

Deed of Amendment and Restatement

of

Crown Deed of Guarantee (Building Society)

Her Majesty the Queen in right of New Zealand

Heartland Building Society
(formerly called Combined Building Society)

**DEED OF AMENDMENT AND RESTATEMENT OF CROWN DEED OF GUARANTEE
(BUILDING SOCIETY)**

Date **30** August 2011

PARTIES

Her Majesty the Queen in right of New Zealand (*the Crown*)

Heartland Building Society (formerly called Combined Building Society) (*the Principal Debtor*)

RECITALS

- A The Crown and the Principal Debtor are parties to a Deed of Guarantee dated 15 December 2010 (*Deed of Guarantee*) under which the Crown guarantees certain obligations of the Principal Debtor.
- B The Crown and the Principal Debtor now intend to make certain amendments to the Deed of Guarantee arising from the proposed acquisition by the Principal Debtor of all of the shares in PGG Wrightson Finance Limited (*PWF*) and the assumption by the Principal Debtor of PWF Assumed Debt Securities (as defined in the Restated Deed of Guarantee annexed hereto as Schedule 2).

BY THIS DEED the parties agree as follows:

1 Defined Terms

In this Deed:

- (a) terms defined in the Restated Deed of Guarantee annexed hereto as Schedule 2 shall bear the same meanings in this Deed; and
- (b) "*form and substance satisfactory to the Crown*" means, in relation to the use of that term in clause 3 of this Deed and in respect of any document to which it relates, that the document submitted as a condition precedent for the purposes of that clause conforms in all material respects to the form and substance of the draft of that document previously submitted to and confirmed by the Crown as being acceptable to the Crown in its sole discretion.

2 Amendment and Restatement of Deed of Guarantee

Subject to the fulfilment (or waiver by the Crown) of each of the conditions precedent stated in clause 3 of this Deed, with effect from the time (*Effective Time*) being the Debt Transfer Time as defined in each PWF Deed of Defeasance, the Deed of Guarantee shall be, and is hereby, amended and restated in the form annexed to this Deed as Schedule 2 and shall thenceforth be a guarantee of the relevant obligations of the Principal Debtor on the terms contained in that amended and restated Deed of Guarantee.

3 **Conditions Precedent**

The amendment and restatement of the Deed of Guarantee referred to in clause 2 of this Deed shall not come into force or have effect unless, before the Effective Time, the Crown has received each of the following in a form and substance satisfactory to the Crown:

- (a) a certified copy of each PWF Deed of Defeasance properly executed by all parties to it;
- (b) an opinion from Chapman Tripp on the corporate authority and the corporate power of the Principal Debtor to enter into this Deed and the due execution by the Principal Debtor of this Deed, and the corporate power of PWF to enter into the Deed of Accession by which PWF becomes a party to the Deed of Indemnity and Postponement and the due execution by PWF of that Deed of Accession;
- (c) a certificate signed by two directors of the Principal Debtor substantially in the form set out in Schedule 1 to this Deed;
- (d) a certificate signed by two directors of PWF confirming that:
 - (i) disclosure has been made to the Crown of the material particulars of all transactions currently contemplated by PWF, in respect of which PWF or a Related Party is or will be party on or before the Effective Time and that are otherwise outside the ordinary course of business of PWF and in respect of which Crown consent is (at the Effective Time) required pursuant to the terms of the Deed of Guarantee between the Crown and PWF dated 1 April 2010; and
 - (ii) after due enquiry by the directors of PWF, no circumstances have arisen that materially adversely affect the trading or profitability of PWF, or the value of its assets, or the ability of PWF to pay the liabilities that it would have been due to pay in the next 12 months had it not entered into each PWF Deed of Defeasance, compared to the financial position of PWF as set out in its financial statements for the period ended 30 June 2011;
- (e) a copy of the Deed of Accession by which PWF becomes a party to the Deed of Indemnity and Postponement, properly executed by PWF and certified by PWF's General Counsel to be a true copy of the executed Deed of Accession scanned to PWF's General Counsel;
- (f) a certified copy of the Principal Debtor's register of debt securities (which may comprise a combination or compilation of the register of PWF as adapted for use by the Principal Debtor), which is to include entries in respect of all those debt securities that are as at a day being not more than two working days before the day in which the Effective Time falls, intended to become subject to the Deed of Guarantee;

