

Deed Poll constituting the issue of instruments

PARTIES

ANZ Bank New Zealand Limited

Issuer

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DEED POLL dated 18 January 2006, as amended on 23 October 2008 and as amended and restated on 8 March 2016 and 26 June 2019.

MADE BY

ANZ Bank New Zealand Limited
("Issuer")

INTRODUCTION

The Issuer intends to issue debt securities from time to time denominated in New Zealand dollars, Australian dollars, United States dollars or other currencies selected by the Issuer. The debt securities may bear interest at a fixed rate or floating rate or may be issued on a zero coupon basis. The principal amount and/or the interest payable on the debt securities may (but will not necessarily) be calculated by reference to one or more specified indices. The debt securities are to be constituted by, and subject to the terms and conditions contained in this deed.

COVENANTS

1. INTERPRETATION

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

"**Agency Agreement**" means the registrar and paying agency agreement dated 18 September 2018, as amended, pursuant to which the Agent is appointed as registrar and paying agent and calculation agent for the Instruments.

"**Agent**" means Computershare Investor Services Limited, as registrar and paying agent for the Instruments, or any successor agent appointed under the Agency Agreement.

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

"**Calculation Agent**" means Computershare Investor Services Limited as calculation agent for the Instruments or any successor calculation agent appointed by the Issuer.

"**Class**" means a category of Instruments which in the reasonable opinion of the Issuer at any particular time, for any particular purpose, constitutes a separate class of Instruments, and "**Class of Holders**" means the Holders of those Instruments.

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

"**Event of Default**" means any of the events described in clause 9, or any event which, with the passing of time or the giving of notice or both, would constitute such an event.

"**Extraordinary Resolution**" has the meaning set out in schedule 2.

"**Face Value**" means, in relation to an Instrument, the amount entered as such in the Register in respect of that Instrument.

"**FATCA**" means the Foreign Account Tax Compliance Act provisions, sections 1471 through 1474 of the United States Internal Revenue Code of 1986 (including any regulations or official interpretations issued, agreements entered into or non-US laws enacted with respect to those provisions).

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

"**Holder**" means, at any time, in relation to an Instrument, the person whose name is entered in the Register as the holder of that Instrument at that time (in which regard any information, certificate or any document issued by the Agent, whether in writing, orally, electronically or by any other means of communication whatsoever, regarding the person whose name is entered in the Register as the holder of any Instrument is to be conclusive and binding for all purposes).

"**Interest Payment Dates**" means, in relation to an Instrument, the dates (if any) fixed at the time of issue of that Instrument for the payment of interest in respect of that Instrument and recorded in the Register.

"**Interest Rate**" means, in respect of an Instrument, the rate of interest (if any) payable in respect of that Instrument (which may be a fixed rate or a floating rate) specified at the time of issue of that Instrument and recorded in the Register.

"**Index**" means, in relation to an Instrument, an index (if any) recorded in the Register in respect of that Instrument by reference to which the Principal Amount of that Instrument and/or the amount of interest payable in respect of that Instrument is to be calculated.

"**Index-linked**" means, in relation to an Instrument, an Instrument in respect of which either the Principal Amount or the interest payable thereon or both is to be calculated by reference to an Index.

"**Instrument**" means a bond, note, certificate of deposit or other debt security constituted by and subject to the terms and conditions set out in this deed.

"**Issue Date**" means, in relation to an Instrument, the date on which that Instrument is issued.

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

"**NZX**" means NZX Limited, and includes any body or authority which may in the future assume and perform the functions of NZX Limited.

"**Maturity Date**" means, in relation to an Instrument, the date entered as such in the Register in respect of that Instrument or, if different, the date on which that Instrument is required to be repaid in accordance with this deed.

"**New Instrument**" means an Instrument issued after 8 March 2016.

"**Outstanding**" means, at any time with respect to Instruments, all Instruments issued pursuant to this deed which have not been redeemed, cancelled or repaid in full by the Issuer in accordance with this deed at that time.

"Principal Amount" means, in relation to an Instrument, the amount payable on repayment of that Instrument, determined in the manner set out in clause 3.2 and recorded in the Register.

"Record Date" means, in respect of a payment, the date determined in accordance with the method entered in the Register of the relevant Instrument on the following basis:

- (a) if "1 BD prior" is specified, the Record Date will be the first Business Day before the relevant payment date;
- (b) if "10 Days prior" is specified, the Record Date will be the tenth day before the relevant payment date, or, if that tenth day is not a Business Day, the Business Day immediately preceding that tenth day;
- (c) if "Other" is specified, the Record Date will be determined on such other basis as is set out in the Register.

If no method is specified, "1 BD prior" will apply.

"Register" means the register of the Instruments maintained by the Agent.

"Related Company" has the meaning set out in section 2(3) of the Companies Act 1993.

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

"Subsidiary" has the meaning given to that term in section 5 of the Companies Act 1993.

"Transaction Documents" means this deed and the Agency Agreement or either of them.

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

the **"assets"** of any person shall be construed as a reference to the whole or any part of its business, undertaking, property, assets and revenues, present or future, and uncalled and unpaid capital and called and unpaid capital, present and future.

an **"authorisation"** includes:

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

any **"clause"** or **"schedule"** is a reference to a clause of, or a schedule to, this deed.

the **"dissolution"** of any person includes the bankruptcy, winding-up or liquidation of that person, and any equivalent or analogous procedure under the laws of any relevant jurisdiction in which that person is incorporated, domiciled or resident or carries on business or has assets.

any "**governmental agency**" includes any government or any governmental, semi-governmental or judicial entity or authority, or legislative body, or any person or body charged with the administration of any law.

a "**law**" includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, by-law, statute, treaty or other legislative measure, in each case of any jurisdiction whatever and "**lawful**" and "**unlawful**" shall be construed accordingly. In clause 4.7(b), law also includes FATCA.

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

"**tax**" includes any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature and whatever called, imposed or levied by any governmental agency, together with any interest, penalty, charge, fee or other amount imposed or made on or in respect of any of the foregoing and "**taxation**" shall be construed accordingly.

