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

18.7 **Amendment:** This agreement may be amended in accordance with the terms of any Ordinary Resolution. If any such Ordinary Resolution is passed, the amendment recorded in that resolution shall take effect in accordance with their terms, and the Company shall prepare a deed recording such amendments, and may execute that deed on behalf of each Shareholder. Each Shareholder irrevocably appoints the Company as its attorney to execute such a deed on its behalf.

18.8 **Governing law:** This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement.

- 18.9 **No guarantee:** The parties acknowledge that the obligations and liabilities of the Company under this agreement are not guaranteed by the Crown.

**SIGNATURES**

[Original execution blocks intentionally deleted]

**Foundation Policies**  
(Clause 5.1 of the Shareholders' Agreement)

All foundation policies may be reviewed annually by Principal Shareholders at the annual meeting of Shareholders. Any alteration requires approval pursuant to clause 5.1.

**Credit Risk**

***Lending Policy***

All Local Authorities that borrow from the Company will:

- Provide debenture security in relation to their borrowing from the Company and related obligations, and (if relevant), equity commitment liabilities to the Company and (if relevant) guarantee liabilities to a security trustee approved for the Company's creditors.
- Issue securities (bonds / FRNs / CP) to the Company and/or enter into facility arrangements with the Company.
- Comply with their own internal borrowing policies.
- Comply with the financial covenants outlined in the following table, provided that:
  - Unrated Local Authorities or Local Authorities with a long-term credit rating lower than 'A' equivalent can have bespoke financial covenants that exceed the:
    - Lending policy covenants outlined in the following table with the approval of the Board;
    - Foundation policy covenants outlined in the following table with the approval of an Ordinary Resolution.
  - Local Authorities with a long-term credit rating of 'A' equivalent or higher:
    - will not be required to comply with the lending policy covenants in the following table; and
    - can have bespoke financial covenants that exceed the foundation policy covenants outlined in the following table with the approval of an Ordinary Resolution; and in any event, will not be required to comply with the Net Debt / Total Revenue foundation policy covenant outlined in the following table until the financial year ending 30 June 2026. Until that date, such Local Authority must comply with the Net Debt / Total Revenue covenant set out in the table entitled "Alternative Net Debt / Total Revenue Covenant" below.
  - Any Board or Ordinary Resolution approval of bespoke financial covenants will only be provided after a robust credit analysis and any approval must also include bespoke reporting and monitoring arrangements.
- If the principal amount of a Local Authority's borrowings, or the Company's commitment under a facility agreement with a Local Authority, is at any time greater than NZD 20 million, be a party to a deed of guarantee and an equity commitment deed (in each case in a form set by the Company).

Financial covenant	Lending policy covenants	Foundation policy covenants
Net Debt / Total Revenue	<175%	<280%
Net Interest / Total Revenue	<20%	<20%
Net Interest / Annual Rates Income	<25%	<30%
Liquidity	>110%	>110%

#### **Alternative Net Debt / Total Revenue Covenant**

Financial Year ending	Net Debt / Total Revenue
30 June 2020	<250%
30 June 2021	<300%
30 June 2022	<300%
30 June 2023	<295%
30 June 2024	<290%
30 June 2025	<285%

*Total Revenue is defined as cash earnings from rates, grants and subsidies, user charges, interest, dividends, financial and other revenue and excludes non government capital contributions (e.g. developer contributions and vested assets).*

*Net debt is defined as total debt less liquid financial assets and investments.*

*Liquidity is defined as external debt plus committed loan facilities plus liquid investments divided by external debt.*

*Net Interest is defined as the amount equal to all interest and financing costs less interest income for the relevant period.*

*Annual Rates Income is defined as the amount equal to the total revenue from any funding mechanism authorised by the Local Government (Rating) Act 2002 together with any revenue received from other local authorities for services provided (and for which the other local authorities rate).*

*Financial covenants are measured on Council only basis and not consolidated group basis, unless requested by a Local Authority and approved by the Board.*

During the initial three years of operation the Auckland Council will be limited to a maximum of 60% of the Company's total Local Authority (including CCOs (as defined below)) assets. After three years Auckland Council will be limited to a maximum of 40% of the Company's total Local Authority (including CCO) assets.

