

EXPLANATORY NOTES AND DEED  
OF AMENDMENT OF CAPITAL  
BONDS TRUST DEED

7 JUNE 2013

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**THESE EXPLANATORY NOTES ARE PREPARED  
IN ACCORDANCE WITH, AND TO SATISFY THE  
CONDITIONS SET OUT IN, THE SECURITIES ACT  
(GENESIS POWER LIMITED) EXEMPTION NOTICE 2013.**  
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In 2011, Genesis Power Limited (**Genesis Energy**) issued subordinated, unsecured capital bonds that are listed on the NZDX (**Capital Bonds**). Genesis Energy is proposing to modify the terms of the Capital Bonds and each person registered as a holder of Capital Bonds (**Holder**) at the close of business on the Record Date (6 June 2013) who is also a New Zealand Holder must determine whether to:

- (a) retain their Capital Bonds; or
- (b) sell their Capital Bonds as part of the modification process described in these Explanatory Notes.

New Zealand Holders may also elect to acquire any additional Capital Bonds that might be offered for resale by Genesis Energy as part of the current process.

If you are not a New Zealand Holder on the Record Date then you will be deemed to have elected to have all of your Capital Bonds purchased by Genesis Energy and all of your Capital Bonds will be purchased automatically on the Initial Completion Date (15 July 2013).

#### **Investment Decision**

Each Holder's decision to retain, sell or acquire additional Capital Bonds is an investment decision. Investment decisions are very important. They often have long-term consequences. Read all documents carefully. Ask questions. Seek advice before committing yourself.

These Explanatory Notes do not take into account the individual investment objectives, financial situation or needs of any particular Holder. The information in the Explanatory Notes does not constitute financial product advice. Before deciding whether to retain, sell or apply for additional Capital Bonds, you should consider your individual risk profile for investments, investment objectives and personal circumstances (including financial and taxation issues). If you are in any doubt as to how to deal with these Explanatory Notes, you should consult your financial or other professional adviser.

#### **Other important information**

In addition to the information in this document, important information can be found in the:

- (a) registered trust deed for the Capital Bonds dated 7 April 2011, as amended on 25 September 2012 and 30 May 2013;
- (b) annual report for Genesis Energy for the financial year ended 30 June 2012;
- (c) interim report for Genesis Energy for the 6 months ended 31 December 2012; and
- (d) announcements made by Genesis Energy through the NZDX.

The trust deed for the Capital Bonds (including the amendments made to the trust deed) has been registered with the Companies Office (at [www.companiesoffice.govt.nz](http://www.companiesoffice.govt.nz)). Genesis Energy's annual reports, interim reports and the announcements referred to above are available on Genesis Energy's website (at [www.genesisenergy.co.nz](http://www.genesisenergy.co.nz)) and on the NZX website ([www.nzx.com](http://www.nzx.com)).

#### **Financial Markets Authority**

The Financial Markets Authority regulates conduct in New Zealand's financial markets. The Financial Markets Authority's main objective is to promote and facilitate the development of fair, efficient, and transparent financial markets.

For more information about investing, go to [www.fma.govt.nz](http://www.fma.govt.nz).

#### **Genesis Energy**

Genesis Energy is a state enterprise under the State Owned Enterprises Act. As such, all of its shares are held by Ministers of the Crown and on behalf of the Crown. Neither the Ministers nor the Crown guarantee the repayment of the Capital Bonds or the payment of interest on the Capital Bonds or any other aspect of the Capital Bonds or any of the obligations of Genesis Energy or any guarantor of the Capital Bonds.

#### **NZX**

The revised trust documents have been submitted to NZX Limited which has approved the amendments to those documents in accordance with NZDX Listing Rule 6.1. NZX Limited accepts no liability and takes no responsibility for any statement in the trust documents or these Explanatory Notes.

# PART 1 - INTRODUCTION

## Background to the modifications

On 23 May 2011 Genesis Energy issued \$275 million of unsecured, subordinated Capital Bonds under the trust deed dated 7 April 2011 (**Trust Deed**). The material provisions governing the Capital Bonds are contained in the Trust Deed itself and the conditions (**Existing Conditions**) set out in Schedule 2 of the Trust Deed. The Capital Bonds are listed on the NZDX and were assigned an issue credit rating of BB- by Standard & Poor's (Australia) Pty Limited (**Rating Agency**) at the time of issue. The trustee for the Capital Bonds is Trustees Executors Limited (**Trustee**).

The Capital Bonds were offered for subscription to the public in New Zealand (**Offer**) pursuant to an investment statement and prospectus, each dated 7 April 2011 (together, the **Offer Documents**). The terms of the Offer and the Capital Bonds were described in detail in the Offer Documents.

Capitalised terms used in these Explanatory Notes are, if not defined elsewhere, defined in Part 4.

## Rating Agency Event

At the time of issue, the Capital Bonds were assigned a "high" equity content classification by the Rating Agency, meaning that the Capital Bonds would be treated as 100% equity for financial analysis purposes by the Rating Agency.

On 2 April 2013, the Rating Agency advised Genesis Energy that due to a change in its hybrid criteria the Capital Bonds will no longer qualify for a "high" equity content classification. On the basis of the Rating Agency's published criteria, the Bonds will instead be assigned an "intermediate" equity content classification. This means that they would be treated as 50% equity for financial analysis purposes by the Rating Agency.

Under the Trust Deed, a "Rating Agency Event" occurs if Genesis Energy receives "advice from the Rating Agency that the Bonds no longer satisfy the criteria for receiving a High Equity Content classification from the Rating Agency". The advice from the Rating Agency referred to above has triggered a Rating Agency Event. This gives Genesis Energy the right to redeem all of the Capital Bonds at par plus accrued interest on the next Interest Payment Date (being 15 July 2013).

## Initial Election Process

Genesis Energy considers that it is desirable at this time to have in its capital structure intermediate equity content instruments which are unsecured and subordinated on terms appropriate for such bonds in current market conditions. To achieve this, Genesis Energy could redeem the Capital Bonds and issue new bonds on those terms. However, Genesis Energy has proposed (and the Trustee has agreed) to modify the Capital Bonds to, among other things:

- (a) introduce terms more appropriate for an intermediate equity content instrument; and
- (b) reduce the interest rate and margin of the Capital Bonds to be comparable with current market pricing for a newly issued intermediate equity content instrument.

The modification process will give New Zealand Holders a preferential right to remain invested in the modified Capital Bonds, which New Zealand Holders would not have if the Capital Bonds were redeemed and a new bond issue undertaken.

The process to implement the modifications to the Capital Bonds is set out below (the **Initial Election Process**). As part of the Initial Election Process, Genesis Energy will:

- (a) offer New Zealand Holders the ability to retain the modified Capital Bonds which they currently hold and, if they wish, acquire additional Capital Bonds (both subject to potential scaling, as noted below); and
- (b) for New Zealand Holders who do not wish to hold any modified Capital Bonds and all non-New Zealand Holders, purchase their Capital Bonds for their par value (being \$1.00 for each Capital Bond) plus all interest (less any applicable withholding taxes) owing to them. This is the same amount which would be payable to Holders if Genesis Energy were to redeem all the Capital Bonds in accordance with the Trust Deed on the basis of the Rating Agency Event mentioned above.

If valid elections are received from New Zealand Holders such that Genesis Energy will have more than \$200 million of Capital Bonds on issue, Genesis Energy may scale all those who wish to remain Holders of the Capital Bonds so that Genesis Energy has on issue, after scaling, approximately \$200 million of Capital Bonds. Only New Zealand Holders wanting to retain more than 5,000 Capital Bonds will have their Capital Bonds scaled and the number of Capital Bonds held by any New Zealand Holder will not be scaled to below 5,000. Genesis Energy will first scale applications for additional Capital Bonds and thereafter elections to retain modified Capital Bonds based on the number of Capital Bonds held immediately prior to the Initial Completion Date.

Genesis Energy and the Trustee have entered into a deed of amendment to amend the Trust Deed dated 30 May 2013 (Amendment Deed) to implement the Initial Election Process and the modifications to the Capital Bonds. A copy of the Amendment Deed is appended to these Explanatory Notes. Pursuant to clause 11.5(c) of the Trust Deed, Genesis Energy and the Trustee were permitted to amend the Trust Deed without the consent of Holders as, in the opinion of the Trustee, such modifications are not, and are not likely to become adverse to the interest of the Holders generally.

The Trustee determined that the modifications were not and were not likely to become adverse to the interest of the Holders generally on that basis that:

- (a) the Initial Election Process in effect gives New Zealand Holders a preferential right to remain invested in the modified Capital Bonds, which New Zealand Holders would not have if the Capital Bonds were redeemed and a new bond issue undertaken; and
- (b) each Holder has the ability to have their Capital Bonds purchased by Genesis Energy if they do not agree to the modifications.

### **Modifications to the Capital Bonds**

The modified terms and conditions that will apply to the Capital Bonds (**New Conditions**) are set out in Annex B to the Amendment Deed which is annexed to these Explanatory Notes.

The principal modifications to the Capital Bonds are:

- (a) a reduction in the interest rate applicable to the Capital Bonds until the First Reset Date from 8.50% p.a. to the higher of:
  - (i) 5.80% p.a.; and
  - (ii) the five year swap rate on 10 July 2013 plus the margin of 2.15%;
- (b) a reduction in the margin applicable to the Capital Bonds until the First Reset Date from 3.87% to 2.15%;
- (c) an extension to the First Reset Date from 15 July 2016 to 15 July 2018. On that date the margin will step-up by 0.25% (as is the case under the current terms of the Capital Bonds) unless the Capital Bonds are purchased or redeemed by Genesis Energy or a successful Election Process (see paragraph (f) below) is undertaken (in which case the margin will be determined through that process);
- (d) the introduction of a distribution stopper which requires Genesis Energy to suspend payments of any distributions or dividends to shareholders or holders of securities that rank equally with or lower than the Capital Bonds while any deferred interest on the Capital Bonds remains unpaid;
- (e) the amendment of the interest deferral terms. Currently interest payments on the Capital Bonds must be deferred if Genesis Energy's issuer credit rating falls to BB+ or below (as rated by the Rating Agency) or if Genesis Energy is insolvent or would become insolvent if it made the interest payment. The modified provisions will allow Genesis Energy to defer interest payments at any time, subject to the distribution stopper described above;
- (f) the provision of a mechanism (called an **Election Process**) for Genesis Energy to propose new terms and conditions for the Capital Bonds (at its discretion), prior to a Reset Date. Subject to the successful completion of an Election Process, the new terms and conditions will take effect on and from that Reset Date and all Holders who reject the new terms and conditions (by returning a completed election notice) would have their Capital Bonds either repurchased or redeemed by Genesis Energy on the same date. Holders who do not return a completed election notice would be deemed to have elected to retain their Capital Bonds;
- (g) an amendment to the definition of Rating Agency Event to refer to the loss of intermediate rather than high equity content; and
- (h) introduce provisions setting out the terms on which Genesis Energy may hold Capital Bonds as treasury stock.

It is expected that the Rating Agency will increase the issue credit rating of the Capital Bonds from "BB-" to "BB+" once the New Conditions come into effect. Genesis Energy will make an announcement to the market through NZX once the Rating Agency has made its decision.

## Timetable

Set out in the table below are the key dates applicable to the Initial Election Process.