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

1.3 **Miscellaneous:**

- (a) Headings are inserted for convenience only and shall be ignored in construing this agreement.
- (b) Unless the context otherwise requires:
 - (i) words denoting the singular number only include the plural and vice versa and words denoting any gender include all genders;
 - (ii) words denoting individuals include corporations and vice versa.
- (c) References to any legislation or to any provision of any legislation are deemed to be references to that legislation or provision as from time to time amended, re-enacted or substituted and, unless the context otherwise requires, also include any statutory instruments issued (and from time to time amended, re-enacted or substituted) under any such legislation or provision.
- (d) References to any document (however described) include reference to such document as modified, novated, supplemented, varied or replaced from time to time.
- (e) A reference to any party to a Transaction Document or any other document includes its successors and permitted assigns.
- (f) A reference to a time of day is a reference to New Zealand time unless otherwise stated.
- (g) Anything which may be done at any time may also be done from time to time.
- (h) The schedules to this deed form part of this deed.

- (i) A reference to a requirement of the Listing Rules means such requirement as modified, varied or supplemented by any ruling or waiver given in respect thereof.

2. ISSUE AND STATUS OF INSTRUMENTS

- 2.1 **Issue and creation:** Instruments may be issued by the Issuer pursuant to this deed at the times, in the currencies, in the quantities, to the persons and at the prices from time to time determined by the Issuer. Without limitation, Instruments may be issued on terms such that the Principal Amount is a fixed amount to be calculated by reference to an Index and/or that interest (if the Instrument is interest-bearing) will be calculated by reference to a specific interest rate (which may be a fixed rate or a floating rate) or by reference to an Index or both. Each Instrument will be issued and created by entering in the Register the particulars of the Instrument, substantially as specified in schedule 1. The Instruments will be held subject to the provisions contained in this deed, including any additional conditions relating to any Instrument (as contemplated by paragraph 20 of schedule 1) recorded in the Register in respect of that Instrument, all of which will be binding upon the Issuer and the Holders and all persons claiming through or under them respectively.
- 2.2 **Application:** The terms and conditions of this deed will apply in respect of all debt securities issued by the Issuer after the date of this deed in respect of which the Issuer states (whether in a disclosure document or other offering document, in any agreement, in the certificate of title for the debt securities (if any), or otherwise in writing) that those debt securities are intended to be constituted by and issued subject to this deed.
- 2.3 **Status of Instruments:** The Principal Amount of and interest on the Instruments are direct, unsecured, unsubordinated obligations of the Issuer, ranking pari passu without any preference among themselves and at least equally with all other unsecured, unsubordinated obligations of the Issuer.
- 2.4 **No certificates of title:** The Instruments will be issued in registered, uncertificated book entry form and no certificates of title will be issued to Holders.
- 2.5 **Selling Restrictions:**
- (a) The Issuer does not intend that Instruments be offered for sale in any jurisdiction other than New Zealand and, except as otherwise expressly provided in any disclosure document, information memorandum, prospectus, investment statement, offering circular, advertisement or other offering material (each an "**offering document**") published by the Issuer in respect of any Instruments, no action has been or will be taken by the Issuer to permit a public offering of Instruments in any jurisdiction where action is required for that purpose other than New Zealand.
- (b) Instruments may only be offered for sale or sold in conformity with all applicable laws and regulations in any jurisdiction in which they are offered, sold or delivered. No offering document in respect of any Instruments 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 listing rules of any applicable stock exchange.
- (c) Where the Issuer states in any offering document that the relevant Instruments are not intended to be offered for sale or sold to the public or are subject to any other

selling restriction, then no Holder shall offer for sale or sell any such Instruments to members of the public or in breach of that other selling restriction.

- (d) By its purchase of Instruments, 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 the breach by that Holder of the restrictions contained in this clause.

2.6 **Listing:** The Issuer may seek to have Instruments listed and quoted on NZX.

2.7 **Statements and confirmations:** The Issuer must issue, or cause to be issued, to each Holder, a Statement in relation to each Instrument issued to that Holder, in accordance with, and in the time required by, the Listing Rules. If required by law, the Issuer shall issue, or cause to be issued, a confirmation which complies with the FMC Act and any other applicable law. A Statement or confirmation issued in respect of an Instrument will not constitute a document of title.

2.8 **Forfeiture:** The Issuer may forfeit an Instrument registered in the name of a Holder where the payment received by the Issuer in consideration for the issue of that Instrument is dishonoured. 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 dishonoured payment made by that Holder.

3. REPAYMENT OF INSTRUMENTS AND PAYMENT OF INTEREST

3.1 **Payment of Principal Amount:** The Issuer will, on the Maturity Date of an Instrument, unconditionally pay or cause to be paid to or to the order of the Holder the Principal Amount of that Instrument in accordance with the provisions of this deed.

3.2 **Calculation of Principal Amount:** The Principal Amount of an Instrument will be the amount recorded as such in the Register in respect of that Instrument which may be the Face Value or the amount calculated by the Calculation Agent by reference to the formula recorded in the Register in respect of that Instrument (if Index-linked) in either case as may be reduced in accordance with clause 3.4.

3.3 **Payment of interest:** Subject to clause 4.9, the Issuer will, on each Interest Payment Date for an Instrument which is interest-bearing, unconditionally pay or cause to be paid to or to the order of the Holder, interest at the applicable Interest Rate on the Principal Amount of that Instrument. In the case of an Instrument for which the Principal Amount is Index-linked, the Principal Amount on each Interest Payment Date will be determined in accordance with clause 3.2 as if the relevant Interest Payment Date were the Maturity Date.

3.4 **Calculation of interest:** The amount of interest (if any) payable on an Instrument on each Interest Payment Date applicable to that Instrument will be calculated by the Calculation Agent at the rate, or in accordance with the interest calculation formula, specified in the Register in respect of that Instrument. If the amount of interest payable on an Instrument on an Interest Payment Date is a negative amount, the positive equivalent of that amount will be deducted, to the maximum extent required to reduce the negative amount to zero, from payments of interest on subsequent Interest Payment Dates and the repayment of the Principal Amount on the Maturity Date of the Instrument.