No more than the greater of NZD 100 million or 33% of a Local Authority's or CCO's (as defined below) borrowings from the Company will mature in any 12 month period.

Subject to implementation of any amendments or other actions considered necessary, advisable or expedient by the Board and the approval of the Board in relation to the relevant CCO (as defined below) (which may be a Council-Controlled Trading Organisation), an approved CCO may borrow from the Company provided that:

- The CCO is a "council-controlled organisation" as defined in section 6 of the Local Government Act 2002, where the CCO is a company in which equity securities carrying at least 51% or more of the voting rights at a meeting of the shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities (respectively, a "CCO" and each such Local Authority being a "CCO Shareholder");
- Each CCO Shareholder provides a guarantee in respect of the CCO in favour of the Company and/or there is sufficient uncalled capital in respect of the CCO to meet the financial obligations of the CCO;
- Each CCO Shareholder provides equity commitment liabilities to the Company, guarantees liabilities to a security trustee approved for the Company's creditors, and provides debenture

security for its equity commitments to the Company and guarantee liabilities to the security trustee;

- Each CCO Shareholder complies with Lending policy financial covenants, Foundation policy financial covenants or other financial covenants required by the Board (if any) and, in the case of a CCO Shareholder with a long-term credit rating of 'A' equivalent or higher, until the financial year ending 30 June 2026, the Net Debt / Total Revenue covenant in the table entitled "Alternative Net Debt / Total Revenue Covenant" above.
- The CCO complies with any covenants required by the Board; and
- If required by the Board, the CCO will grant security in favour of the Company (which may be subject to any intercreditor arrangements acceptable to the Board).

Where the Company agrees to provide funding to the CCO, it must within 90 days of receiving annual financial covenant reporting from a CCO Shareholder (in its capacity as a borrower) report to the Shareholders' Council, holders of ordinary shares in the Company and any Local Authority guarantors of the Company's liabilities as to whether that CCO Shareholder has complied with its financial covenants on an individual and consolidated group basis.

Notwithstanding the definition of "CCO" set out above, the Board may not approve a CCO to borrow from the Company unless 100% of the equity securities carrying voting rights at a meeting of shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities and the Crown (if applicable).

### **Cash and Liquid Investment Policy**

The Company will only invest in NZD senior debt securities, money market deposits and registered certificates of deposits within the counterparty limits outlined in the following table.

New Zealand Local Authority and CCO securities are excluded from the Company's cash and liquidity portfolio.

Counterparty <sup>1</sup>	S & P Credit Rating or equivalent (Short-term / long-term) <sup>2</sup>	Maximum % Limit (Total Cash + Liquid Assets)	Minimum % Limit (Total Cash + Liquid Assets)	Maximum New Zealand Dollar counterparty Limit (millions) <sup>3</sup>	Maximum term (years) <sup>4</sup>
Category 1: NZ Government or RBNZ <sup>5</sup>	N/A	100%	20%	Unlimited	No longer than the longest dated LGFA maturity on issue
Category 2	A1+ / AAA	80%	N/A	300	3
Category 3	A1+: A1 / AA+	80%	N/A	200	3
	A1+: A1 / AA	80%	N/A	200	3
	A1+: A1 / AA-	80%	N/A	200	3

<sup>1</sup> Category 2, 3, 4 and 5 counterparties do not include the RBNZ or the NZ Government.

<sup>2</sup> Short term rating applies for all securities with a maturity date of 365 days or less.

<sup>3</sup> If the counterparty credit rating is downgraded below the allowed limit, LGFA has 30 days to sell the security.

<sup>4</sup> Maximum term applies from the date of settlement.