<b>30 May 2013</b>	Amendment Deed executed by Genesis Energy and the Trustee to introduce the New Conditions.
<b>31 May 2013</b>	Trading Halt will apply to the Capital Bonds from the close of business.
<b>6 June 2013</b>	<b>Record Date for the Initial Election Process</b> Holders in the register at the close of business on this date will be entitled to participate in the Initial Election Process and will receive an Initial Election Notice.
<b>7 June 2013</b>	<b>Initial Election Process commences</b> Initial Election Notices and Explanatory Notes made available on Genesis Energy's website (at <a href="http://www.genesisenergy.co.nz">www.genesisenergy.co.nz</a> ) and thereafter despatched to Holders.
<b>3 July 2013</b> or such later date as notified by Genesis Energy	<b>Initial Notification Date</b> Holders must return their duly completed Initial Election Notices to Link Market Services Limited (the registrar for the Capital Bonds) by 5:00pm on this date.
<b>5 July 2013 - 10 July 2013</b>	<b>Purchase of Capital Bonds</b> Genesis Energy may arrange for a resale to other parties (including to Holders who have elected to apply for additional Capital Bonds) of some of the Capital Bonds that are required to be purchased on the Initial Completion Date.
<b>10 July 2013</b>	<b>Interest rate set</b> The interest rate applicable until the First Reset Date will be announced.
<b>15 July 2013</b>	<b>Initial Completion Date for Initial Election Process / Interest Payment Date</b> All Capital Bonds required to be purchased will be purchased on this date (at par plus accrued interest less any applicable withholding taxes). Holders who successfully applied for additional Capital Bonds will purchase those Capital Bonds. Interest is payable in respect of all Capital Bonds which have been retained by Holders. The New Conditions become effective. Once all other steps have been completed, the Trading Halt for the Capital Bonds expected to expire and the Capital Bonds expected to recommence trading on the NZDX (under the existing ticker GPLFA).
<b>20 July 2013</b>	By this date Genesis Energy will refund application monies to Holders who have unsuccessfully applied for additional Capital Bonds.

## Election to retain or sell Capital Bonds

If you are a New Zealand Holder and you wish to:

- (a) retain some or all of your Capital Bonds; or
- (b) in addition to retaining all of your Capital Bonds, apply for additional Capital Bonds that might be offered for resale by Genesis Energy as part of the Initial Election Process,

you must complete the Initial Election Notice enclosed with these Explanatory Notes and return it by 5:00pm on 3 July 2013.

If you do not wish to retain any of your Capital Bonds you do not need to do anything, in which case all of your Capital Bonds will be purchased by Genesis Energy on 15 July 2013. You will receive \$1.00 for each Capital Bond purchased plus interest owing to you less any applicable withholding taxes.

If you are not a New Zealand Holder on the Record Date then you will be deemed to have elected to have all of your Capital Bonds purchased by Genesis Energy and all of your Capital Bonds will be purchased automatically on the Initial Completion Date. You may not apply for additional Capital Bonds offered for resale by Genesis Energy. The ability to retain or acquire new Capital Bonds through the Initial Election Process is only available to Holders in New Zealand. No action has been or will be taken by Genesis Energy which would permit an offer or acquisition of the Capital Bonds through the Initial Election Process in any country or jurisdiction where action for that purpose is required (other than New Zealand).

## PART 2 - MODIFICATIONS TO THE CAPITAL BONDS

### Securities Act compliance

The modifications to the Capital Bonds described in these Explanatory Notes will constitute “securities” for the purposes of the Securities Act 1978 (**Act**). However, in accordance with the terms of the Securities Act (Genesis Power Limited) Exemption Notice 2013 (**Exemption Notice**), Genesis Energy is not required to prepare and register a prospectus or prepare an investment statement in connection with the modifications.

The exemptions granted in the Exemption Notice are subject to the condition that Genesis Energy provides a written statement containing the following information to each Holder that is registered at the close of business on the Record Date:

- (a) the terms of the modifications to the Capital Bonds; and
- (b) the purpose and effect of the modifications; and
- (c) the steps necessary to bring the modifications into effect; and
- (d) particulars of any other matters that are material to the modifications.

### Terms of the modifications to the Capital Bonds

The terms of the modifications to the Capital Bonds are set out in full in the New Conditions set out in Annex B of the Amendment Deed which is annexed to these Explanatory Notes and the principal modifications are summarised in Part 1 above.

### Purpose and effect of the modifications

Set out below are the principal modifications to the terms and conditions of the Capital Bonds, with a description of the purpose and effect of those modifications.

#### (a) Initial Election Process

The Initial Election Process is described in Part 1 above and set out in full in clause 4 of the New Conditions. The provisions relating to the Initial Election Process were introduced into the Trust Deed to allow the Initial Election Process to be conducted and permit the terms and conditions applicable to the Capital Bonds to be modified in the manner contemplated in these Explanatory Notes.

#### (b) Interest Rate and Margin

The interest rate applicable to the Capital Bonds is currently 8.50% p.a., and that interest rate was to apply until the current First Reset Date of 15 July 2016. On and from the Initial Completion Date, the interest rate will be the higher of (i) 5.80% p.a. and (ii) the five year swap rate on 10 July 2013 plus the margin of 2.15% and that interest rate will apply until the extended First Reset Date of 15 July 2018.

The margin applicable to the Capital Bonds is currently 3.87%. On and from the Initial Completion Date, the margin will be reduced to 2.15%.

The reductions in interest rate and margin are made to reflect pricing that Genesis Energy believes would be achieved in current market conditions for a newly issued intermediate equity content instrument. The reductions in the interest rate and margin will reduce the returns received by each Holder that retains Capital Bonds as part of the Initial Election Process or acquires Capital Bonds governed by the New Conditions.

#### (c) First Reset Date

The First Reset Date for the Capital Bonds is currently 15 July 2016. Under the New Conditions, the First Reset Date will be extended to 15 July 2018.

Genesis Energy has a right to redeem the Capital Bonds on the First Reset Date. Genesis Energy will now also have a right, but not an obligation, to propose (through the Election Process referred to below) that new terms and conditions apply to the Capital Bonds. If the Capital Bonds are not redeemed on the First Reset Date, and no Successful Election Process (as defined below) has been undertaken, the margin applicable to the Capital Bonds will increase by the Step-up Percentage (0.25%).

This change is required in order to ensure that the Capital Bonds retain their intermediate equity content classification. By extending the First Reset Date, Genesis Energy will extend the date on which a redemption right at the option of Genesis Energy occurs, and extend the date on which (potentially) the margin increases by the Step-up Percentage of 0.25%.

**(d) Distribution Stopper**

The Existing Conditions include no express restrictions on Genesis Energy paying distributions or dividends (although such restrictions may arise under the law generally).

The New Conditions require Genesis Energy to suspend payments of any distributions or dividends to shareholders or holders of securities that rank equally with or lower than the Capital Bonds while any deferred interest on the Capital Bonds remains unpaid.

This modification introduces a condition which is more appropriate for a newly issued intermediate equity content instrument. Such condition could not be included while the Capital Bonds were treated by the Rating Agency as having high equity content, but can now be included following the reclassification of the Capital Bonds.

**(e) Deferral of Interest**

Under the Existing Conditions an interest payment must be deferred if:

- (i) the issuer credit rating for Genesis Energy (as assigned by the Rating Agency) is BB+ or lower; or
- (ii) Genesis Energy is insolvent or would become insolvent if it made an interest payment.

Under the New Conditions, an interest payment can be deferred at any time the board of directors of Genesis Energy elect in their sole discretion to do so (**Deferred Interest Payment**). While any Deferred Interest Payment remains outstanding, the distribution stopper described above will apply.

Deferred Interest Payments remain cumulative and will accrue further interest at the interest rate until the Deferred Interest Payment is paid. Genesis Energy must pay all Deferred Interest Payments within five years of the date on which it deferred the first relevant interest payment.

The purpose of this modification is to amend the interest deferral mechanic in the Existing Conditions to one more appropriate for a newly issued intermediate equity content instrument. The modification changes the interest deferral provisions in the Capital Bonds from a mandatory to an optional provision, and expands the circumstances in which the deferral may be triggered (Genesis Energy has the ability to defer interest payments at any time, including when Genesis Energy has a credit rating above BB+). Any exercise of the optional interest deferral mechanic will affect each Holder's returns on the Capital Bonds.

However, the optional deferral is accompanied by the distribution stopper described above (which will apply if any deferred interest amount is unpaid).

**(f) Election Process**

A description of the subsequent Election Processes is set out in full in clause 5 of the New Conditions.

Under the Existing Conditions, Genesis Energy may redeem the Capital Bonds on any Reset Date. If the Capital Bonds are not redeemed, the interest rate applicable until the next Reset Date resets to the then swap rate plus the margin (with the margin increasing by the Step-up Percentage of 0.25% on the First Reset Date of 15 July 2016).

Under the New Conditions, Genesis Energy will have an additional option of offering new terms and conditions to Holders prior to each Reset Date through an Election Process. Under the Election Process, Holders can either accept and retain their Capital Bonds on the new terms and conditions, or reject the new terms and give Genesis Energy the option of repurchasing or redeeming their Capital Bonds at par plus accrued interest (that is, the same price a Holder would have received if their Capital Bonds had been redeemed). A **Successful Election Process** will only occur if Genesis Energy elects to repurchase or redeem all Capital Bonds held by Holders who reject the new terms and conditions.

To initiate an Election Process, Genesis Energy will, in the period commencing six months prior to a Reset Date and ending 30 Business Days prior to the Reset Date (**Invitation Period**), issue a notice (**Election Notice**) to each Holder proposing new terms and conditions to apply to the Capital Bonds on and from that Reset Date if a Successful Election Process is undertaken.

Each Holder will then have a period of not less than 15 Business Days to accept or reject the new terms and conditions. If a Holder does not return an Election Notice by the end of that period, the Holder will be deemed to have elected to retain all its Capital Bonds subject to the new terms and conditions. If a Holder returns an Election Notice, but does not indicate whether or not it elects to retain or sell all or part of their Capital Bonds, the Holder will be deemed to have elected to retain those Capital Bonds (subject to the new terms and conditions) in respect of which no such indication has been given. Following the expiry of that period, Genesis Energy will determine whether a Successful Election Process has been undertaken.

If Genesis Energy declares that a Successful Election Process has been undertaken, the new terms and conditions will take effect on and from the Reset Date and the Capital Bonds of all rejecting Holders must be repurchased or redeemed on the Reset Date at par plus accrued interest.

If Genesis Energy declares that a Successful Election Process has not occurred and does not redeem all the existing Capital Bonds, then each Election Notice will be deemed to be revoked and there will be no change to the terms and conditions of the Capital Bonds other than an increase to the margin of the Step-up Percentage (provided that the Step-up Percentage has not been added to the margin since the last Successful Election Process).

The purpose of the Election Process mechanism is to give Genesis Energy flexibility to propose new terms and conditions to apply to the Capital Bonds in the future. If those proposed terms and conditions are rejected by Holders, the Capital Bonds held by such Holders may be repurchased or redeemed.

#### **(g) Redemption on Tax Event or Rating Agency Event**

Under the Existing Conditions, Genesis Energy may redeem all (but not some only) of the Capital Bonds if a Tax Event or Rating Agency Event occurs.

Under the New Conditions, Genesis Energy may elect to redeem all or some of the Capital Bonds if a Tax Event or Rating Agency Event (as amended) occurs. Any partial redemption of Capital Bonds must be undertaken on an approximately proportionate basis.

This modification gives Genesis Energy flexibility to redeem a portion of the Capital Bonds, should it be desirable to do so if either a Tax Event or Rating Agency Event (as amended) occurs.

#### **(h) Definition of Tax Event and Rating Agency Event**

The definition of Tax Event will not change in the New Conditions. The definition of Rating Agency Event will be amended such that a Rating Agency Event will be triggered if the Bonds will no longer be assigned an intermediate equity content classification (rather than a high equity content classification).

This modification is necessary given the reclassification of the Capital Bonds.

#### **(i) Treasury Stock**

Under the Existing Conditions, Genesis Energy may purchase Capital Bonds for its own account which can then be cancelled.

Genesis Energy may be required or may elect to repurchase Capital Bonds, including as part of the Initial Election Process or any subsequent Election Process. Under the New Conditions Genesis Energy will be permitted to hold such Capital Bonds as treasury stock until such times as those Capital Bonds are sold or redeemed (which will be at Genesis Energy's discretion). Capital Bonds held by Genesis Energy as treasury stock will not accrue interest and will not entitle Genesis Energy to vote at Holder meetings, or be considered for the purpose of calculating quorum requirements at Holder meetings.

This modification would give Genesis Energy flexibility to deal with such Capital Bonds where a Holder has rejected the New Conditions proposed as part of an Election Process.