For clarification:

- (a) if a deduction made pursuant to this clause results in the Principal Amount of the Instrument being equal to or less than zero on the Maturity Date the Issuer shall not be required to repay the principal of the Instrument and shall be entitled to cancel the Instrument by notice to the Agent and the Holder to that effect; and
- (b) nothing in this clause obliges the Holder of the Instrument to make any payment to the Issuer by reason of the amount of interest payable on the relevant Interest Payment Date being a negative amount.

3.5 **Non-payment:** Each Instrument will cease to bear interest from its Maturity Date unless payment of the Principal Amount is improperly withheld or refused. In such event, interest will continue to accrue (after as well as before any judgment) up to but excluding the date on which payment in full of the Principal Amount is made.

4. PAYMENTS

4.1 Manner of Payments:

- (a) **Currency:** Payments in relation to any Instrument will be made in the currency of that Instrument unless otherwise stated in any disclosure document, information memorandum, prospectus, investment statement, offering circular, advertisement or other offering material relating to the relevant Instrument and recorded in the Register in respect of that Instrument.
- (b) **Manner of payment:** Payments by the Issuer in respect of an Instrument will be made to the person recorded as the Holder at close of business on the Record Date for that payment. Payments will be made in accordance with the Agency Agreement. This clause applies notwithstanding any transfer of an Instrument after the Record Date but before the due date for the relevant payment.
- (c) **Business Days:** If the due date for payment in respect of an Instrument is not a Business Day, the Holder is not entitled to payment of the amount payable until the next day which is a Business Day. The Holder is not entitled to any interest or other payment for that delay.

4.2 **Deductions or withholdings:** Except to the extent required by law and subject to clauses 4.3 to 4.5, all sums payable by the Issuer in respect of an Instrument will be paid:

- (a) free of any restriction or condition;
- (b) free and clear of and without any deduction or withholding on account of any tax; and
- (c) without deduction or withholding on account of any other amount whether by way of set-off, counterclaim or otherwise.

4.3 **NRWT:** Subject to the following sentence, New Zealand non-resident withholding tax ("**NRWT**") will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are subject to New Zealand's non-resident withholding tax rules ("**Non-Resident Holder**"). If the Issuer is lawfully able to pay approved issuer levy (as

defined in section 86F of the Stamp and Cheque Duties Act 1971) in respect of any payment of interest (or deemed interest) to a Non-Resident Holder in order to reduce the applicable rate of NRWT to 0%, unless the Non-Resident Holder has requested non-resident withholding tax be deducted instead, the Issuer will:

- (a) in the case of an Instrument that is Outstanding as at 8 March 2016, pay the approved issuer levy to the appropriate authority and will deduct the amount paid from the interest (or deemed interest) payable to that Holder in lieu of deducting New Zealand non-resident withholding tax at the rate otherwise applicable from that payment; and
- (b) in the case of a New Instrument, pay the approved issuer levy to the appropriate authority on its own account in lieu of deducting New Zealand non-resident withholding tax at the rate otherwise applicable from that payment.

4.4 **RWT:** New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed to be interest) to Holders who are not Non-Resident Holders unless the Holder establishes to the satisfaction of the Issuer or Agent that it holds a certificate of exemption from, or exempt status in respect of, New Zealand resident withholding tax at least five Business Days prior to the relevant payment date.

4.5 **Maximum rate:** Deductions of New Zealand non-resident or resident withholding tax will be made at the maximum rates from time to time applicable unless a Holder provides evidence satisfactory to the Issuer or the Agent that a lesser rate is applicable.

4.6 **Complete discharge:** All payments made in accordance with this clause are valid and, to the extent of the sum so paid, effective to satisfy and discharge the liability of the Issuer for the moneys payable on the relevant Instrument.

4.7 **No gross-up:**

- (a) The Issuer is not required to and need not make any additional payment by way of gross-up or otherwise with respect to the deduction or withholding from any payment made in relation to an Instrument that is Outstanding as at 8 March 2016 in accordance with clauses 4.3, 4.4 or 4.5.
- (b) The Issuer is not required to and need not make any additional payment by way of gross-up or otherwise with respect to a deduction or withholding required by law to be made from any payment made in relation to a New Instrument.

4.8 **Taxation indemnity by Holder:**

- (a) If, in relation to any Instrument, the Agent or the Issuer becomes liable to make any payment of or on account of tax payable by the Holder, the Agent and the Issuer are indemnified by the Holder in relation to such liability.
- (b) Any moneys paid by the Agent or the Issuer in relation to any such liability may be recovered from the Holder as a debt due to the Agent or the Issuer (as the case may be) and may be withheld from further payments to that Holder.
- (c) Nothing in this clause prejudices or affects any other right or remedy of the Agent or the Issuer.

- 4.9 **Unpaid monies owing:** The Holder of an Instrument is not entitled to receive any payment (including a payment of interest) in respect of that Instrument if, on the relevant payment date, there are any unpaid monies owing by the Holder to the Issuer in respect of that Instrument.
- 4.10 **Time limit on claims:** Any payment under a New Instrument unclaimed for 1 year from the date on which payment first became due may be invested or otherwise made use of by the Issuer for the Issuer's benefit until claimed. Any payment under a New Instrument unclaimed for 5 years from the date on which payment first became due is taken to be forfeited to the Issuer for the Issuer's benefit.