- (g) confirmation from Standard & Poor's Rating Services of the Principal Debtor's rating of BBB- and that the rating factors taken into account include information regarding the proposed acquisition of PWF; and
- (h) written confirmation from the Principal Debtor that, immediately following completion of the Principal Debtor's acquisition of all of the shares in PWF and its assumption of the PWF Assumed Debt Securities, the Principal Debtor will have not less than \$55,000,000 of new equity capital.

4 Non-Fulfilment of Conditions Precedent

If any of the conditions precedent referred to in clause 3 of this Deed is not satisfied or waived by the Crown by a date not later than 30 September 2011 then this Deed will terminate and be of no further effect with the consequence that the amendment and restatement of the Deed of Guarantee will not proceed.

5 Confirmation

The Deed of Guarantee shall continue in full force and effect, and the Crown and the Principal Debtor confirm their respective obligations, covenants, rights and powers under the Deed of Guarantee, as the same are modified, altered or varied by this Deed.

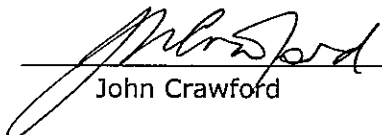
6 Delivery

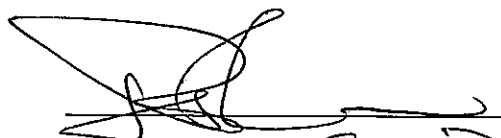
Without limiting any other mode of delivery, this Deed will be delivered by the Principal Debtor on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the Principal Debtor, to the Crown; or
- (b) transmission by the Principal Debtor, or its solicitors, of a scanned copy of an original of this Deed, executed by the Principal Debtor, to the Crown at both of the following email addresses:
 - Stephen.Revill@treasury.govt.nz
 - Andre.Anderson@treasury.govt.nz.

EXECUTED AND DELIVERED AS A DEED by:

Her Majesty the Queen in Right of)
New Zealand acting by and through John)
Crawford, **Deputy Secretary – Commercial**)
Transactions acting under delegation of the)
Secretary to the Treasury for and on behalf)
of the Minister of Finance in the presence of:)
)


John Crawford




Witness Name: John Park

Witness Occupation: Public Servant


Witness Address: 57 Bayview Rd, Wellington

Heartland Building Society by:



Signature of Director

J. K. GREENSLADE
Name of Director



Signature of Director

A. T. PICKERTS
Name of Director

SCHEDULE 1 – FORM OF DIRECTORS’ CERTIFICATE

TO: Her Majesty the Queen in right of New Zealand

AND TO: Chapman Tripp

We, [] and [], each being a director of Heartland Building Society (the *Society*), certify as follows:

1 Board Resolutions

1.1 The board of directors of the Society (the *Board*) has passed resolutions:

- (a) approving the transactions (the *Transactions*) contemplated by the documents listed in the schedule below (the *Documents*), and the Documents themselves; and
- (b) authorising execution of the Documents by the Society in the manner in which they have actually been executed.

1.2 [The resolutions were duly passed in writing signed by all of the directors of the Society entitled to receive notice of a meeting.

OR

1.3 The resolutions were duly passed at a meeting of the Board:

- (a) which was properly convened; and
- (b) in respect of which all quorum requirements were duly observed.]

1.4 The resolutions remain in full force and effect.

2 Due Execution

Each of the Documents has been properly executed by the Society. Each Document that is a deed has been properly executed and delivered in compliance with section 9 of the Property Law Act 2007.

3 Solvency

3.1 We are not aware of any liquidation proceedings which have been commenced or are intended to be commenced by any person against the Society, or which are intended or anticipated by the Society.