#### **Steps necessary to bring the modifications into effect**

To effect the modifications to the terms and conditions of the Capital Bonds contemplated by these Explanatory Notes, Genesis Energy and the Trustee entered into the Amendment Deed (a copy of which is annexed to these Explanatory Notes) to amend the terms of the Trust Deed. Pursuant to clause 11.5(c) of the Trust Deed, Genesis Energy and the Trustee were permitted to amend the Trust Deed in this manner without the consent of Holders as, in the opinion of the Trustee, such modifications are not, and are not likely to become adverse to the interest of the Holders generally.

Those amendments become effective in two stages. The first set of amendments set out in Annex A of the Amendment Deed, which permit Genesis Energy to propose the New Conditions to the Holders as part of the Initial Election Process, take effect from the date of the Amendment Deed (30 May 2013). The second set of amendments set out in Annex B of the Amendment Deed, pursuant to which the existing terms and conditions (including the first set of amendments) are replaced with the New Conditions, will take effect from the Initial Completion Date (15 July 2013).

#### **Particulars of any other matters that are material to the modifications**

##### **(a) Trading of the Capital Bonds**

The Capital Bonds trade on the NZDX. NZDX is a registered market operated by NZX Limited, which is a registered exchange regulated under the Securities Market Act 1988. Genesis Energy has applied for a Trading Halt to apply to the Capital Bonds and that Trading Halt commenced on 31 May 2013. It is expected that the Trading Halt will cease on the Initial Completion Date for the Initial Election Process (15 July 2013). Once the Trading Halt has ceased, Holders will be free to sell their Capital Bonds on the NZDX. The modified Capital Bonds will continue with the existing NZDX ticker - GPLFA.

##### **(b) Other information**

As the Capital Bonds are listed on the NZDX, Genesis Energy is subject to continuous disclosure obligations under the Listing Rules and is required to immediately disclose, subject to certain exceptions, information which is "Material Information" for the purposes of the Listing Rules. The definition of "Material Information" is set out in Part 4 of these Explanatory Notes.

All information which is relevant to Genesis Energy's ability to pay interest or repay principal on the Capital Bonds has been disclosed to the market via the NZX. Genesis Energy's latest financial statements can be accessed free of charge via its website at [www.genesisenergy.co.nz](http://www.genesisenergy.co.nz).

The Trust Deed (including the amendments made to the Trust Deed) has been registered with the Companies Office and is available free of charge at [www.companiesoffice.govt.nz](http://www.companiesoffice.govt.nz). Holders should note that historical information about the Capital Bonds is set out in the prospectus for the Capital Bonds dated 7 April 2011.

A copy of the prospectus (which has not been updated) may be accessed free of charge through the Companies Office website.



## PART 3 - OPTIONS FOR HOLDERS

### New Zealand Holders

New Zealand Holders have three election options available to them (described as options A, B and C in the table below), or may do nothing (option D in the table below).

If you wish to select option A, B or C (described in the table below) you must complete the enclosed Initial Election Notice to indicate which option you have chosen and return it to Genesis Energy's bond registrar, Link Market Services Limited (**Link**) or your usual financial adviser in time for your financial adviser to provide it to Link. The Initial Election Notice must be received by Link no later than 5:00pm on 3 July 2013. Contact details for Link are set out on page 9. You must also confirm your address details and give the confirmation and declaration specified in the Initial Election Notice. Initial Election Notices may be returned by post or scanned and emailed to Link.

**If you do nothing you will be deemed to have elected to have all your Capital Bonds purchased by Genesis Energy. You will receive the par value (\$1.00) and interest owing to you (less any applicable withholding taxes) on the Initial Completion Date (15 July 2013).**

### Minimum Holding and Scaling

If you elect to retain some or all of your Capital Bonds the amount retained must be 5,000 or more and a multiple of 1,000. If the number of Capital Bonds you elect to retain is less than 5,000 then you will **not** be entitled to retain those Capital Bonds and those Capital Bonds will be purchased by Genesis Energy. If the number of Capital Bonds stipulated to be retained or acquired is not a multiple of 1,000, then you will be rounded down to the nearest multiple of 1,000 and, in respect of elections to retain, you will be deemed to have elected to sell the remainder.

If existing New Zealand Holders in aggregate elect to retain more than 200,000,000 Capital Bonds then some of the Capital Bonds that you elected to retain may be purchased by Genesis Energy with the effect that Genesis Energy will have approximately 200,000,000 Capital Bonds outstanding on and following the Initial Completion Date. Only New Zealand Holders retaining more than 5,000 Capital Bonds will be so scaled and the number of Capital Bonds to be retained by any one New Zealand Holder will not be reduced below 5,000 as part of that scaling process. Genesis Energy will first scale applications for additional Capital Bonds and thereafter elections to retain modified Capital Bonds based on the number of Capital Bonds held immediately prior to the Initial Completion Date.

### Refund

On or prior to 20 July 2013, Genesis Energy will refund (without interest) application monies to those Holders who unsuccessfully applied for additional Capital Bonds.

### Options for New Zealand Holders

Option	Action	Action	What To Do
<b>Option A</b>	Retain all Capital Bonds	The New Conditions will apply to all of the Capital Bonds held. If existing Holders elect to retain more than 200,000,000 Capital Bonds then you may be scaled to less than your current holding.	Send in a duly completed Initial Election Notice no later than 5:00pm on 3 July 2013.
<b>Option B</b>	Retain all Capital Bonds and apply to purchase additional Capital Bonds.	The New Conditions will apply to all of the Capital Bonds held and any additional Capital Bonds purchased. If existing Holders elect to retain more than 200,000,000 Capital Bonds then you may be scaled to less than your current holding.	Send in a duly completed Initial Election Notice together with a cheque for the Principal Amount of the additional Capital Bonds to be purchased no later than 5:00pm on 3 July 2013.

Option (Continued)	Action	Action	What To Do
<b>Option C</b>	Elect to retain some Capital Bonds with the balance to be purchased by Genesis Energy.	Subject to minimum hold requirements, you will retain the number of Capital Bonds nominated in your Initial Election Notice.  The New Conditions will apply to the Capital Bonds retained by you.  Genesis Energy will purchase the balance of the Capital Bonds.  Note that if existing Holders elect to retain more than 200,000,000 Capital Bonds then you may be scaled to less than your desired holding.	Send in a duly completed Initial Election Notice detailing the number of Capital Bonds to be retained by you no later than 5:00pm on 3 July 2013.
<b>Option D</b>	Do nothing.	All your Capital Bonds will be purchased by Genesis Energy.	Do nothing.

#### Non-New Zealand Holders

If you are not a New Zealand Holder on 6 June 2013 then you will be deemed to have elected to have all of your Capital Bonds purchased by Genesis Energy and all of your Capital Bonds will be purchased automatically on the Initial Completion Date (15 July 2013) for an amount equal to the par value and any interest owing to you (less any applicable withholding taxes).

#### Information for Holders

If you have any doubts as to what you should do, you should contact your usual financial adviser. If you have any queries regarding the procedure for making your election to retain or sell Capital Bonds as part of the Initial Election Process you should contact Link as bond registrar in any manner stated below:

#### Link Market Services Limited

Level 16, Brookfields House  
19 Victoria Street West, Auckland 1010  
PO Box 91976  
AUCKLAND 1142  
Phone: +64 9 375 5998  
Fax: +64 9 375 5990  
Email: [enquiries@linkmarketservices.com](mailto:enquiries@linkmarketservices.com)  
or any member of the election process management syndicate.

#### Structuring Adviser and Joint Lead Arranger

Craigs Investment Partners Limited  
0800 226 263  
[www.craigsip.com](http://www.craigsip.com)

#### Joint Lead Arranger

Forsyth Barr Limited  
0800 367 227  
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## PART 4 - GLOSSARY

**“Act”** means the Securities Act 1978.

**“Amendment Deed”** means the deed of amendment dated 30 May 2013 entered into by Genesis Energy and the Trustee to amend the Trust Deed to implement the Initial Election Process and the modifications to the Capital Bonds.

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

**“Capital Bonds”** means the subordinated, unsecured capital bonds issued by Genesis Energy that are listed on the NZDX.

**“Credit Rating”** means, in relation to Genesis Energy at any time, the issuer credit rating granted by the Rating Agency at that time to Genesis Energy.

**“Deferred Interest Payment”** means an interest payment which is deferred in accordance with the terms of the Trust Deed.

**“Election Process”** means the election process described in paragraph (f) of Part 2 of these Explanatory Notes.

**“Exemption Notice”** means the Securities Act (Genesis Power Limited) Exemption Notice 2013.

**“Existing Conditions”** means the material provisions governing the Capital Bonds contained in the Trust Deed itself and the conditions set out in Schedule 2 to the Trust Deed.

**“Explanatory Notes”** means this document.

**“First Reset Date”** means:

- (a) under the Existing Conditions, 15 July 2016; and
- (b) under the New Conditions, 15 July 2018.

**“Genesis Energy”** means Genesis Power Limited.

**“Holder”** means each person registered as a holder of Capital Bonds.

**“Initial Completion Date”** means 15 July 2013.

**“Initial Election Notice”** means the notice sent to Holders as part of the Initial Election Process.

**“Initial Election Process”** means the process described in Part 1 of these Explanatory Notes.

**“Interest Payment Date”** means 15 January, 15 April, 15 July and 15 October of each year commencing on 15 July 2011.

**“Intermediate Equity Content”** means, in relation to securities, an equity content of “intermediate” has been assigned to the securities by the Rating Agency.

**“Link”** means Genesis Energy’s bond registrar, Link Market Services Limited.

**“Listing Rules”** means the NZDX Listing Rules in force from time to time.

**“Material Information”** in relation to an Issuer (as that term is defined in the Listing Rules) is information that:

- (a) a reasonable person would expect, if it were generally available to the market, to have a material effect on the price of Quoted Securities (as that term is defined in the Listing Rules) of the Issuer; and
- (b) relates to particular securities, a particular Issuer, or particular Issuers, rather than to securities generally or Issuers generally.

For the purposes of this definition information is generally available to the market:

- (c) if:
  - (i) it is information that has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in relevant securities; and
  - (ii) since it was made known, a reasonable period for it to be disseminated among those persons has expired; or
- (d) if it is likely that persons who commonly invest in relevant securities can readily obtain the information (whether by observation, use of expertise, purchase from other persons, or any other means); or
- (e) if it is information that consists of deductions, conclusions, or inferences made or drawn from either or both of the kinds of information referred to in paragraphs (c) and (d).

In this definition, relevant securities means securities of a kind the price of which might reasonably be expected to be affected by the information. Information that is notified to NZX for disclosure to the market in accordance with the Listing Rules is generally available to the market under paragraph (c) of this definition immediately on it being made available to the market (without limiting how quickly the reasonable period of dissemination in paragraph (c)(ii) of this definition may be satisfied in other cases).

**“New Conditions”** means the modified terms and conditions that will apply to the Capital Bonds, set out in Annex B to the Amendment Deed which is appended to these Explanatory Notes.

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

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

and has provided the confirmations and declarations required in the Initial Election Notice in connection therewith.

**“Offer”** means the offer of the Capital Bonds for subscription to the public in New Zealand pursuant to the Offer Documents.

**“Offer Documents”** means the investment statement and prospectus relating to the Capital Bonds, each dated 7 April 2011.

**“Rating Agency”** means Standard & Poor’s (Australia) Pty Limited.

**“Rating Agency Event”** means:

- (a) receipt by the Issuer of advice from the Rating Agency that the Bonds no longer satisfy the criteria for receiving a High Equity Content classification from the Rating Agency; or
- (b) the Issuer ceases to hold a Credit Rating.

**“Record Date”** means:

- (a) in relation to a payment made under clause 2 of the Trust Deed, the date which is 10 calendar days before the due date for the payment; and
- (b) in relation to the Initial Election Process, 6 June 2013; and
- (c) in relation to an Election Process, the date which is two Business Days prior to the date on which the applicable Election Notice is given,

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

**“Reset Date”** means:

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

**“Step-up Percentage”** means 0.25%.

**“Successful Election Process”** means an Election Process in respect of which Genesis Energy has confirmed that it will repurchase or redeem all Capital Bonds held by Holders that have elected to sell their Capital Bonds, or in respect of which no declaration is made that a Successful Election Process has not occurred by the date which falls five Business Days after the date on which Holders were required to return their Election Notices.