5. REGISTER

- 5.1 **Maintenance of Register:** So long as any of the Instruments are Outstanding the Issuer will maintain, or ensure that the Agent maintains, a full and complete Register of the Instruments having the information specified in schedule 1 and otherwise in accordance with this deed and the Listing Rules.
- 5.2 **Trusts disregarded:** Except as ordered by a court of competent jurisdiction or as required by law each Holder is to be regarded as the absolute beneficial owner of the Instruments registered in its name and neither the Issuer nor the Agent will be affected by any trust or other equity affecting any Instrument, whether or not either of them is aware of the same. Neither the Issuer nor the Agent will be required to obtain proof of identity of a Holder or its ownership of Instruments.
- 5.3 **Inspection of Register:** The Issuer will ensure that at all reasonable times during normal office hours the Register is made available to any Holder, any officer of a Holder or any person authorised in writing by a Holder, for inspection and for the taking of copies or extracts from it (at the expense of the person taking the copy or extract) in relation to Instruments registered in the name of that Holder.
- 5.4 **Stamp Duty:** The Issuer will pay all stamp duties and other similar duties or taxes (if any) payable on or in connection with the constitution and issue of the Instruments.
- 5.5 **Closing of Register:** The Issuer may, from time to time, on giving notice to Holders either in accordance with clause 12 or by advertisement in a newspaper circulating in the district in which the Register is maintained, close the Register for any period or periods not exceeding, in aggregate, thirty days in any one year. Any such closure may not exceed the time, if any, permitted by NZX.
- 5.6 **Reliance on Register:** The Issuer and the Agent will be entitled to rely upon the entries in the Register as constituting the sole and conclusive record of the terms of all Instruments and as to the persons entitled to the Instruments. In particular, neither the Issuer nor the Agent shall be liable to any Holder or former Holder for relying on the Register or for accepting in good faith as valid any detail recorded on the Register subsequently found to be forged, irregular or not authentic.
- 5.7 **Joint Holders:** Instruments may be held by two or more persons, who shall hold as joint tenants (unless the contrary intention is expressed in the application for Instruments or instrument of transfer or other instrument) with rights of survivorship. However, the joint Holders of an Instrument are entitled to only one Instrument in relation to their joint holding, which Instrument is, other than where the joint Holders otherwise direct, to be issued to the

joint Holder whose name appears first in the Register in relation to that joint holding. In respect of joint Holders of an Instrument, only the person whose name is recorded first in the Register is to be entitled to delivery of any statement, notice or other communication from the Issuer, the Agent or NZX. If two or more persons apply to be registered as tenants in common, the Agent may, after receiving an application from one person and notifying the other person(s) of its intentions to do so, divide the Instruments into the share for which each person is expressed to be entitled and register each person as the holder of the Instruments representing the person's share. If the Instrument cannot be divided into shares complying with the minimum denomination (if any) applicable to any Instruments, the Agent may refuse to accept the application.

- 5.8 **Comply with requirements:** The Issuer must comply or procure compliance with all statutory requirements, and the requirements of this deed and the Listing Rules, in relation to the Register.
- 5.9 **Conflict between Register and Statement:** In the event of any conflict between a Statement for an Instrument and the details recorded on the Register in relation to that Instrument, the Register is to prevail.
- 5.10 **Correction of errors:** The Agent may, on such evidence as appears to it to be sufficient, correct errors and remedy omissions in the Register.
- 5.11 **Treasury Instruments:** The Issuer and/or any Related Company of the Issuer may subscribe for Instruments or acquire Instruments from any Holder. Any instrument acquired by the Issuer or a Related Company of the Issuer may, at the option of the Issuer, be cancelled upon registration of the Issuer or such Related Company as Holder. Any Instrument which is not cancelled may be held by the Issuer or such Related Company, and may be subsequently transferred in accordance with this deed.

6. TRANSFERS

- 6.1 **Transfer of title:** Title to an Instrument passes upon the registration of a transfer of that Instrument in accordance with this deed.
- 6.2 **Transfers:**
- (a) Instruments may only be transferred in integral multiples (if any) specified in the Register and subject to the transferor retaining (unless the total Instrument is transferred), and the transferee holding, at least the minimum denomination (if any) specified in the Register or such other amount as the Issuer agrees.
 - (b) Unless the Issuer otherwise agrees, an Instrument may not be transferred by the initial Holder until the Issuer has received the issue price of that Instrument in cleared funds.
- 6.3 **Form of transfer:**
- (a) Subject to this deed, a Holder may transfer any Instrument held by that Holder by:
 - (i) a written instrument of transfer in a usual or common form signed by the transferor and the transferee and delivered to the office of the Agent; or

- (ii) means of the settlement system operated by NZX; or
 - (iii) any other method of transfer approved by the Issuer and the Agent and delivered to the office of the Agent.
- (b) Each instrument of transfer must be accompanied by:
- (i) any other evidence (including legal opinions) that the Issuer or the Agent reasonably requires to prove:
 - (aa) the title of the transferor; or
 - (bb) the transferor's right to transfer the Instruments; or
 - (cc) 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.

6.4 Registration process:

- (a) Subject to clause 6.4(b), neither the Issuer nor the Agent shall charge a fee to any Holder for:
- (i) registering transfers of Instruments; or
 - (ii) splitting Statements in relation to Instruments; or
 - (iii) issuing Statements (where bound to do so) and transmission receipts in relation to Instruments; or
 - (iv) using holder identification numbers in relation to Holders; or
 - (v) effecting conversions between sub-registers (if any) of the Register; or
 - (vi) noting transfer forms in relation to Instruments.
- (b) The Issuer and the Agent 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 Instruments or the transfer of Instruments.
- (c) Neither the Issuer nor the Agent will refuse to register or fail to register or give effect to a transfer of Instruments except as permitted by this deed, any applicable law or the Listing Rules.
- (d) Subject to clause 6.5, a transfer of an Instrument will be effected by the Agent within the time prescribed by the Listing Rules.