3.2 Having taken into account all relevant factors, the Board is of the view that the value of the consideration or benefit received by the Society under the Transactions is not less than the value of the consideration provided (or to be provided) by the Society.

3.3 After making due enquiry, the Board is of the view that the Society:

- (a) is able to pay its due debts;

- (b) will not become unable to pay its due debts as a result of the Documents and the Transactions;
- (c) is not about to incur debts beyond its ability to pay;
- (d) is not engaged, or about to engage, in a business or transaction for which the remaining assets of the Society are unreasonably small, given the nature of the business or transaction; and
- (e) has, by entering into the Documents and the Transactions, no intention to prejudice a creditor (within the meaning of subpart 6 of Part 6 of the Property Law Act 2007).

4 Compliance with Trust Deed and Crown Guarantee

After making due enquiry, the Board is satisfied that, following completion of the Transactions, the Society will:

- (a) not be in breach of its obligations under the Master Trust Deed dated 29 October 2010 between the Society and Trustees Executors Limited (as supplemented and amended from time to time); and
- (b) not be in breach of its obligations under the Crown Deed of Guarantee (Building Society) dated 15 December 2010 between Her Majesty the Queen in right of New Zealand and the Society (as supplemented and amended).

5 Disclosure of transactions

The Board is satisfied that (in relation to the documents referred to in paragraph 1 of the Schedule hereto, and using terms defined in those documents):

- (a) disclosure has been made to the Crown of the material particulars of all transactions currently contemplated by the Society, in respect of which the Society or a Related Party is or will be party on or before the Effective Time and that are otherwise outside the ordinary course of business of the Society and in respect of which Crown consent is (at the Effective Time) required pursuant to the terms of the Deed of Guarantee; and
- (b) after due enquiry by the Board, no circumstances have arisen that materially adversely affect the trading or profitability of the Society, or the value of its assets, or the ability of the Society to pay the liabilities that it is due to pay in the next 12 months (including as a result of entering into each PWF Deed of Defeasance), compared to the financial position of the Society as set out in its financial statements for the period ended 30 June 2011.

Schedule of Documents

The Documents are:

- 1 Deed of Amendment and Restatement of Crown Deed of Guarantee (Building Society) between Her Majesty the Queen in right of New Zealand and Heartland Building Society, entered into on or about [●] 2011, to which is annexed as Schedule 2 a form of Restated Deed of Guarantee.
- 2 Deed of Defeasance (in relation to Deposits) between Heartland Building Society, PGG Wrightson Finance Limited, New Zealand Permanent Trustees Limited and Trustees Executors Limited, entered into on or about [●] 2011.
- 3 Deed of Defeasance (in relation to Bonds) between Heartland Building Society, PGG Wrightson Finance Limited, New Zealand Permanent Trustees Limited and Trustees Executors Limited, entered into on or about [●] 2011.
- 4 Supplemental Trust Deed (PWF Bonds) between Heartland Building Society and Trustees Executors Limited, entered into on or about [●] 2011.

Signed by [name]

Director

Date:

Signed by [name]

Director

Date:

**SCHEDULE 2 – AMENDED AND RESTATED CROWN DEED
OF GUARANTEE**

Crown Deed of Guarantee (Building Society)

Her Majesty the Queen in right of New Zealand
and
Heartland Building Society

Amended and restated as at 31 August 2011

Amended and restated as at 31 August 2011

PARTIES

Her Majesty the Queen in right of New Zealand acting by and through the Minister of Finance (*Crown*)

Heartland Building Society (*Principal Debtor*)

BACKGROUND

A Under the Act:

- (1) the Minister of Finance, may on behalf of the Crown, give a guarantee in writing for a period that ends on or before 31 December 2011 in respect of any or all debt securities issued by an eligible entity if it appears to the Minister to be necessary or expedient in the public interest to do so; and
- (2) the Minister may give the guarantee on any terms and conditions that the Minister thinks fit.

B The Principal Debtor is an eligible entity.

C It appears to the Minister of Finance that it is necessary and expedient in the public interest that the Crown guarantees certain obligations of the Principal Debtor on the terms of this Deed.