<sup>5</sup> At least 20% of the portfolio must be held at the RBNZ or invested in NZ Government securities.



Category 4	A1: /A+, NZ Registered Bank	60%	N/A	200	3
Category 5	A1: /A+ Other Issuers	10%	N/A	50	1

The maximum individual counterparty limit (excluding the NZ Government) cannot be greater than 100% of Accessible Capital. Accessible Capital is defined as issued and paid capital plus retained earnings plus issued and unpaid capital plus outstanding borrower notes.

### ***Derivative Policy***

Unless explicitly approved otherwise by the Board, all derivative transactions must be transacted with New Zealand Debt Management as counterparty.

### **Market Risk**

The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$100,000<sup>6</sup>.

The Company's total portfolio Value at Risk (VaR) daily limit is \$1,000,000<sup>7</sup>.

### ***Foreign exchange risk policy***

The Company will take no foreign exchange risk.

### **Operational Risk**

Unless explicitly approved otherwise by the Board, the Company will outsource the following functions to New Zealand Debt Management as follows:

- Hedging – New Zealand Debt Management is the LGFA interest rate swap counterparty.

### ***Dividend policy***

The policy is to pay a dividend that provides an annual rate of return to Shareholders equal to the Company's cost of funds plus 2.00% over the medium term, recognising that, to assist in the start-up period, the initial expectation is for no dividend for the part period to 30 June 2012, and for a dividend equal to 50% of the target dividend in the two periods to 30 June 2014 to be paid. Thereafter, the intention is to pay at least the full target dividend until the target dividend return is achieved as measured from commencement, including consideration of the time value of money at the target annual rate of return.

At all times payment of any dividend will be discretionary and subject to the Board's legal obligations and views on appropriate capital structure.

<sup>6</sup> PDH risk measures the sensitivity of a portfolio to a one basis point change in underlying interest rates. For example a PDH of \$100,000 means that the portfolio value will fall by \$100,000 for a one basis point fall in interest rates.

<sup>7</sup> VaR measures expected loss for a given period with a given confidence. For example, 95% confidence, daily VaR of \$1,000,000 means that it is expected that the portfolio will lose \$1,000,000 on 5% of days. i.e. 1 day in 20 the portfolio value will decrease by \$1,000,000.

**SCHEDULE 2**  
**First Opening**  
(Clause 7.1)

SHAREHOLDER	NO. OF PAID UP ORDINARY SHARES	NO. OF UNPAID ORDINARY SHARES
Auckland Council	2,000,000	2,000,000
Bay of Plenty Regional Council	2,000,000	2,000,000
Christchurch City Council	1,999,999	2,000,000
Hamilton City Council	2,000,000	2,000,000
Hastings District Council	400,000	400,000
Masterton District Council	100,000	100,000
New Plymouth District Council	100,000	100,000
Otorohanga District Council	100,000	100,000
Selwyn District Council	200,000	200,000
South Taranaki District Council	100,000	100,000
Tasman District Council	2,000,000	2,000,000
Taupo District Council	100,000	100,000
Tauranga City Council	2,000,000	2,000,000
Waipa District Council	100,000	100,000
Wellington City Council	2,000,000	2,000,000
Wellington Regional Council	2,000,000	2,000,000
Western Bay of Plenty District Council	2,000,000	2,000,000
Whangarei District Council	800,000	800,000
New Zealand Government	5,000,000	0
<b>Total</b>	<b>24,999,999</b>	<b>20,000,000</b>

**SCHEDULE 3**  
**Reimbursement**  
(Clause 7.2)

LOCAL AUTHORITY	AMOUNT
Auckland Council	\$250,000.00
Christchurch City Council	\$200,000.00
Hamilton City Council	\$200,000.00
Tasman District Council	\$200,000.00
Tauranga City Council	\$200,000.00
Wellington City Council	\$200,000.00
Wellington Regional Council	\$200,000.00
Western Bay of Plenty District Council	\$150,000.00
Whangarei District Council	\$200,000.00