- 6.5 **Refusal to register transfers:** The Issuer may direct the Agent to refuse to register any transfer of Instruments where this deed or the Listing Rules or any applicable law permits or requires the Issuer to do so. The Agent shall refuse to register any transfer where this deed or the Listing Rules or any applicable law requires the Issuer or the Agent to refuse to register the transfer.
- 6.6 **Notice of refusal to register:** Where registration of a transfer of Instruments is refused under clause 6.5, the Agent must give written notice of the refusal and the precise reasons (if any) for the refusal to the party lodging the transfer within five Business Days after the date on which the transfer was lodged. Failure to give any such a notice will not invalidate the refusal to register.
- 6.7 **Retention of instruments of transfer:** The Agent must retain on behalf of the Issuer all instruments of transfer of Instruments which are registered, but any instrument of transfer of Instruments the registration of which was declined or refused (except on the ground of suspected fraud) must be returned to the party lodging the transfer.
- 6.8 **Acquisition of Instruments by operation of law:** When the right to any Instrument is acquired by any person in any manner other than by way of a transfer under this deed (whether on the dissolution, death or bankruptcy of the relevant Holder, or under a writ of execution, or otherwise) the Agent, on application by or on behalf of that person and on being satisfied that such person is legally entitled to be registered as the Holder of that Instrument, will enter that person's name in the Register as the Holder of that Instrument accordingly.
- 6.9 **Sale of less than minimum holding:**
- (a) The Issuer may at any time give notice to any Holder holding less than the minimum holding of a class of Instruments that are quoted on NZX that the Issuer intends to exercise the power of sale of those Instruments set out in this clause 6.9, subject to and in accordance with the Listing Rules.
 - (b) If the Issuer's power of sale becomes exercisable:
 - (i) the Issuer may arrange for the sale of those Instruments through NZX or in some other manner approved by NZX;
 - (ii) the Holder will 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;
 - (iii) the Issuer is to account to the Holder for the net proceeds of sale of the Instruments (after deduction of reasonable sale expenses), which are to be held on trust for the Holder by the Issuer and paid to the Holder on surrender of any Statement for the Instruments sold; and
 - (iv) the title of a purchaser of any Instruments sold in accordance with this clause 6.9 will not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.
- 6.10 **Address and account details of Holders:** A transferee of Instruments must designate to the Agent an address, and a bank account to which payments under or in respect of the Instruments 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 this deed. Any change of name or address, or account to which payments are to be made, of a Holder must immediately be notified in writing to the Agent, accompanied by such evidence of such change as the Agent may reasonably require, and the Register will be amended accordingly.

- 6.11 **Reliance on documents:** The Issuer and the Agent will 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 Agent had actual notice of such forgery or defect at the time of registration of such instrument of transfer.

7. REPRESENTATIONS AND WARRANTIES

7.1 The Issuer represents and warrants to each Holder that:

- (a) **Status:** It is a company duly incorporated and validly existing under the laws of New Zealand with perpetual corporate existence, capable of suing and being sued, and has the power and authority to own its assets and to carry on its business as, and in such place or places as, it is now being conducted.
- (b) **Power and authority:** It has:
- (i) the corporate power to enter into, exercise its rights and perform and comply with its obligations under the Transaction Documents and to issue the Instruments; and
 - (ii) taken all necessary corporate action to authorise the entry into, execution and delivery of the Transaction Documents, the issuing of the Instruments and the performance of all its obligations under the Transaction Documents and the Instruments.
- (c) **Valid obligations:** The Transaction Documents constitute and the Instruments, when issued, will constitute the legal, valid and binding obligations of the Issuer enforceable in accordance with their respective terms.
- (d) **No laws violated:** Neither the execution and delivery of the Transaction Documents nor the offering or issue of the Instruments nor the exercise of any right performance or observance of any obligations under the Transaction Documents or the Instruments will:
- (i) violate or contravene any law to which it is subject; or
 - (ii) conflict with, or result in any breach of, any agreement, document, arrangement, obligation or duty to which it is a party or by which it or any of its assets may be bound; or
 - (iii) violate any of the documents constituting it or cause any limitation on any of its powers whatsoever and howsoever imposed, or on the right or ability of its directors to exercise such powers, to be exceeded.
- (e) **Authorisations:** All authorisations required by it (if any) in connection with the entry into, execution or performance by it and the validity and enforceability of the

Transaction Documents and the Instruments and the transactions contemplated by such documents have been obtained or effected and are in full force and effect.

- 7.2 **Repetition:** The representations and warranties contained in clause 7.1 will be deemed to be repeated by the Issuer in favour of a Holder on the Issue Date of each Instrument held by that Holder by reference to the facts and circumstances existing on those dates.

8. COVENANTS

- 8.1 The Issuer covenants with the Holders that, so long as any of the Instruments remain Outstanding, it will:

- (a) **Carry on business:** At all times carry on and conduct its affairs in a proper and efficient manner and use all reasonable endeavours to comply with the terms and conditions of its registration as a registered bank under the Reserve Bank of New Zealand Act 1989;
- (b) **Books of account:** At all times keep proper books of account;
- (c) **Agency Agreement:** Observe and comply with its obligations, and use all reasonable endeavours to procure that the Agent observes and complies with its obligations under the Agency Agreement;
- (d) **Change in agents:** Give notice in accordance with clause 12 to the Holders of any appointment, resignation or removal of the Agent or the Calculation Agent or change in their respective specified offices.

9. EVENTS OF DEFAULT

- 9.1 If any of the following events occur, whether or not within the control of the Issuer:

- (a) **Non-payment:** Default is made for a period of 14 days or more in the payment of any amount payable under this deed;
- (b) **Dissolution:** An order is made, or an effective resolution is passed, for dissolution of the Issuer other than for the purposes of a solvent reconstruction or amalgamation,

then, and in any such event, any Holder may by notice in writing to the Issuer declare any Instrument held by it to be immediately due and payable. If a Holder makes such a declaration, then the Issuer shall immediately pay to that Holder:

- (i) in the case of Instruments which are not interest bearing, the net present value, as at the date of that declaration, of the Principal Amount of those Instruments determined by discounting the Principal Amount by reference to the current market yields at the date of declaration, all as calculated by the Calculation Agent;
- (ii) in the case of Instruments which are interest bearing, the Principal Amount of the Instruments together with accrued interest thereon at the applicable Interest Rates calculated on a daily basis from the later of the

Issue Date or the last Interest Payment Date on which interest was actually paid in respect of that Instrument to the date of that declaration.