**“Tax Event”** means the receipt by the Issuer of an opinion from a reputable legal counsel, or other tax adviser (such tax adviser to be acceptable to the Trustee) that, as a result of:

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

in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective or such pronouncement or decision is announced on or after the first Issue Date the interest payable on the Capital Bonds, including interest which has been deferred, is not fully deductible under the New Zealand Income Tax Act 2007.

**“Trading Halt”** means a temporary suspension in the trading of the Capital Bonds on the NZDX.

**“Trust Deed”** means the trust deed dated 7 April 2011 under which Genesis Energy issued \$275 million of unsecured, subordinated Capital Bonds.

**“Trustee”** means Trustees Executors Limited in its capacity as trustee for the Capital Bonds.

# APPENDIX

## AMENDMENT DEED FOR CAPITAL BONDS TRUST DEED

DEED dated 30 May 2013

### PARTIES

**GENESIS POWER LIMITED (“Issuer”)**

**THE PARTIES LISTED IN SCHEDULE 1 (“Guarantors”)**

**TRUSTEES EXECUTORS LIMITED** in its capacity as trustee for the Bonds under the Trust Deed (as defined below) (“Trustee”)

### INTRODUCTION

- A. The Issuer issued unsecured, subordinated bonds under the Trust Deed (“Bonds”).
- B. On 2 April 2013, the Rating Agency advised the Issuer that due to a change in its hybrid criteria the Bonds will no longer qualify for “high” equity content classification. On the basis of the Ratings Agency’s published criteria, the Bonds will instead be assigned an “intermediate” equity content classification.
- C. The advice from the Rating Agency referred to above triggered a Rating Agency Event. Under the Conditions, a Rating Agency Event gives the Issuer the right to redeem all (but not some only) of the Bonds.
- D. Instead of redeeming the Bonds and issuing new hybrid securities with intermediate equity content classification, the Issuer now proposes to make certain modifications to the Conditions and the Trust Deed. The modifications include:
  - (a) the introduction of a mechanism by which the Issuer will propose new terms and conditions that would apply to the Bonds (“Initial Election Process”). The introduction of this mechanism is to become effective on the date of this deed and the terms and conditions of the mechanism are set out in Annex A to this deed; and
  - (b) replacement of the Conditions with the new terms and conditions (“New Conditions”) set out in Annex B to this deed. These modifications will become effective on completion of the Initial Election Process.
- E. Under clause 11.5(c) of the Trust Deed, the Trustee may concur with the Issuer in making any modification to the Trust Deed or the Conditions if, in the opinion of the Trustee, the modification is not, and is not likely to become, adverse to the interests of the Holders generally.
- F. The modifications to the Conditions and the Trust Deed described in Recital D are not, and are not likely to become, adverse to the interests of the Holders generally as Holders have the option to either retain their Bonds subject to the New Conditions after the Initial Election Process or to have their Bonds purchased by the Issuer. Accordingly, each Holder that agrees to retain their Bonds subject to the New Conditions has thereby expressly agreed to the New Conditions.

## AGREEMENT

### 1. INTERPRETATION

1.1 In this deed (including in the Recitals):

“**Completion Date**” means 15 July 2013.

“**Trust Deed**” means the Capital Bonds Trust Deed dated 7 April 2011 between the Issuer, the Trustee and the Guarantors.

1.2 Words and expressions defined in the Trust Deed have, except to the extent the context requires otherwise, the same meaning in this deed (including in the Recitals).

1.3 In this deed, unless the context indicates a contrary intention:

- (a) headings are inserted for convenience only and do not affect the interpretation of this deed;
- (b) words importing the singular include the plural and vice versa, and words denoting individuals include other persons and vice versa;
- (c) a reference to any document includes reference to that document as modified, novated, supplemented, varied or replaced from time to time; and
- (d) a reference to any party to this deed or any other document includes its successors and permitted assigns.

### 2. AMENDMENT

2.1 With effect from the date of this deed, and in accordance with clause 11.5 of the Trust Deed, the Conditions and the Trust Deed are modified in the manner set out in Annex A.

2.2 With effect from the Completion Date, and in accordance with clause 11.5 of the Trust Deed, the Conditions in Schedule 2 of the Trust Deed shall be deleted and replaced with the new terms and conditions set out in Annex B.

### 3. GENERAL

3.1 Except to the extent modified by this deed, the Trust Deed and the Conditions each remains in full force and effect.

### 4. GUARANTORS CONSENT

4.1 Each Guarantor consents to the modifications to the Trust Deed and the Conditions that will be effected by this deed and confirms that it is bound by the Trust Deed as modified by this deed and any new conditions that may apply to the Bonds in accordance with an election procedure undertaken in accordance with the terms of the Trust Deed as modified by this deed.

### 5. REPRESENTATIONS

5.1 Each Obligor repeats the representations and warranties contained in clause 9.1 of the Trust Deed on the date of this deed and will be deemed to make the representations and warranties in that clause on the Completion Date, in each case by reference to the facts and circumstances existing on the relevant date and as if references to “this deed” in that clause were references to this deed.

### 6. COUNTERPARTS

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

### 7. DELIVERY

7.1 For the purposes of section 9 of the Property Law Act 2007 and without limiting any other mode of delivery, this deed will be delivered by the Issuer and Guarantors (the “**Obligors**”) immediately on the earlier of:

- (a) physical delivery of an original of this deed, executed by that Obligor, into the custody of the Trustee or the Trustee’s solicitors; or
- (b) transmission by that Obligor or its solicitors of a facsimile, photocopied or scanned copy of an original of this deed, executed by that Obligor, to the Trustee or the Trustee’s solicitors.

### 8. GOVERNING LAW

8.1 This deed shall be governed by and construed in accordance with New Zealand law.

8.2 The parties submit to the non-exclusive jurisdiction of the New Zealand courts.

# SCHEDULE 1

## Guarantors

GENESIS POWER INVESTMENTS LIMITED

GP NO.1 LIMITED

GP NO.2 LIMITED

GP NO.5 LIMITED

KINLEITH COGENERATION LIMITED

KUPE HOLDINGS LIMITED

—  
**ANNEX A**  
**INITIAL MODIFICATIONS**  
—

**1. The following changes are made to Schedule 2 of the Trust Deed:**

(a) A new definition of “Amendment Deed” is added as follows:

“**Amendment Deed**” means the amendment deed dated on or about 30 May 2013 between the Issuer and the Trustee.

(b) A new definition of “Initial Completion Date” is added as follows:

“**Initial Completion Date**” means 15 July 2013.

(c) A new definition of “Initial Election Notice” is added as follows:

“**Initial Election Notice**” has the meaning given in clause 3A.1.

(d) A new definition of “Initial Election Process” is added as follows:

“**Initial Election Process**” means the process described in clause 3A.

(e) A new definition of “New Conditions” is added as follows:

“**New Conditions**” means the new conditions applicable to the Bonds set out in the Initial Election Notice.

(f) A new definition of “New Zealand Holder” is added as follows:

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

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

(g) A new definition of “Repurchase Price” is added as follows:

“**Repurchase Price**” has the meaning given in clause 3A.2(d).

(h) A new definition of “Resale Facility” is added as follows:

“**Resale Facility**” means the facility for the resale of the Bonds established in accordance with clause 3A.3 in connection with the Initial Election Process.

(i) A new definition of “Record Date” is added as follows:

“**Record Date**” means:

- (a) in relation to a payment made under clause 2, the date which is 10 calendar days before the due date for the payment; and,
- (b) in relation to the Initial Election Process, 6 June 2013, and if that date is not a Business Day, the preceding Business Day, or such other date as may be required by NZX.

(j) A new clause 3A is added as follows:

**3A. INITIAL ELECTION PROCESS**

**3A.1 Initial Election Notice:** Within ten Business Days of the date of the Amendment Deed, the Issuer must issue a notice to Holders entered in the Register at the close of business on the Record Date for the Initial Election Process (“**Initial Election Notice**”). The Initial Election Notice (including any explanatory notes accompanying that notice) will include:

- (a) the date by which a duly completed Initial Election Notice must be returned to the Issuer (the “**Initial Notification Date**”);
- (b) the date on which the Repurchase Price (as defined below) will be paid to relevant Holders pursuant to clause 3A.2(d), being the Initial Completion Date;
- (c) the Margin and the minimum Interest Rate applicable to the Bonds from the Initial Completion Date;
- (d) the First Reset Date;
- (e) the New Conditions that are to apply to the Bonds with effect from the Initial Completion Date; and
- (f) the process by which Holders may, should they wish to do so, acquire any additional Bonds which might be offered for sale by the Issuer through the Initial Election Process.



**3A.2 Holder's election to retain or sell:**

- (a) Each Holder may, on or prior to the Initial Notification Date, complete and sign the Initial Election Notice and return it to the Issuer in the manner described in the Initial Election Notice.
- (b) The Initial Election Notice will provide for a Holder to indicate:
- (i) **Retain Bonds:** the Bonds in respect of which the Holder accepts the New Conditions set out in the Initial Election Notice (which may include some or all of the Bonds held by that Holder as at the applicable Record Date);
  - (ii) **Additional Bonds:** whether the Holder wishes to acquire additional Bonds through the Initial Election Process;
  - (iii) **Sell Bonds:** the Bonds which the Holder wishes to sell through the Initial Election Process; and
  - (iv) **Other:** such other information as the Issuer may require.
- (c) If:
- (i) **No election indicated:** the Issuer receives an Initial Election Notice but the Initial Election Notice does not indicate whether or not the Holder elects to retain or sell all or some of their Bonds through the Initial Election Process; or
  - (ii) **No Initial Election Notice received:** the Issuer does not receive a properly completed Initial Election Notice from the Holder on or before the Initial Notification Date; or
  - (iii) **Minimum remaining Bonds:** the Issuer receives an Initial Election Notice, but implementation of the election made by the Holder would result in him or her remaining a Holder of Bonds with an aggregate Principal Amount of less than the Minimum Holding; or
  - (iv) **Overseas Holders:** a Holder has elected to retain some or all of their Bonds through the Initial Election Process but the Holder has not or is unable to provide the Issuer with the evidence required to satisfy the Issuer that the Holder is a New Zealand Holder; or
  - (v) **Multiple of 1,000:** the Issuer receives an Initial Election Notice and the Holder has elected to:
    - (aa) retain some of its Bonds, but the number to be retained is not an integral multiple of 1,000; or
    - (bb) acquire additional Bonds, but the number to be acquired is not an integral multiple of 1,000,
- then:
- (vi) in the case of (i) above, the Holder will be deemed to have elected to sell such number of such Bonds in respect of which no such indication has been given;
  - (vii) in the case of (ii) or (iii) above, the Holder will be deemed to have elected to sell all of the Bonds held by it;
  - (viii) in the case of (iv) above, the Issuer will have an absolute discretion to treat such Holder as having elected to sell all Bonds held by it; and
  - (ix) in the case of (v) above, in either case the Issuer will round the number of Bonds down to the nearest integral multiple of 1,000.
- (d) Any Bond that a Holder has elected to sell, or is deemed to have elected to sell, under this clause 3A.2 must be purchased by the Issuer on the Initial Completion Date for an amount equal to the sum of:
- (i) the Issue Price;
  - (ii) any Unpaid Interest on that Bond; and
  - (iii) any Interest Payment scheduled to be paid on the Initial Completion Date,
- (the sum of sub-paragraphs (i) - (iii) above being for the purposes of this clause 3A the "**Repurchase Price**").
- (e)
- (i) No deductions or withholdings on account of commissions, brokerage or otherwise will be made from any payment of the Repurchase Price made to the relevant Holder in accordance with clause 3A.2(d), other than deductions or withholdings required by law.
  - (ii) For the avoidance of doubt, payment of the Repurchase Price by the Issuer on the Initial Completion Date shall satisfy the Issuer's obligation to pay interest on any Bonds that a Holder has elected to sell, or is deemed to have elected to sell, pursuant to this clause 3A.2.
  - (iii) If a Holder has elected to retain some or all of its Bonds (and has not, for the avoidance of doubt, been deemed to have elected to sell all of its Bonds pursuant to this clause 3A.2), the Issuer shall pay all interest due on those retained Bonds on the Initial Completion Date to the Holder whose name is on the Register on the Record Date for that Interest Payment Date (who will be the same Holders registered on the Record Date for the Initial Election Process as the Register will be closed from that earlier Record Date until the Initial Completion Date).
- (f) The purchase price for each additional Bond offered for sale by the Issuer will be an amount equal to the Issue Price. Any additional Bonds that are successfully purchased by a Holder will be transferred to that Holder on the Initial Completion Date. The Issuer will refund application monies (without interest) to Holders who unsuccessfully applied for additional Bonds within five Business Days of the Initial Completion Date.