**SCHEDULE 4**  
**Form of Accession Deed**  
(Clause 10.11)

DEED dated [                      ]

PARTIES                      [                      ] ("Remaining Shareholder(s)")  
   [                      ] ("Transferor")  
   [                      ] ("Transferee")

**INTRODUCTION**

- A.            The Remaining Shareholder(s) and the Transferor are the parties to a shareholders' agreement dated [                      ] 2011 ("**Agreement**") relating to New Zealand Local Government Funding Agency Limited (the "**Company**").
- B.            The Transferor wishes to transfer to the Transferee **[Number]** shares in the Company.
- C.            Under the Agreement the parties are required to execute this deed.

**OPERATIVE PROVISIONS**

- 1.            With effect from the [date of this deed]:
  - (a)            The Transferee becomes a party to the Agreement as if it had been named as a party to the Agreement and had executed it.
  - (b)            The Transferor ceases to be a Shareholder. ***[Include only if applicable]***
- 2.            The Transferor is not released from any liability to the Remaining Shareholders existing as at [the date of this deed]. ***[Include only if applicable]***
- 3.            New Zealand law governs. New Zealand courts have non-exclusive jurisdiction.

**SIGNED AS A DEED**

**SCHEDULE 5**  
**Events of Default**  
(Clause 13.1)

An Event of Default occurs in respect of a Shareholder if:

- (a) without limiting paragraphs (b), (c) and (e), that Shareholder commits any breach of or fails to observe any of the obligations under this agreement or the Constitution or the Guarantor's Equity Commitment of that Shareholder and (if that breach or failure is capable of remedy) does not remedy that breach or failure within 10 Business Days of notice from any other Shareholder or the Company specifying the breach or failure and requiring remedy or (if that breach or failure is not capable of remedy) that breach or failure is material in the context of the obligations of that Shareholder under this agreement, the Constitution or the Guarantor's Equity Commitment (as the case may be);
- (b) that a Shareholder fails to pay any calls on any Ordinary Shares within the prescribed time frame following a call being made by the Board;
- (c) that Shareholder fails to subscribe for any Redeemable Shares in accordance with the Guarantor's Equity Commitment of that Shareholder;
- (d) an "Event of Default", as defined in the Multi-issuer Deed, or a default under clause 7.6 or clause 7.7 of the Multi-issuer Deed, occurs with respect to that Shareholder;
- (e) an Event of Default occurs under clause 9.2 with respect to that Shareholder; or
- (f) an "Event of Default" as defined in any other arrangements for the Shareholder to be provided debt funding by the Company.

**SCHEDULE 6**  
**Addresses for Notice**  
(Clause 15.2)

PARTY	ADDRESS FOR NOTICES
The Company	<p>Address: Russell McVeagh, Vero Centre, 48 Shortland Street PO Box 8, Auckland 1140</p> <p>Attention: Deemple Budhia</p>
Auckland Council	<p>Delivery Address: 135 Albert Street Auckland 1010</p> <p>Postal Address: Private Bag 92300 Victoria Street West Auckland 1142</p> <p>Email: john.bishop@aucklandcouncil.govt.nz</p> <p>Attention: John Bishop, Group Treasurer</p>
Bay Of Plenty Regional Council	<p>Delivery Address: 5 Quay Street Whakatāne</p> <p>Postal Address: P O Box 364 Whakatāne 3158</p> <p>Email: mat.taylor@boprc.govt.nz</p> <p>Attention: Mat Taylor</p>
Christchurch City Council	<p>Delivery Address: Civic Offices 53 Hereford Street Christchurch</p> <p>Postal Address: P O Box 73016 Christchurch 8154</p> <p>Email: Treasury@ccc.govt.nz</p> <p>Attention: Andrew Jefferies</p>