All such amounts will be paid in accordance with clause 4.

10. MEETINGS OF HOLDERS

10.1 All meetings of Holders, or of any Class of Holders, will be convened and held in accordance with the provisions set out in schedule 2.

11. BENEFIT OF DEED AND AMENDMENT

11.1 **Acknowledgement:** The Issuer acknowledges that this deed is made for the benefit of, and is intended to be enforceable by, any person who is from time to time a Holder.

11.2 **Limited right to amend:** Save as provided in clause 11.3 the Issuer may not cancel, vary or amend any provision of this deed while any Instruments are Outstanding.

11.3 **Amendments without consent:** The Issuer may, by a deed supplemental to this deed amend the provisions of this deed:

- (a) without the consent of any Holder where such amendment is of a minor or technical nature or will not be of any prejudice to the Holders or is expressed to be inapplicable to any Instruments then Outstanding or is made to comply with law or the Listing Rules; or
- (b) if the amendment is approved by an Extraordinary Resolution of Holders.

11.4 **Amendments with consent of Holders:** Without limiting clause 11.3(b), in relation to each Class the provisions of this deed may be amended in respect of that Class if the amendment has been approved by an Extraordinary Resolution of that Class of Holders. Where an amendment requiring approval of the Holders relates to or arises from any general change in the constitution, affairs or business of the Issuer, such approval shall not be required to be dealt with by way of separate meetings of each such Class of Holders.

11.5 **Notice:** Notice of any proposed variation under clause 11.3(b) or 11.4 shall be given by the Issuer to each Holder or if it affects one or more Classes of Holders but not all Classes of Holders, to the Holders of each affected Class of Holders not less than 14 days before the date on which it is intended that such variation take effect, but the non-receipt of notice by any such Holder shall not affect the validity of any such variation.

12. NOTICES

12.1 Each notice or other communication to be given or made to any person under this deed will:

- (a) be given or made in writing by facsimile or letter;
- (b) be given or made to that person at the address or facsimile number, and marked for the attention of the person (if any), from time to time designated by that person for the purposes of this deed;

- (c) not be effective until received by that person, and any such notice or communication shall be deemed to be received by that person;
- (i) (if given or made by letter) when left at the address of that party or 5 Business Days after being put in the post, postage prepaid, and addressed to that person at that address; or
 - (ii) (if given or made by facsimile) upon production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient designated for the purposes of this deed,

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

12.2 The initial address, and facsimile number and person (if any) so designated by each party, are set out below:

(a) **The Issuer:**

ANZ Bank New Zealand Limited
Ground floor
ANZ Centre
23-29 Albert Street
Auckland 1010

Facsimile No: +64 4 496 8608

Attention: Treasurer

- (b) **The Holders:** The address and facsimile number (if any) of each Holder last entered in the Register.

13. MISCELLANEOUS

13.1 **Waivers and remedies:** Time will be of the essence of this deed but no failure on the part of any person to exercise, and no delay on its part in exercising, any right, power or remedy under this deed shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies provided in this deed are cumulative and not exclusive of any rights, powers or remedies provided by law.

13.2 **Partial invalidity:** If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, such illegality shall not affect the enforceability of the remaining provisions hereof nor will the legality, validity or enforceability or such provisions under the law of any other jurisdiction in any way be affected or impaired thereby.

13.3 **Further issues:** The Issuer may from time to time, without the consent of the Holders, issue other debt securities on such other terms and conditions including as to repayment in a liquidation as the Issuer may think fit.

14. GOVERNING LAW

14.1 This deed and the Instruments are governed by and will be construed in accordance with the laws of New Zealand.

EXECUTION

[Signature block intentionally deleted]

SCHEDULE 1**Particulars to be recorded in the Register in respect of each Instrument**

1. Series Number
2. Issue Date
3. Maturity Date
4. Currency
5. Face Value
6. Principal Amount (fixed amount or formula)
7. Interest Rate* (fixed rate or margin over Base Rate)
8. Minimum/Maximum coupon*
9. Base Rate*
10. Interest Payment Dates*
11. Index*
12. Interest calculation formula
13. Name and address of Holder
14. Minimum denomination and multiples
15. Details of the account to which payments in respect of the Instrument are to be made
16. Transfers of the Instrument
17. Cancellation of the Instrument
18. Any other information required by law
19. Record Date method
20. Additional conditions **[here set out the terms of any additional conditions applicable to the Instrument]**

* if applicable

SCHEDULE 2**Meetings of Holders****1. CONVENING**

1.1 In these provisions:

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

"**clause**" is a reference to a clause of this schedule unless specified otherwise.

"**Deed Poll**" means the deed poll to which this schedule is attached.

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

"**Representative**" means:

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

1.2 If, at any time, in the opinion of the Issuer, a matter is required to be determined by the Holders of a Class of Instruments, a meeting may be called in respect of Holders of that Class of Instruments. If a meeting is called in respect of Holders of a Class of Instruments, the provisions of this schedule shall, with all necessary modifications, apply and be construed as if references to Instruments were references to the relevant Class of Instruments and references to Holders were references to the Holders of that Class of Instruments.

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

1.4 The Issuer will whenever required to do so pursuant to the Companies Act 1993 or the FMC Act or any regulations made thereunder or the Listing Rules convene a meeting of the Holders.

1.5 The Issuer will at the request in writing of Holders holding not less than 5% of the aggregate Principal Amount of a Class of Instruments Outstanding convene a meeting of the Holders of that Class. The request shall state the nature of the business proposed to be dealt with at the meeting concerned. For the purposes of this schedule the Principal Amount of any Instrument which is Index-linked shall be determined in accordance with clause 3.2 of the Deed Poll as if the date on which the request is given were the Maturity Date.

1.6 Notwithstanding the other provisions of this clause 1, the Issuer will not be obliged to convene a meeting of Holders pursuant to such provisions until it has been indemnified to its satisfaction against all costs and expenses to be thereby incurred.