**3A.3 Process:**

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

**3A.4 Acceptance of New Conditions:** As from the Initial Completion Date, the Bonds shall be deemed to be amended by incorporation into the Conditions of the New Conditions applicable thereto as if such New Conditions were expressly set out in the Conditions.

**3A.5 Power of attorney:** Each Holder irrevocably appoints the Issuer and any director or person from time to time nominated by the Issuer (each an **"Appointed Person"**) severally to be the attorney of the Holder and the agent of the Holder with power in the name and on behalf of the Holder to do all such acts and things including signing all documents or transfers as may in the opinion of the Appointed Person be necessary or desirable to be done in order to record or perfect the purchase of the Bonds by the Issuer in accordance with clause 3A.2(d).

**3A.6 Mandatory purchase:**

- (a) If on the Initial Notification Date it is determined by the Issuer that the aggregate Principal Amount of Bonds that Holders have elected to retain, is more than \$200,000,000, the Issuer may purchase that number of Bonds as would be required to ensure that, following such purchase, the aggregate Principal Amount of Bonds on issue to investors immediately following the Initial Completion Date does not exceed \$200,000,000.
- (b) Any Bonds purchased by the Issuer in accordance with clause 3A.6(a) will be purchased from Holders on an approximately proportionate basis based on the number of Bonds held immediately prior to the Initial Completion Date, provided that the Issuer shall ensure that the number of Bonds to be retained by any one Holder will not be reduced below the Minimum Holding.
- (c) The Issuer must pay an amount equal to the Repurchase Price for each Bond purchased pursuant to clause 3A.6(a) on the Initial Completion Date, unless such amount has already been paid by the Issuer in respect of such Bonds pursuant to clause 3A.2.

**3A.7 Entitlements:** The Register will be closed as of close of business on the Record Date for the Initial Election Process and will remain closed until the Initial Completion Date.

## ANNEX B

# NEW CONDITIONS - SCHEDULE 2 OF THE TRUST DEED

### 1. DEED

- 1.1 **Deed binding:** The terms and conditions from time to time applicable to the Bonds are set out in this schedule 2. These Conditions are subject to and form part of the provisions of the trust deed dated 7 April 2011 (as amended pursuant to the Amendment Deed and from time to time, "**Deed**") between Genesis Power Limited as issuer, the Guarantors as defined therein and Trustees Executors Limited as trustee.
- 1.2 **Notice of deed:** Holders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Deed.
- 1.3 Interpretation:
- (a) Unless otherwise specified, a reference to a clause is a reference to a clause of these Conditions.
  - (b) Terms defined in the Deed have the same meanings in these Conditions.
- 1.4 **Definitions:** In these Conditions unless the context otherwise requires:
- "Accrued Interest"** has the meaning given in clause 2.3.
- "Administrative Action"** means any judicial decision, official administrative pronouncement, published or private ruling, response to application for a ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt a procedure or regulation).
- "Amendment Deed"** means the amendment deed dated on or about 30 May 2013 between the Issuer and the Trustee.
- "Appointed Person"** has the meaning given in clause 4.5.
- "Calculation Period"** means the period from (and including) a Reset Date (or the Issue Date in the case of the first Calculation Period) to (but excluding) the next Reset Date.
- "Change of Control"** means:
- (a) the Shareholding Ministers hold, whether directly or indirectly, 50% or less of the issued ordinary voting share capital of the Issuer; or
  - (b) the Shareholding Ministers cease to be able to nominate and appoint at least 50% of the directors of the board of the Issuer; or
  - (c) the Shareholding Ministers cease to control, whether directly or indirectly, the exercise of more than 50% of the maximum number of votes that can be exercised at a shareholders meeting of the Issuer.
- "Change of Control Announcement"** means any formal public announcement or statement by or on behalf of the Issuer or the Shareholding Ministers, or any actual or potential bidder or adviser of the Issuer or the Shareholding Ministers, relating to any potential Change of Control.
- "Change of Control Period"** means the period:
- (a) commencing on the date that is the earlier of:
    - (i) the date of the relevant Change of Control; and
    - (ii) the date of the earliest Change of Control Announcement; and
  - (b) ending 90 days after the Date of Announcement.
- "Credit Rating"** means, in relation to the Issuer at any time, the issuer credit rating granted by the Rating Agency at that time to the Issuer.
- "Date of Announcement"** means the date of public announcement by or on behalf of the Issuer or the Shareholding Ministers that a Change of Control has occurred.
- "Deferral Date"** has the meaning given in clause 2.3.
- "Deferred Interest Payment"** has the meaning given in clause 2.2.
- "Election Notice"** has the meaning given in clause 5.1.
- "Election Process"** means the process described in clause 5.
- "Event of Default"** means any of the following events:
- (a) the Issuer fails to pay any Unpaid Interest on a Mandatory Unpaid Interest Payment Date in accordance with clause 2.4(b); or
  - (b) the Issuer fails to comply with clause 2.6; or
  - (c) the Issuer fails to give a Holder Put Event Notice to Holders and the Trustee in accordance with the requirements in clause 3.7; or
  - (d) the Issuer fails to pay the amount payable on redemption of the Bonds under clause 3.8; or

(e) the Issuer fails to pay the Repurchase Price for the Bonds in connection with the Initial Election Process when required under clause 4 or in connection with an Election Process when required under clause 5; or

(f) an Insolvency Event occurs in respect of the Issuer.

**"First Interest Payment Date"** means 15 July 2011.

**"First Reset Date"** means 15 July 2018.

**"Holder Put Event"** means the occurrence of a Change of Control and a Rating Downgrade.

**"Holder Put Event Notice"** has the meaning given in clause 3.7.

**"Independent Adviser"** means an adviser appointed pursuant to clause 1.5.

**"Initial Completion Date"** means 15 July 2013.

**"Initial Election Notice"** has the meaning given in clause 4.1.

**"Initial Election Process"** means the process described in clause 4.

**"Initial Notification Date"** has the meaning given in clause 4.1.

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

(a) the Commencement of Liquidation; or

(b) an encumbrancer takes possession or a trustee, receiver, receiver/and manager, administrator inspector under any companies or securities legislation, or similar official is appointed in respect of the Issuer.

**"Insolvent"** means that an entity does not satisfy the solvency test contained in section 4 of the Companies Act.

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

**"Interest Payment Date"** means 15 April, 15 July, 15 October and 15 January each year commencing on 15 July 2011.

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

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

**"Intermediate Equity Content"** means, in relation to securities, an equity content of "intermediate" has been assigned to the securities by the Rating Agency.

**"Issue Date"** means, in relation to a Bond, the date on which the Bond is issued as recorded for that Bond in the Register.

**"Issue Price"** means \$1.00 in respect of each Bond.

**"Issuer Notice"** has the meaning given in clause 3.4.

**"Joint Lead Managers"** means Craigs Investment Partners Limited, ANZ National Bank Limited, Westpac Institutional Bank (a division of Westpac Banking Corporation) and Forsyth Barr Limited.

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

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

**"Margin"** has the meaning given in clause 2.1.

**"Maturity Date"** means 15 July 2041.

**"Minimum Holding"** has the meaning given in clause 6.4.

**"Minimum Interest Rate"** means the rate determined on the Minimum Rate Set Date by the Issuer in consultation with the Joint Lead Managers and announced by the Issuer.

**"Minimum Rate Set Date"** means the date on or before the Opening Date for the Offer on which the Minimum Interest Rate and the Margin are determined by the Issuer in consultation with the Joint Lead Managers.

**"Minimum Transfer Amount"** has the meaning given in clause 6.4.

**"New Conditions"** means the new conditions applicable to the Bonds set out in the Initial Election Notice or an Election Notice, as the case may be.

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

(a) a valid New Zealand IRD number;

(b) a valid New Zealand bank account number; and

(c) a New Zealand address.

**"Notification Date"** has the meaning given in clause 5.1.

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

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

**"Opening Date"** means 15 April 2011 or such other date that the Issuer may determine.

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

**“Rate Set Date”** means the date on which the Issuer announces the Interest Rate for the first Calculation Period following the close of the Offer.

**“Rating Agency”** means Standard & Poor’s (Australia) Pty Limited or its successors.

**“Rating Agency Event”** means:

- (a) receipt by the Issuer of advice from the Rating Agency that, as a result of a change in criteria, the Bonds will no longer be assigned an Intermediate Equity Content classification from the Rating Agency; or
- (b) the Issuer ceases to hold a Credit Rating.

**“Rating Downgrade”** means, that within the Change of Control Period:

- (a) the Issuer ceases to hold a Credit Rating; or
- (b) the Credit Rating assigned to the Issuer is lowered by the Rating Agency (and for the avoidance of doubt, a change to the rating outlook does not constitute a change to the Credit Rating) and the lowered Credit Rating is lower than BBB+ (or equivalent thereof) in the case of the Rating Agency or the nearest equivalent in the case of any other rating agency, provided that no Rating Downgrade will occur by virtue of a particular withdrawal or lowering of rating within the Change of Control Period unless the Rating Agency:
  - (c) confirms that the withdrawal or reduction was the result, in whole or in part, of the relevant Change of Control; and
  - (d) does not reinstate the rating applied prior to the withdrawal or lowering prior to the end of the Change of Control Period.

**“Record Date”** means:

- (a) in relation to a payment made under clause 2, the date which is 10 calendar days before the due date for the payment; and
- (b) in relation to the Initial Election Process, 6 June 2013; and
- (c) in relation to an Election Process, the date which is two Business Days prior to the date on which the applicable Election Notice is given,

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

**“Redemption”** means the redemption of a Bond in accordance with clause 3, and **“Redeem”** or **“Redeemable”** have corresponding meanings.

**“Redemption Date”** means the Maturity Date or such earlier date on which Redemption is to occur in accordance with clause 3.

**“Repurchase Price”** has the meaning given in clause 4.2(d) for the purposes of clause 4 only, and the meaning given in clause 5.5(a) for the purposes of clause 5 only.

**“Resale Facility”** means the facility for the resale of the Bonds established in accordance with clause 4.3 or clause 5.6 in connection with the Initial Election Process or an Election Process, as the case may be.

**“Reset Date”** means:

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

**“Shareholding Ministers”** means the Minister of Finance and the Minister for the time being responsible for the Issuer.

**“Step-up Percentage”** means 0.25 %.

**“Successful Election Process”** has the meaning given in clause 5.4.

**“Tax Event”** means the receipt by the Issuer of an opinion from a reputable legal counsel, or other tax adviser (such tax advisor to be acceptable to the Trustee) that, as a result of:

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

in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective or such pronouncement or decision is announced on or after the first Issue Date the interest payable on the Bonds, including interest which has been deferred, is not fully deductible under the New Zealand Income Tax Act 2007.

**“TCS BaNCS”** means the clearing and settlement system currently operated by NZX in New Zealand, or any successor to that system.

**“Unpaid Interest”** has the meaning given in clause 2.3.

**1.5 Independent Adviser:** If an Independent Adviser is required for the purpose of clause 3.8 of these Conditions, the Trustee shall select an investment banker, chartered accountant, or other financial adviser (in each case independent and appropriately qualified having regard to the purpose of the appointment) and shall notify the Issuer of the name of that adviser within two Business Days of a request to do so by the Issuer. The Issuer shall within two Business Days thereafter advise the Trustee whether or not it approves that adviser (provided that the Issuer will have no approval right in respect of the adviser if an Event of Default has occurred and is continuing at that time). The Issuer shall not unreasonably withhold its approval of any such adviser. If the Issuer does not approve an adviser, the Trustee shall select another until an adviser is so approved, but the Issuer shall not be entitled to withhold its approval to more than three advisers proposed by the Trustee in good faith.