PARTY	ADDRESS FOR NOTICES
Hamilton City Council	<p>Delivery Address: 260 Anglesea Street Council Building Garden Place Hamilton 3240</p> <p>Postal Address: Private Bag 3010 Hamilton 3240</p> <p>Email: david.bryant@hcc.govt.nz</p> <p>Attention: David Bryant</p>
Hastings District Council	<p>Delivery Address: 207 Lyndon Road East Hastings 4122</p> <p>Postal Address: Private Bag 9002 Hastings 4156</p> <p>Email: brucea@hdc.govt.nz</p> <p>Attention: Bruce Allan</p>
Masterton District Council	<p>Delivery Address: 27 Lincoln Road Masterton 5810</p> <p>Postal Address: PO Box 444 Masterton 5840</p> <p>Email: davidp@mstn.govt.nz</p> <p>Attention: Manager Finance</p>
New Plymouth District Council	<p>Delivery Address: Liardet St New Plymouth</p> <p>Postal Address: Private Bag 2025 New Plymouth 4342</p> <p>Email: alison.trustrumrainey@npdc.govt.nz / carla.freeman@npdc.govt.nz</p> <p>Attention: Alison TrustrumRainey / Carla Freeman</p>
Ōtorohanga District Council	<p>Delivery Address: 17 Maniapoto Street Ōtorohanga 3940</p>

PARTY	ADDRESS FOR NOTICES
	<p>Postal Address PO Box 11 Ōtorohanga 3940</p> <p>Email: <a href="mailto:grahamb@otodc.govt.nz">grahamb@otodc.govt.nz</a></p> <p>Attention: Graham Bunn</p>
Selwyn District Council	<p>Delivery Address: 2 Norman Kirk Drive Rolleston</p> <p>Postal Address: P O Box 90 Rolleston 7643</p> <p>Email: <a href="mailto:Treasury.management@selwyn.govt.nz">Treasury.management@selwyn.govt.nz</a></p> <p>Attention: Greg Bell</p>
South Taranaki District Council	<p>Delivery Address: 105-111 Albion Street Hawera 4610</p> <p>Postal Address: Private Bag 902 Hawera 4640</p> <p>Email: <a href="mailto:Vipul.mehta@stdc.govt.nz">Vipul.mehta@stdc.govt.nz</a></p> <p>Attention: Vipul Mehta</p>
Tasman District Council	<p>Delivery Address: 189 Queen Street, Richmond, Nelson 7050</p> <p>Postal Address Private Bag 4 Richmond, Nelson 7050</p> <p>Email: <a href="mailto:treasury@tasman.govt.nz">treasury@tasman.govt.nz</a></p> <p>Attention: Corporate Services Manager</p>
Taupo District Council	<p>Delivery Address: 72 Lake Terrace Taupo 3330</p> <p>Postal Address: Private Bag 2005 Taupo 3352</p> <p>Email: <a href="mailto:nward@taupo.govt.nz">nward@taupo.govt.nz</a></p> <p>Attention: Neil Ward</p>



PARTY	ADDRESS FOR NOTICES
	<p>Barkes Corner Greerton Tauranga</p> <p>Postal Address: Private Bag 12803 Tauranga 3143</p> <p>Email: kumaren.perumal@westernbay.govt.nz</p> <p>Attention: Kumaren Perumal</p>
Whangarei District Council	<p>Delivery Address: Forum North Rust Avenue Whangarei</p> <p>Postal Address: Private Bag 9023 Whangarei 0148</p> <p>Email: alan.adcock@wdc.govt.nz</p> <p>Attention: Alan Adcock</p>
New Zealand Government	<p>Delivery Address: Minister of Finance Parliament Buildings, Wellington</p> <p>And to: Minister of Local Government Parliament Buildings, Wellington</p> <p>With a copy to: William More, The Treasury, No 1 The Terrace Wellington 6011</p> <p>Postal Address: The Treasury, No 1 The Terrace Wellington 6011 Attention: William More</p> <p>Fax: 04 473 0982</p>