2. PLACE

Meetings will be held in Wellington at a place designated in the relevant notice of meeting.

3. NOTICE OF MEETINGS

3.1 Notice of every meeting will be given in the manner provided in clause 12 of the Deed Poll to every Holder entered in the Register as at the close of business 5 Business Days prior to the date of despatch of the notice.

3.3 At least 14 days' notice of every meeting will be given. The notice will be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice will specify the place and Appointed Time of the meeting and the general nature of the business to be transacted but it will not be necessary to specify in the notice the terms of the resolutions to be proposed, except in the case of a resolution proposed to be passed as an Extraordinary Resolution in which case the text of the proposed resolution must be set out.

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

4. QUORUM

4.1 No business will be transacted at any meeting unless the requisite quorum is present at the commencement of business. In the case of all meetings at least two Holders must be present (in person or by Representative).

4.2 The quorum for passing an Extraordinary Resolution will be Holders present in person or by Representative holding or representing a majority in Principal Amount of the Instruments.

4.3 The quorum for the transaction of any business other than the passing of an Extraordinary Resolution will be the Holders present in person or by Representative of at least 10% of the aggregate Principal Amount of the Instruments.

4.4 If within 15 minutes or such longer time not exceeding 45 minutes as the chairperson of the meeting may decide after the Appointed Time a quorum is not present the meeting if convened upon the request of Holders will be dissolved. In any other case it will stand adjourned to such day and time not being less than 14 days thereafter and to such place as may be appointed by the chairperson and at such adjourned meeting all the Holders present in person or by Representative will be a quorum for the transaction of business including the passing of Extraordinary Resolutions.

4.5 Notice of any such adjourned meeting of Holders at which an Extraordinary Resolution is to be submitted will be given in the same manner as for an original meeting (except that only 7 clear days' notice will be required) and such notice will state that the Holders present in person or by Representative at the adjourned meeting and whatever the amount of Instruments held by them (but comprising at least two individuals) will form a quorum.

5. CHAIRPERSON

5.1 A person appointed (by a Holders' resolution) from the Holders or any Representatives present will preside as chairperson at every meeting.

6. RIGHT TO ATTEND AND SPEAK

6.1 Any director, officer or solicitor of the Issuer or any person authorised in that behalf by the Issuer may attend any meeting and all such persons will have the right to speak at the meeting.

7. ADJOURNMENT

- 7.1 The chairperson may, with the consent of any meeting at which a quorum is present, and will, if so directed by the meeting, adjourn the meeting from time to time from place to place.
- 7.2 No business will be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

8. ONLY PERSONS ON REGISTER RECOGNISED BY ISSUER

The persons registered as Holders in the Register and no other person or persons will be recognised and treated as the legal holders of the Instruments therein mentioned whether such persons are or are not in fact the owners thereof.

9. AUTHORITY TO VOTE

- 9.1 A Holder that is an individual may vote personally or by his or her Representative and a Holder that is a corporation may vote by its Representative.
- 9.2 The persons registered as at the Proxy Closing Time as Holders in the Register will be exclusively entitled to vote in person or by Representative in respect of the Instruments recorded as owned by them.

10. PROXIES

- 10.1 The instrument appointing a proxy must be in writing signed by the appointer or his or her attorney duly authorised in writing or, if the appointer is a corporation, signed by an attorney or any director, officer, general manager, investment manager or other person who appears to have authority to appoint a party on behalf of such corporation.
- 10.2 A person appointed to act as a proxy need not be a Holder and a holder of a proxy will have the right to speak at the meeting.
- 10.3 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority certified by a solicitor or in any other manner approved by the Issuer must be deposited at such place as the Issuer may in the notice convening the meeting direct or (if no such place is appointed) then at the registered office of the Issuer not later than the Proxy Closing Time. An instrument of proxy which is not so deposited will not be treated as valid unless the Issuer, in its absolute discretion, elects to accept any instrument of proxy notwithstanding that such instrument or any power of attorney or other authority is received or produced at a place other than that specified above or out of time.
- 10.4 An instrument of proxy may be in any usual or common form or in any other form approved by the Issuer and may make provision for directions to be given by the grantor to vote in favour of or against any proposed resolution.
- 10.5 A proxy whether in a usual or common form or not will unless the contrary is stated thereon be valid as well for any adjournment of the meeting as for the meeting to which it relates and need not be witnessed. Notwithstanding any provisions contained in an instrument of proxy no instrument of proxy will be valid after the expiration of 12 months from the date of its execution but this provision will not be construed to apply to the appointment of an attorney or Representative otherwise than by an instrument of proxy.
- 10.6 An instrument of proxy in favour of:
- (a) the chief executive of the Issuer; or

(b) the chairperson of the meeting,

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

11. HOLDER MAY APPOINT ATTORNEY

11.1 Any Holder may by power of attorney appoint an attorney (who need not be a Holder) to vote and act on his or her behalf at any meeting. An attorney will be entitled to produce evidence of his or her appointment at any time before the Appointed Time. An attorney as so empowered may appoint a proxy for the Holder granting the power of attorney.

12. CORPORATE REPRESENTATIVES

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

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

13. VOTING PROCEDURE AND POLLS

13.1 A resolution (other than an Extraordinary Resolution) put to the vote of a meeting will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson, the Issuer or any representative of the Issuer or by one or more Holders holding or representing not less than 5% of the aggregate Principal Amount of the Instruments. Unless a poll is so demanded a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

13.2 An Extraordinary Resolution put to the vote of a meeting will be decided on a poll.

13.3 On a show of hands each Holder present at the meeting and entitled to vote (whether personally or as a Representative) will have one vote only. On a poll every Holder who is present in person or by a Representative will have one vote for every \$1 of Principal Amount of Instruments of which he or she is the Holder.

13.4 If a poll is duly demanded in accordance with clause 13.1 or required under clause 13.2, it will be taken in such manner as the chairperson may direct and the result of such poll will be deemed to be the resolution of the meeting at which the poll was demanded.