## 2. INTEREST PAYMENTS

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

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

where:

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

(a) during the first Calculation Period:

- (i) for each Interest Period commencing prior to the Initial Completion Date, means the initial Interest Rate as announced by the Issuer on the Rate Set Date;
- (ii) for each Interest Period commencing on or after the Initial Completion Date, means the higher of:
  - (aa) the minimum interest rate specified in the explanatory notes accompanying the Initial Election Notice; and
  - (bb) the Five Year Swap Rate plus the Margin,as announced by the Issuer as the Interest Rate on or prior to the Initial Completion Date;

(b) for each Interest Period during any subsequent Calculation Period, is calculated according to the following formula:

$$\text{Interest Rate} = \text{Swap Rate} + \text{Margin}$$

where:

“**Five Year Swap Rate**” (expressed as a percentage per annum) means the rate per annum expressed on a percentage yield basis, and rounded up to the nearest two decimal places, which is the average of the bid and offered swap rates displayed at or about 11:00am on 10 July 2013 on page FISSWAP (or any successor page) of the Reuters monitor screen for an interest rate swap with a five year term, adjusted to a quarterly basis as necessary.

If such rate does not appear on page FISSWAP, the relevant Five Year Swap Rate shall be the average of the mid-point of the bid and offered swap rates quoted by three registered banks in New Zealand which usually quote rates on the relevant screen page (as selected by the Issuer) at or around 11:00am New Zealand time, on 10 July 2013 for an interest rate swap with a five year term (adjusted to a quarterly basis as necessary).

“**Swap Rate**” (expressed as a percentage per annum) means, for an Interest Period during a Calculation Period other than the first Calculation Period, the rate per annum expressed on a percentage yield basis, and rounded up to the nearest two decimal places, which is the average of the bid and offered swap rates displayed at or about 11:00am on the first day of the relevant Calculation Period on page FISSWAP (or any successor page) of the Reuters monitor screen for an interest rate swap with a term equal to the Calculation Period, adjusted to a quarterly basis as necessary.

If such rate does not appear on page FISSWAP, the relevant Swap Rate shall be the average of the mid point of the bid and offered swap rates quoted by three registered banks in New Zealand which usually quote rates on the relevant screen page (as selected by the Issuer) at or around 11:00am New Zealand time, on the first day of the relevant Calculation Period for an interest rate swap with a term equal to the Calculation Period (adjusted to a quarterly basis as necessary).

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

(a) during the first Calculation Period:

- (i) for each Interest Period commencing prior to the Initial Completion Date, means the initial Margin as announced by the Issuer on the Minimum Rate Set Date;
- (ii) for each Interest Period commencing on or after the Initial Completion Date, means the Margin as specified by the Issuer in the explanatory notes accompanying the Initial Election Notice;

(b) during any subsequent Calculation Period which commences on a Reset Date in respect of which a Successful Election Process has been undertaken, such other percentage (if any) as may be specified by the Issuer in the applicable Election Notice as the Margin; and

(c) during any subsequent Calculation Period which commences on a Reset Date in respect of which a Successful Election Process has not been undertaken, the Margin that applied in the final Interest Period of the immediately preceding Calculation Period (as calculated in accordance with paragraphs (a) or (b) above (as applicable)) plus the Step-up Percentage (provided the Step-up Percentage has not been added to the Margin since the last Successful Election Process).

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

- 2.2 **Deferral of Interest Payments:** The Board of the Issuer may, at any time prior to an Interest Payment Date, notify the Holders and the Trustee that the Interest Payment due on the Interest Payment Date shall be deferred (and where an Interest Payment has not been paid on its due date, notice of its deferral shall be deemed to have been given), in which case that Interest Payment shall be deferred (“**Deferred Interest Payment**”). This clause 2.2 does not apply to an Interest Payment scheduled to be made on a Redemption Date or the interest component of the Repurchase Price payable on the Initial Completion Date or a Reset Date, as applicable.
- 2.3 **Accrual of interest on Deferred Interest Payments:** If an Interest Payment has been deferred in accordance with clause 2.2, that Deferred Interest Payment shall itself accrue interest at a rate equal to the prevailing Interest Rate from (and including) the Interest Payment Date on which that Interest Payment was deferred (“**Deferral Date**”) until (but excluding) the day on which that Deferred Interest Payment together with all accrued interest on that Deferred Interest Payment (“**Accrued Interest**”, and together with the Deferred Interest Payment, “**Unpaid Interest**”) is paid in full in accordance with clause 2.2 or 2.4 provided that neither the Trustee nor any Holder shall be entitled to take any action (including for the avoidance of doubt, any action to Liquidate the Issuer) to recover that Unpaid Interest until the Mandatory Unpaid Interest Payment Date relating to the Unpaid Interest that was first owing, but without prejudice to the right of the Trustee or any Holder to prove in respect of such Unpaid Interest in the Liquidation of the Issuer. Accrued Interest will be calculated on a daily basis and, in respect of Unpaid Interest, compound on each Interest Payment Date.
- 2.4 **Payment of Unpaid Interest:** If an Interest Payment has been deferred in accordance with clause 2.2, the Issuer:
- may, in its absolute discretion, pay all or part of the Unpaid Interest relating to that Deferred Interest Payment (“**Optional Unpaid Interest Payment**”) on an Interest Payment Date; and
  - shall, if any Unpaid Interest has not been paid in full by the Issuer in accordance with paragraph (a) above or clause 3.8(a) (ii) by the earlier of the Maturity Date and the fifth anniversary of the relevant Deferral Date (“**Mandatory Unpaid Interest Payment Date**”), pay all Unpaid Interest (including the Unpaid Interest that was first owing and any Unpaid Interest amounts that have subsequently accrued on the Mandatory Unpaid Interest Payment Date (“**Mandatory Unpaid Interest Payment**”), in each case to those persons registered as Holders on the Record Date in respect of that Optional Unpaid Interest Payment or Mandatory Unpaid Interest Payment as the case may be.
- 2.5 **No default:** The deferral of an Interest Payment under clause 2.2 will not constitute a default by the Issuer for any purpose.
- 2.6 **Restrictions in the case of deferral:** The Issuer covenants with the Trustee and each Holder that at any time while any Unpaid Interest remains outstanding, it shall not:
- unless approved by Holders by way of an Extraordinary Resolution, pay any dividend on, or make any other distribution in respect of, or pay any interest on, any shares or securities ranking in liquidation, pari passu or after the Bonds; or
  - without the consent of the Trustee:
    - acquire, redeem, or repay any of its shares or other securities ranking, in liquidation, pari passu or after the Bonds; or
    - provide financial assistance for the acquisition of its shares or other securities ranking in liquidation, pari passu or after the Bonds.
- 2.7 **Interest Payment Dates:** Interest Payments (other than Deferred Interest Payments) will be payable on:
- each Interest Payment Date; and
  - (if the Redemption Date is not an Interest Payment Date) the Redemption Date in respect of any Bonds to be Redeemed on that date.
- 2.8 **First and last Interest Payments:** The Interest Payment made on:
- the First Interest Payment Date in respect of each Bond shall be:
    - calculated according to the following formula:
 
$$\text{Interest Payment} = \frac{\text{Interest Rate} \times \text{Issue Price} \times N}{365}$$

where “**N**” means, in respect of a Bond, the number of days from (and including) the date on which the subscription moneys of an initial subscriber are banked into the trust account operated by the Issuer in connection with the Offer to (but excluding) the First Interest Payment Date; and
    - paid to the first subscriber for the Bond, irrespective of any transfer of the Bond before the First Interest Payment Date. If the first Interest Payment is deferred, any Optional Unpaid Interest Payment or Mandatory Unpaid Interest Payment relating to that Interest Payment made in accordance with clause 2.4 shall be paid to the first subscriber for the Bond in respect of which it is paid; and
  - the Redemption Date of a Bond which is not also an Interest Payment Date shall be calculated according to the following formula:
 
$$\text{Interest Payment} = \frac{\text{Interest Rate} \times \text{Issue Price} \times N}{365}$$

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



### 3. REDEMPTION

- 3.1 **Redemption at Maturity:** The Issuer shall Redeem all Bonds on the Maturity Date.
- 3.2 **Redemption on Default:** Upon the occurrence of an Event of Default, whether or not within the control of the Issuer, the Bonds will become immediately due and payable and the Issuer shall Redeem the Bonds on the next Business Day following the Event of Default.
- 3.3 **Redemption at election of Issuer:** The Issuer may elect to Redeem:
- (a) all or some Bonds on a Reset Date;
  - (b) all or some Bonds on any Interest Payment Date after a Reset Date if a Successful Election Process has not been undertaken in respect of that Reset Date;
  - (c) all (but not some only) Bonds at any time if a Change of Control has occurred; or
  - (d) all or some Bonds at any time if a Tax Event, or a Rating Agency Event has occurred,
- provided that if some but not all of the Bonds are to be Redeemed, there must be no less than 100,000,000 Bonds on issue following that Redemption.
- 3.4 **Issuer Notice:** To elect to Redeem under clause 3.3, the Issuer must give a notice (“**Issuer Notice**”) according to this clause 3.4. The Issuer Notice must:
- (a) in the case of a Redemption under clause 3.3(a) or 3.3(b), be given no less than 10 Business Days before the relevant Redemption Date;
  - (b) in the case of a Redemption under clause 3.3(c) or 3.3(d), state as the Redemption Date the next Interest Payment Date unless the Issuer determines an earlier date having regard to the best interests of Holders (collectively) and the relevant event;
  - (c) if less than all Bonds are being Redeemed, state the proportion of Bonds to be Redeemed for each Holder.
- 3.5 **Partial Redemption:** If some but not all Bonds are Redeemed, the Issuer must, in each case, endeavour to treat all Holders on an approximately proportionate basis but may adjust to take account of the effect on marketable parcels and other logistical considerations.
- 3.6 **Effect of Issuer Notice:** An Issuer Notice is irrevocable and, once given, constitutes a promise by the Issuer to Redeem the Bonds as stated in that notice.
- 3.7 **Redemption at election of Holder:** If a Holder Put Event occurs and the Issuer has not previously Redeemed all outstanding Bonds in accordance with clause 3.3(c), a Holder may elect to require the Issuer to Redeem all (but not only some) of the Bonds held by that Holder.
- (a) If a Holder Put Event occurs, the Issuer shall, within 30 days after that Holder Put Event occurs, give notice (a “Holder Put Event Notice”) to Holders and the Trustee. The Holder Put Event Notice shall state that a Holder Put Event has occurred and either:
    - (i) if the Issuer has elected to Redeem all outstanding Bonds, that the Issuer has elected to Redeem all of the Bonds held by each Holder on the Interest Payment Date specified in the notice sent to Holders under clause 3.4(b); or
    - (ii) if the Issuer has elected not to Redeem all outstanding Bonds:
      - (aa) that each Holder may, within 20 days after the date of receipt of the Holder Put Event Notice, elect that the Issuer is to Redeem all (but not only some) of the Bonds held by that Holder by completing and returning the accompanying form to the Issuer; and
      - (bb) be accompanied by a form which a Holder may complete and return to the Issuer, by which a Holder may elect that the Issuer is to Redeem all (but not only some) of the Bonds held by that Holder on the next Interest Payment Date after the date that such written notice is received by the Issuer.
  - (b) If, after the 20 day period referred to in clause 3.7(a)(ii)(aa) has elapsed, the number of Holders that have elected to have their Bonds Redeemed means that subsequent to the Redemption of those Bonds less than 100,000,000 Bonds will remain outstanding, the Issuer may elect to Redeem all remaining outstanding Bonds by providing notice to those Holders who did not elect to have their Bonds Redeemed within 10 days after the date on which the period referred to in clause 3.7(a) has elapsed and the Issuer will Redeem all outstanding Bonds on the next Interest Payment Date.
- 3.8 **Payment on Redemption:**
- (a) If Bonds are to be Redeemed in accordance with clause 3.1, 3.2, 3.3(a), 3.3(d) or 3.7, on the Redemption Date, the Issuer must pay to the Holder in respect of each Bond which is Redeemed the sum of:
    - (i) the Issue Price;
    - (ii) any Unpaid Interest on that Bond; and
    - (iii) any Interest Payment scheduled to be paid on that date in accordance with clause 2.7.
  - (b) If Bonds are to be Redeemed in accordance with clause 3.3(b) or 3.3(c), the Issuer must pay to the Holder in respect of each Bond which is Redeemed the greater of:
    - (i) the amount calculated under clause 3.8(a) above; and
    - (ii) the market price of the Bonds, being the average price, weighted by volume, of all trades of Bonds through the NZDX market over the ten Business Days prior to the 15th day before the relevant Redemption Date (except where the Bonds have not traded on the NZDX market for at least five Business Days during that period in which case the market price of the Bonds will be determined by an Independent Advisor), plus any accrued interest from the end of that period up to (but excluding) the relevant Redemption Date.