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

13.6 A poll demanded on the election of a chairperson or on a question of adjournment will be taken forthwith. A poll demanded on any other question will be taken either immediately or at such time (not being more than 30 days from the date of the meeting) and place as the chairperson

may direct. The result of such poll will be deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.

- 13.7 The demand for a poll will not prevent the continuance of a meeting for the transaction of business other than the question of which the poll has been demanded.
- 13.8 On a poll votes may be given either personally or by Representative. On a poll a person entitled to more than one vote need not use all his or her votes or cast all the votes he or she uses in the same way.
- 13.9 In the case of joint Holders the vote of the senior who tenders a vote whether in person or by Representative will be accepted to the exclusion of the vote of the other joint Holders and for this purpose seniority will be determined by the order in which the names stand in the Register in respect of the joint holding.
- 13.10 A vote given in accordance with the terms of an instrument of proxy or power of attorney or other authority will be valid notwithstanding the previous death, insanity or (in the case of a corporation) liquidation of the principal or revocation of the proxy or power of attorney under which the proxy was executed or the transfer of the Instruments in respect of which the vote is given provided that no intimation in writing of such death, insanity, liquidation, revocation or transfer is received by the Issuer at its registered office before the commencement of the meeting or adjourned meeting at which the proxy, attorney or authority is used.

14. EXTRAORDINARY RESOLUTIONS

- 14.1 The expression "**Extraordinary Resolution**" means a resolution passed at a meeting of the Holders duly convened and held in accordance with the provisions herein contained, at which not less than 75% of the votes given on a poll voted in favour of the resolution.
- 14.2 A meeting of Holders will, in addition to all other powers which by the Deed Poll are specified as exercisable by Extraordinary Resolution, have the following powers exercisable by Extraordinary Resolution namely:
- (a) power to sanction either unconditionally or upon any conditions the release of the Issuer from the payment of all or any part of the moneys payable pursuant to the Deed Poll or the Instruments;
 - (b) power to sanction any request from the Issuer for the exchange of the Instruments for or the conversion of the Instruments into shares, stock, debentures, debenture stock or other obligations or securities of the Issuer or any other company formed or to be formed;
 - (c) power to postpone or with the concurrence of the Issuer to accelerate the day when the Principal Amount of any Instruments becomes payable and to suspend or postpone for a time the payment of interest on any Instruments;
 - (d) power to sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Holders against the Issuer or against its assets however such rights arise;
 - (e) power to assent to any amendment to the provisions contained in the Deed Poll proposed or agreed to by the Issuer and to authorise the Issuer to execute any supplemental deed poll embodying any such amendment;
 - (f) power to give any sanction, assent, release or waiver of any breach or default by the Issuer under any of the provisions of the Deed Poll;

- (g) power to sanction any scheme for the reconstruction of the Issuer or for the amalgamation of the Issuer with any other corporation where such sanction is necessary;
- (h) power to authorise or direct the Issuer to execute any supplemental deed or other document embodying such sanction, authority or approval, assent, release, waiver, direction or request.

14.3 An Extraordinary Resolution passed at a meeting of the Holders duly convened and held will be binding upon all the Holders whether or not present or entitled to be present at the meeting and the Holders will be bound to give effect thereto accordingly and the passing of any such resolution will as between the Issuer and the Holders be conclusive evidence that the circumstances justify the passing thereof the intention being that it will rest with the meeting to determine without appeal whether or not the circumstances justify the passing of any such resolution. Notwithstanding the foregoing:

- (a) a resolution which affects a particular Holder only, rather than the rights of all Holders generally, or of a particular Class of Holders generally, will not be binding on such Holder unless such Holder agrees to be bound by the terms of such resolution;
- (b) a resolution which affects one Class only of Instruments is deemed to have been duly passed if passed at a properly convened and held meeting of the Holders of that Class or pursuant to clause 16 of this schedule;
- (c) a resolution which affects more than one Class of Instruments, but does not give rise to a conflict of interest between the Holders of any of the Classes so affected, is deemed to have been duly passed if passed at a single properly convened and held meeting of the Holders of all Classes so affected or pursuant to clause 16 of this schedule; and
- (d) a resolution which affects more than one Class of Instruments and gives or may give rise to a conflict of interest between the Holders of any of the Classes so affected is deemed to have been duly passed if passed at separate properly convened and held meetings of the Holders of each Class so affected or pursuant to clause 16 of this schedule.

The Issuer may rely on, and the Holders and the Agent shall be bound by, a legal opinion from a leading law firm in New Zealand to the effect that a resolution affects one Class only or, if it affects more than one Class of Instruments, does not give rise to a conflict of interest, for the purposes of determining the meeting or meetings which need to be held for the purposes of this clause 14.3.

15. MINUTES TO BE KEPT

15.1 Minutes of all resolutions and proceedings at every meeting will be made by the Issuer or, if the Issuer is not present at such meeting, by some person appointed by the chairperson of such meeting and duly entered in books from time to time provided for that purpose by the Issuer and any such minutes, if purporting to be signed by the chairperson of the meeting at which such resolution were passed or proceedings had or by the chairperson of the next succeeding meeting of Holders, will be prima facie evidence of the matters therein stated. Until the contrary is proved every such meeting in respect of the proceedings had held and convened and all resolutions passed or proceedings had held and convened and all resolutions passed or proceedings had thereat to be duly passed and had.

16. RESOLUTIONS IN WRITING

16.1 **Extraordinary Resolution:** Anything that may be done by Holders by a resolution or Extraordinary Resolution passed at a meeting of Holders may be done by a resolution in writing signed by not less than 75% of the Holders having the right to vote on that resolution, holding

in aggregate Instruments conferring the right to cast not less than 75% of the votes which could be cast on that resolution.

- 16.2 **Counterparts:** Any such resolution may consist of several documents in similar form, each signed by one or more Holders.
- 16.3 **Execution:** Any such resolution may be signed by a Holder, or an agent or attorney of the Holder duly authorised in writing, or if the Holder is a company, by a director, or by an attorney so authorised by the company.