#### 4. INITIAL ELECTION PROCESS

- 4.1 **Initial Election Notice:** Within ten Business Days of the date of the Amendment Deed, the Issuer must issue a notice to Holders entered in the Register at the close of business on the Record Date for the Initial Election Process ("**Initial Election Notice**"). The Initial Election Notice (including any explanatory notes accompanying that notice) will include:
- (a) the date by which a duly completed Initial Election Notice must be returned to the Issuer (the "**Initial Notification Date**");
  - (b) the date on which the Repurchase Price (as defined below) will be paid to relevant Holders pursuant to clause 4.2(d), being the Initial Completion Date;
  - (c) the Margin and the minimum Interest Rate applicable to the Bonds from the Initial Completion Date;
  - (d) the First Reset Date;
  - (e) the New Conditions that are to apply to the Bonds with effect from the Initial Completion Date; and
  - (f) the process by which Holders may, should they wish to do so, acquire any additional Bonds which might be offered for sale by the Issuer through the Initial Election Process.
- 4.2 **Holder's election to retain or sell:**
- (a) Each Holder may, on or prior to the Initial Notification Date, complete and sign the Initial Election Notice and return it to the Issuer in the manner described in the Initial Election Notice.
  - (b) The Initial Election Notice will provide for a Holder to indicate:
    - (i) **Retain Bonds:** the Bonds in respect of which the Holder accepts the New Conditions set out in the Initial Election Notice (which may include some or all of the Bonds held by that Holder as at the applicable Record Date);
    - (ii) **Additional Bonds:** whether the Holder wishes to acquire additional Bonds through the Initial Election Process;
    - (iii) **Sell Bonds:** the Bonds which the Holder wishes to sell through the Initial Election Process; and
    - (iv) **Other:** such other information as the Issuer may require.
  - (c) If:
    - (i) **No election indicated:** the Issuer receives an Initial Election Notice but the Initial Election Notice does not indicate whether or not the Holder elects to retain or sell all or some of their Bonds through the Initial Election Process; or
    - (ii) **No Initial Election Notice received:** the Issuer does not receive a properly completed Initial Election Notice from the Holder on or before the Initial Notification Date; or
    - (iii) **Minimum remaining Bonds:** the Issuer receives an Initial Election Notice, but implementation of the election made by the Holder would result in him or her remaining a Holder of Bonds with an aggregate Principal Amount of less than the Minimum Holding; or
    - (iv) **Overseas Holders:** a Holder has elected to retain some or all of their Bonds through the Initial Election Process but the Holder has not or is unable to provide the Issuer with the evidence required to satisfy the Issuer that the Holder is a New Zealand Holder; or
    - (v) **Multiple of 1,000:** the Issuer receives an Initial Election Notice and the Holder has elected to:
      - (aa) retain some of its Bonds, but the number to be retained is not an integral multiple of 1,000; or
      - (bb) acquire additional Bonds, but the number to be acquired is not an integral multiple of 1,000,
 then:
      - (vi) in the case of (i) above, the Holder will be deemed to have elected to sell such number of such Bonds in respect of which no such indication has been given;
      - (vii) in the case of (ii) or (iii) above, the Holder will be deemed to have elected to sell all of the Bonds held by it;
      - (viii) in the case of (iv) above, the Issuer will have an absolute discretion to treat such Holder as having elected to sell all Bonds held by it; and
      - (ix) in the case of (v) above, in either case the Issuer will round the number of Bonds down to the nearest integral multiple of 1,000.
  - (d) Any Bond that a Holder has elected to sell, or is deemed to have elected to sell, under this clause 4.2 must be purchased by the Issuer on the Initial Completion Date for an amount equal to the sum of:
    - (i) the Issue Price;
    - (ii) any Unpaid Interest on that Bond; and
    - (iii) any Interest Payment scheduled to be paid on the Initial Completion Date,
 (the sum of sub-paragraphs (i) - (iii) above being for the purposes of this clause 4 only the "**Repurchase Price**").
  - (e)
    - (i) No deductions or withholdings on account of commissions, brokerage or otherwise will be made from any payment of the Repurchase Price made to the relevant Holder in accordance with clause 4.2(d), other than deductions or withholdings required by law.
    - (ii) For the avoidance of doubt, payment of the Repurchase Price by the Issuer on the Initial Completion Date shall satisfy the Issuer's obligation to pay interest on any Bonds that a Holder has elected to sell, or is deemed to have elected to sell, pursuant to this clause 4.2.

- (iii) If a Holder has elected to retain some or all of its Bonds (and has not, for the avoidance of doubt, been deemed to have elected to sell all of its Bonds pursuant to this clause 4.2), the Issuer shall pay all interest due on those retained Bonds on the Initial Completion Date to the Holder whose name is on the Register on the Record Date for that Interest Payment Date (who will be the same Holders registered on the Record Date for the Initial Election Process as the Register will be closed from that earlier Record Date until the Initial Completion Date).
- (f) The purchase price for each additional Bond offered for sale by the Issuer will be an amount equal to the Issue Price. Any additional Bonds that are successfully purchased by a Holder will be transferred to that Holder on the Initial Completion Date. The Issuer will refund application monies (without interest) to Holders who unsuccessfully applied for additional Bonds within five Business Days of the Initial Completion Date.

#### 4.3 Process:

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

4.4 **Acceptance of New Conditions:** As from the Initial Completion Date, the Bonds shall be deemed to be amended by incorporation into the Conditions of the New Conditions applicable thereto as if such New Conditions were expressly set out in the Conditions.

4.5 **Power of attorney:** Each Holder irrevocably appoints the Issuer and any director or person from time to time nominated by the Issuer (each an **"Appointed Person"**) severally to be the attorney of the Holder and the agent of the Holder with power in the name and on behalf of the Holder to do all such acts and things including signing all documents or transfers as may in the opinion of the Appointed Person be necessary or desirable to be done in order to record or perfect the purchase of the Bonds by the Issuer in accordance with clause 4.2(d).

#### 4.6 Mandatory purchase:

- (a) If on the Initial Notification Date it is determined by the Issuer that the aggregate Principal Amount of Bonds that Holders have elected to retain, is more than \$200,000,000, the Issuer may purchase that number of Bonds as would be required to ensure that, following such purchase, the aggregate Principal Amount of Bonds on issue to investors immediately following the Initial Completion Date does not exceed \$200,000,000.
- (b) Any Bonds purchased by the Issuer in accordance with clause 4.6(a) will be purchased from Holders on an approximately proportionate basis based on the number of Bonds held immediately prior to the Initial Completion Date, provided that the Issuer shall ensure that the number of Bonds to be retained by any one Holder will not be reduced below the Minimum Holding.
- (c) The Issuer must pay an amount equal to the Repurchase Price for each Bond purchased pursuant to clause 4.6(a) on the Initial Completion Date, unless such amount has already been paid by the Issuer in respect of such Bonds pursuant to clause 4.2.

4.7 **Entitlements:** The Register will be closed as of close of business on the Record Date for the Initial Election Process and will remain closed until the Initial Completion Date.

### 5. ELECTION PROCESS

5.1 **Notification of Election Process:** No earlier than six months and not later than 30 Business Days before a Reset Date, the Issuer may issue a notice to Holders entered on the Register at the close of business on the Record Date for the Election Process (an **"Election Notice"**) that will include the New Conditions, if any, of the Bonds that will apply with effect from the Reset Date if a Successful Election Process occurs. The applicable Election Notice (including any explanatory notes accompanying that notice) will include:

- (a) the date by which a duly completed Election Notice must be returned to the Issuer (**"Notification Date"**) which must comply with clause 5.3(a);
- (b) the timing of the next Reset Date (which must coincide with the beginning of an Interest Period); and
- (c) the New Conditions that are to apply to the Bonds with effect from the applicable Reset Date.

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

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

- (a) The Notification Date must fall no earlier than 15 Business Days after the Election Notice is given and no later than 10 Business Days prior to the applicable Reset Date.
- (b) Each Holder may, on or prior to the Notification Date, complete and sign the Election Notice and return it to the Issuer in the manner described in the Election Notice.

- (c) The Election Notice will provide for a Holder to indicate:
- (i) **Retain Bonds:** the Bonds in respect of which the Holder accepts the New Conditions set out in the Election Notice (which may include some or all of the Bonds held by that Holder as at the Record Date for the Election Process);
  - (ii) **Sell Bonds:** the Bonds which the Holder wishes to sell through the Election Process; and
  - (iii) **Other:** such other information that the Issuer might require.
- (d) If:
- (i) **No election indicated:** the Issuer receives an Election Notice but the Election Notice does not indicate whether or not the Holder elects to retain or sell all or part of their Bonds through the Election Process;
  - (ii) **No Initial Election Notice received:** the Issuer does not receive a properly completed Election Notice from the Holder on or before the Notification Date;
  - (iii) **Minimum remaining Bonds:** the Issuer receives an Election Notice, but implementation of the election made by the Holder would result in him or her remaining a Holder of Bonds with an aggregate Principal Amount of less than the Minimum Holding; or
  - (iv) **Multiple of 1,000:** the Issuer receives an Election Notice and the Holder has elected to retain some of its Bonds, but the number to be retained is not an integral multiple of 1,000,
- then:
- (v) in the case of (i) above, the Holder will, subject to clause 5.8, be deemed to have elected to retain such number of Bonds subject to the New Conditions in respect of which no such indication has been given;
  - (vi) in the case of (ii) above, the Holder will, subject to clause 5.8, be deemed to have elected to retain all of the Bonds held by it subject to the New Conditions;
  - (vii) in the case of (iii) above, the Holder will, subject to clause 5.8 and to it holding more than the Minimum Holding, be deemed to have elected to retain such number of Bonds as is equal to the Minimum Holding subject to the New Conditions and be deemed to have elected to sell the remainder of the Bonds through the Election Process; and
  - (viii) in the case of (iv) above, the Issuer will round the number of Bonds down to the nearest integral multiple of 1,000.

#### 5.4 Successful Election Process:

- (a) Within five Business Days of the Notification Date, the Issuer may (at its discretion) notify the Holders and the Trustee either that:
- (i) it will purchase all Bonds held by Holders that have elected to sell their Bonds as part of the Election Process ("**Successful Election Process**"); or
  - (ii) a Successful Election Process has not occurred in relation to the Election Process.
- (b) If no confirmation or declaration has been made by the time specified in clause 5.4(a), the Issuer will be deemed to have confirmed that a Successful Election Process has occurred and a Successful Election Process will be deemed to have occurred.

#### 5.5 Repurchase Price:

- (a) Subject to a Successful Election Process having been declared pursuant to clause 5.4, any Bond that a Holder has elected to sell in connection with an Election Process must be purchased by the Issuer on the Reset Date for an amount equal to the sum of:
- (i) the Issue Price;
  - (ii) any Unpaid Interest on that Bond; and
  - (iii) any Interest Payment scheduled to be paid on the Reset Date,
- (the sum of sub-paragraphs (i) - (iii) above being for the purposes of this clause 5 only the "**Repurchase Price**").
- (b)
- (i) No deductions or withholdings on account of commissions, brokerage or otherwise will be made from any payment of the Repurchase Price made to the relevant Holder in accordance with clause 5.5(a), other than deductions or withholdings required by law.
  - (ii) For the avoidance of doubt, payment of the Repurchase Price by the Issuer on the Reset Date shall satisfy the Issuer's obligation to pay interest on any Bonds that a Holder has elected to sell pursuant to clause 5.3.
  - (iii) If a Holder has elected to retain some or all of its Bonds, the Issuer shall pay all interest due on those retained Bonds on the Reset Date to the Holder whose name is on the Register on the Record Date for that Interest Payment Date.

#### 5.6 Process:

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

- 5.7 **Acceptance of New Conditions:** As from the Reset Date applicable to a Successful Election Process, the Bonds shall be deemed to be amended by incorporation into the Conditions of the New Conditions applicable thereto as if such New Conditions were expressly set out in the Conditions.
- 5.8 **Overseas Holders:** The Issuer will have an absolute discretion to treat any Holder that has not or is unable to provide the Issuer with the evidence required to satisfy the Issuer that the Holder is a New Zealand Holder as having elected in an Election Notice to sell all Bonds held by it.
- 5.9 **Step-up Percentage to apply:** If a Successful Election Process has not been declared, or deemed to have been declared, in accordance with clause 5.4 then the Election Notice will be deemed to be revoked. If, in respect of a Reset Date, the Election Notice has been deemed to be revoked in accordance with this clause or if no Election Notice has been issued, then, with effect from the Reset Date, the Margin will be an amount which is determined in accordance with paragraph (c) of the definition of "Margin" in clause 2.1 and otherwise the terms and conditions applicable to the Bonds immediately prior to the Reset Date will continue to apply.
- 5.10 **Power of attorney:** Each Holder irrevocably appoints the Issuer and any director or person from time to time nominated by the Issuer (each an **"Appointed Person"**) severally to be the attorney of the Holder and the agent of the Holder with power in the name and on behalf of the Holder to do all such acts and things including signing all documents or transfers as may in the opinion of the Appointed Person be necessary or desirable to be done in order to record or perfect the purchase of the Bonds by the Issuer in accordance with clause 5.5(a) or pursuant to the Resale Facility.

## 6. ISSUE AND TRANSFER

- 6.1 **Form of Bonds:** Bonds will be issued in denominations of \$1, and in minimum initial parcels of \$5,000 (and thereafter in multiples of \$1,000) by entry on the Register of the details specified in clause 7.1 of the Deed. Bonds shall be issued in an uncertificated book entry form.
- 6.2 **Effect of entries in Register:** Each entry in the Register in respect of a Bond constitutes:
- (a) an unconditional and irrevocable undertaking by the Issuer to the Holder to make all payments of principal and interest in respect of that Bond according to these Conditions; and
  - (b) an entitlement to the other benefits given to the Holder under these Conditions in respect of that Bond.
- 6.3 **Certificates:** At the request of a Holder, or otherwise as required by the Securities Act or any other applicable law, the Issuer shall procure the Registrar to issue to that Holder a certificate or notice of registration in relation to the Bonds held by that Holder, such certificate or notice to be in the form agreed between the Issuer and the Registrar, or, in respect of any Listed Bonds, a Statement complying with the Listing Rules (if applicable). A certificate, notice of registration or Statement issued in respect of a Bond will not constitute a document of title. Entitlement will be determined solely by entry in the Register and, in the case of the beneficial interest in Bonds lodged in NZClear, the records of NZClear.
- 6.4 **Transfers:** Bonds may be transferred in minimum aggregate Principal Amounts of \$1,000 or such lesser amount as the Issuer may from time to time permit subject to this clause 6.4 (**"Minimum Transfer Amount"**), provided that, following any such transfer, the transferor and the transferee each holds Bonds with a minimum aggregate Principal Amount of \$5,000 (**"Minimum Holding"**). A registered bank under the Reserve Bank of New Zealand Act 1989 or a Primary Market Participant (as defined in the NZX Listing Rules), may transfer Bonds at any time with a Principal Amount less than the Minimum Transfer Amount.
- 6.5 **Form of transfer:**
- (a) Subject to these Conditions and the Deed, a Holder may transfer any Bond held by the Holder by:
    - (i) **Written instrument:** a written instrument of transfer in the usual or common form signed by the transferor and the transferee; or
    - (ii) **TCS BaNCS:** means of TCS BaNCS; or
    - (iii) **NZClear System:** means of the NZClear System; or
    - (iv) **Other method:** any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with the Listing Rules, and which is approved by the Issuer and the Registrar and delivered to the office of the Registrar.
  - (b) Each instrument of transfer must be accompanied by:
    - (i) any other evidence (including legal opinions) that the Issuer or the Registrar reasonably requires to prove:
      - (A) the title of the transferor; or
      - (B) the transferor's right to transfer the Bonds; or
      - (C) the identity of the transferor and/or the transferee; and
    - (ii) if the form of the transfer is executed by some other person on behalf of the transferor or, in the case of the execution of the form of transfer on behalf of a corporation by its officers, the authority of that person to so execute that transfer.
- 6.6 **Registration process:**
- (a) Subject to clause 6.6(b), neither the Issuer nor the Registrar shall charge a fee to any Holder for:
    - (i) registering transfers of Bonds; or
    - (ii) splitting Statements in relation to Bonds; or
    - (iii) issuing Statements (where bound to do so) and transmission receipts in relation to Bonds; or

- (iv) using holder or FINs in relation to Holders; or
  - (v) noting transfer forms in relation to Bonds.
- (b) The Issuer and the Registrar may:
- (i) charge a fee where Statements are issued to replace a lost or destroyed Statement; and
  - (ii) require the payment of any taxes and other governmental charges payable as a result of the registration of any holding of Bonds or the transfer of Bonds.
- (c) Neither the Issuer nor the Registrar will refuse to register or fail to register or give effect to a transfer of Bonds except as permitted by the Deed and these Conditions, any applicable law or the Listing Rules.
- (d) Subject to clause 6.7, a transfer of a Listed Bond will be effected by the Registrar within the time prescribed by the Listing Rules.
- 6.7 **Refusal to register transfers:** The Issuer may direct the Registrar to refuse to register any transfer of Bonds where these Conditions, the Deed, any Listing Rule or any applicable legislation permits or requires the Issuer to do so. The Registrar shall refuse to register any transfer where the Deed, these Conditions or the Listing Rules or any applicable law requires the Issuer or the Registrar to refuse to register the transfer.
- 6.8 **Notice of refusal to register:** Where registration of a transfer of Bonds is refused under clause 6.7, the Issuer must direct the Registrar to give written notice of the refusal and the precise reasons for the refusal to the party lodging the transfer, if any, within five Business Days after the date on which the transfer was lodged. The failure to give such a notice will not invalidate the decision not to register.
- 6.9 **Retention of transfers:** The Issuer must direct the Registrar to retain all instruments of transfer of Bonds which are registered, but any instrument of transfer of Bonds the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.
- 6.10 **Powers of attorney:** Any power of attorney granted by a Holder empowering the donee to deal with, or transfer Bonds, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Issuer, the Trustee, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received by the Registrar.
- 6.11 **Transmission by operation of law:** Any person becoming entitled to any Bond by operation of law (including the death or bankruptcy of any Holder) may, upon producing such evidence of entitlement as is acceptable to the Registrar, obtain registration as the Holder of such Bond or execute a transfer of such Bond. This provision includes any case where a person becomes entitled as a survivor of persons registered as joint Holder.
- 6.12 **Sale of less than Minimum Holding:** The Board may at any time give notice to any Holder holding less than a Minimum Holding of Bonds that if at the expiration of three months after the date the notice is given the Holder still holds Bonds which are less than a Minimum Holding, the Board may exercise the power of sale of those Bonds set out in this clause 6.12, if the Bonds are Listed, subject to and in accordance with the Listing Rules. If that power of sale becomes exercisable:
- (a) if the Bonds are Listed, the Board may arrange for the sale of those Bonds through the NZDX market or in some other manner approved by NZX;
  - (b) the Holder shall be deemed to have authorised the Issuer to act on the Holder's behalf and to execute all necessary documents for the purposes of that sale;
  - (c) the Issuer shall account to the Holder for the net proceeds of sale of the Bonds (after deduction of reasonable sale expenses), which shall be held on trust for the Holder by the Issuer and paid to the Holder on surrender of any Statement for the Bonds sold; and
  - (d) the title of a purchaser of any Bonds sold pursuant to this clause 6.12 shall not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.
- 6.13 **Address, account details and tax residency of transferee:** A transferee of Bonds must designate to the Registrar an address, and a bank account to which payments under or in respect of the Bonds transferred to it are to be made and the address and account so designated will be the address and account of such Holder for all purposes of the Deed and these Conditions. The transferee shall also give written notice to the Registrar of its residency for taxation purposes.
- 6.14 **Reliance on documents:** The Issuer and the Registrar shall be entitled to accept and assume the authenticity and genuineness of any instrument of transfer or other document, and will not incur any liability for registering any instrument of transfer which is subsequently discovered to be a forgery or otherwise defective, unless the Issuer or the Registrar had actual notice of such forgery or defect at the time of registration of such instrument of transfer.
- 6.15 **Selling restrictions:**
- (a) Each Holder shall only offer for sale or sell any Bond in conformity with all applicable laws and regulations in any jurisdiction in which it is offered, sold or delivered.
  - (b) No Offer Document or any advertisement or other offering material in respect of any Bond may be published, delivered or distributed in or from any country or jurisdiction except under circumstances which will result in compliance with all applicable laws and regulations.
- 6.16 **Indemnity:** By its purchase of Bonds, each Holder agrees to indemnify the Issuer in respect of any loss, cost, liability or expense sustained or incurred by the Issuer as a result of a breach by the Holder of the restrictions contained in this clause 6.16.

## 7. PAYMENTS AND OTHER MATTERS

- 7.1 **New Zealand Dollars:** All payments to be made by the Issuer under the Deed and these Conditions will be made in New Zealand Dollars.
- 7.2 **Calculation of Interest Payments:** All calculations of payments will be rounded to four decimal places. For the purposes of making any payment in respect of a Holder's aggregate holding of Bonds, any fraction of a cent will be disregarded.
- 7.3 **No set-off:** The Holder has no right to set-off any amounts owing by the Holder to the Issuer against any amount owing by the Issuer.
- 7.4 **Time limit for claims:** A claim against the Issuer for payment according to these Conditions is void unless made within five years of the due date for payment.
- 7.5 **Manner of payment to Holders:** Monies payable by the Issuer or the Trustee to a Holder may be paid in any manner the Issuer or Trustee (as the case may be) decides, including by any method of direct credit determined by the Issuer or Trustee (as the case may be) to the Holder or Holders shown on the Register or to such person or place directed by them.
- 7.6 **Unsuccessful transfers:** Subject to applicable law and the Listing Rules, where the Issuer or Trustee:
- (a) decides that an amount is to be paid to a Holder by a method of direct credit and the Holder has not given a direction as to where amounts are to be paid by that method;
  - (b) attempts to pay an amount to a Holder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful; or
  - (c) has made reasonable efforts to locate a Holder but is unable to do so,
- the amount is to be held by the Issuer on trust for the Holder as a non-interest bearing deposit until the Holder or any legal personal representative of the Holder claims the amount or the Issuer is otherwise entitled to deal with the money by applicable law.
- 7.7 **Payment to joint Holders:** A payment to any one of joint Holders will discharge the Issuer's liability in respect of the payment.
- 7.8 **Cessation of rights:** Upon Redemption and payment of all amounts due in respect of a Bond on the Redemption Date, all other rights conferred, or restrictions imposed, by that Bond will no longer have effect.

## 8. TREASURY STOCK

- 8.1 Notwithstanding anything in these Conditions to the contrary, Bonds purchased by the Issuer in accordance with these Conditions may be held as treasury stock subject to the following conditions:
- (a) while being held by the Issuer, the Bonds will not accrue any interest;
  - (b) the Bonds will be capable of being cancelled at any time by the Issuer by notice in writing to the Trustee and Registrar (in which case neither the Issuer nor the Trustee will have any further liabilities or obligations in respect of that Bond or the relevant Holder);
  - (c) the Issuer may sell the Bonds on any terms it considers appropriate (at which time they will no longer be considered to be treasury stock); and
  - (d) Bonds purchased and held by the Issuer as treasury stock shall not entitle the Issuer to vote at any meeting of Holders and shall not be considered for the purpose of calculating quorum at a meeting of Holders.



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