THE PARTIES AGREE as follows:

1 INTERPRETATION

1.1 Definitions

In this Deed, unless the context requires otherwise:

Act means the Crown Retail Deposit Guarantee Scheme Act 2009;

Announcement Date means 12 October 2008;

Assumed Debt Security means a debt security (as that term is defined pursuant to paragraph (a) of the definition of Debt Security) that is, or has been:

- (a) issued by Southern Cross Building Society or Canterbury Building Society and the obligations in respect of which are transferred to the Principal Debtor as part of a transfer of engagements under section 33 of the Building Societies Act 1965 and the related deeds of defeasance entered into, or to be entered into, by each of those building societies with the Principal Debtor and Trustees Executors Limited; or

- (b) issued by MARAC Finance Limited and the obligations in respect of which are assumed by the Principal Debtor pursuant to the terms of the MARAC Deed of Defeasance; or
- (c) issued by PGG Wrightson Finance Limited and the obligations in respect of which are assumed by the Principal Debtor pursuant to the terms of a PWF Deed of Defeasance;

Building Society has the meaning given under the Building Societies Act;

Building Societies Act means the Building Societies Act 1965;

Commencement Date means:

- (a) in respect of the PWF Assumed Debt Securities, the date on which the obligations in respect of those debt securities are assumed by the Principal Debtor pursuant to the terms of a PWF Deed of Defeasance; and
- (b) in respect of all other Debt Securities, 5 January 2011;

Companies Act means the Companies Act 1993;

Creditor has the meaning given in clause 1.3;

Crown Guarantee means the Crown guarantee in clause 2.2;

Debt Security:

- (a) has the meaning given to that term in section 3 of the Act, but as if the phrase "deposited with, lent to or otherwise owing by any person" (as contained in the definition of that term in section 2(1) of the Securities Act 1978) read "deposited with or lent to any person";
- (b) in relation to the Principal Debtor, means a debt security (as defined in paragraph (a) of this definition) issued or to be issued by the Principal Debtor; and
- (c) includes each Assumed Debt Security;

Deed of Indemnity and Postponement means the deed dated 14 December 2010 between the Crown, the Principal Debtor and each Group Company (as therein defined);

Default Event means:

- (a) failure of the Principal Debtor to make payment to a Creditor in the amount and at the date lawfully due and payable in accordance with the terms of any Indebtedness, other than:
 - (i) any such failure due solely to a bona fide dispute, or

- (ii) any such failure in respect of Indebtedness in respect of which the Crown, in accordance with clause 2.2(b), is not required to make payment under clause 2.2;
- (b) the Principal Debtor institutes or has instituted against it any form of proceeding seeking:
 - (i) the appointment of a liquidator, provisional liquidator, voluntary administrator, receiver, receiver and manager, or similar person; or
 - (ii) a judgement of insolvency or bankruptcy;

or any similar relief in respect of the Principal Debtor, provided that, if any such proceeding is, within 14 days after it is instituted, withdrawn or challenged by proceedings which the Principal Debtor is advised by its legal advisors have a reasonable prospect of success, it shall be deemed not to have occurred for the purposes of this Deed (unless and until such challenge is unsuccessful);
- (c) the Principal Debtor becomes subject to the appointment of a voluntary administrator, liquidator, provisional liquidator, receiver, receiver and manager, or similar person;
- (d) the Principal Debtor has a secured party take possession of all or substantially all its assets, or has a distress, execution or attachment or other legal process instigated or enforced against all or substantially all of its assets;
- (e) the Principal Debtor makes a general assignment, arrangement or compromise with, or for the benefit of, all or a material number of its creditors (including a moratorium);
- (f) the registration of the Principal Debtor as a Building Society has been suspended or cancelled under section 124 of the Building Societies Act; or
- (g) a statutory manager is appointed to the Principal Debtor under the Reserve Bank Act or the Corporations (Investigation and Management) Act 1989, or any equivalent action is taken in any other jurisdiction in which the Principal Debtor is incorporated or carries on a material part of its business;

Excluded Debt Security means:

- (a) a Debt Security which:
 - (i) is or was issued prior to the Guarantee Period pursuant to the terms of:
 - (A) a registered prospectus or an investment statement under the Securities Act 1978; or
 - (B) (if applicable) some other offering documentation,

which states or stated that the Debt Security is an "Excluded Security" or "Excluded Debt Security" for the purposes of any Previous Deed and that accordingly none of the obligations of a Transaction Debtor in respect of that Excluded Debt Security have the benefit of the "Crown Guarantee" under the relevant Previous Deed; or

(ii) is issued during the Guarantee Period pursuant to the terms of:

(A) a registered prospectus or an investment statement under the Securities Act 1978; or

(B) (if applicable) some other offering documentation,

which states that the Debt Security is an "Excluded Debt Security" for the purposes of this Deed and that accordingly none of the obligations of the Principal Debtor in respect of that Excluded Debt Security have the benefit of the Crown Guarantee;

(b) a Debt Security issued pursuant to the master trust deed that is subject to a supplemental trust deed, which supplemental deed has a provision which:

(i) is inconsistent with or conflicts with an existing provision of the Master Trust Deed, and

(ii) has not been previously approved by the Crown in writing; and

(c) any other Debt Security which the Crown, in its sole discretion (and on such conditions, if any, as it may specify) agrees or has agreed with the Principal Debtor in writing, prior to that Debt Security being offered to any Person by or on behalf of the Principal Debtor, will be an Excluded Debt Security for the purposes of this Deed (and/or an "Excluded Security" or "Excluded Debt Security" for the purposes of the relevant Previous Deed), and that accordingly none of the obligations of the Principal Debtor in respect of that Excluded Debt Security have the benefit of the Crown Guarantee (and/or the "Crown Guarantee" under the Previous Deed);

Execution Date means [This term is redundant];

Financial Institution means a "financial institution" as that term is defined in section 2 of the Reserve Bank Act and, without prejudice to the generality of the foregoing, includes:

(a) a "collective investment scheme" as that term is defined in section 157B of the Reserve Bank Act (as if that term also included any "superannuation fund" or "superannuation scheme" as those terms are defined in section YA1 of the Income Tax Act 2007) or an issuer, trustee or manager of any such scheme acting in that capacity;

- (b) an "insurer" as that term is defined in section 2 of the Insurance Companies (Ratings and Inspections) Act 1994 or any other Person carrying on the business of providing insurance cover (of whatever nature);
- (c) a Person carrying on business as a sharebroker, an investment adviser or a fund manager (to the extent that Person is acting in that capacity); or
- (d) a Person who is controlled by a financial institution as defined above;

Form and substance satisfactory to the Crown means [This term is redundant];

GAAP means "generally accepted accounting practice" within the meaning of that term under the Financial Reporting Act 1993;

Group Company is defined in the Deed of Indemnity and Postponement;

Guarantee Period means the period:

- (a) commencing at the start of the applicable Commencement Date; and
- (b) expiring at 11:59pm on 31 December 2011;

Guaranteed Amount means, in respect of any date, the maximum amount for which the Crown would be liable on that date under the Crown Guarantee, in accordance with the terms of this Deed, if all Indebtedness existing on that date was (and had been, for 15 days after the relevant date) due and payable and was not paid by the Principal Debtor;

Indebtedness means any obligation of the Principal Debtor to pay money (whether present or future) to a Creditor under a Debt Security, but:

- (a) excludes any obligation which in terms of priority of payment and otherwise on a winding up, dissolution or liquidation of the Principal Debtor would rank behind the unsecured unsubordinated obligations of the Principal Debtor;
- (b) excludes any obligation under a Debt Security in respect of which the Crown has provided a guarantee (by issue of a "guarantee eligibility certificate") under the Crown Wholesale Funding Guarantee Facility (as defined in the Act);
- (c) excludes at any time, any obligation which at that time is guaranteed by the Crown under a deed of guarantee entered into between the Announcement Date and 12 October 2010 under the "Retail Deposit Guarantee Scheme" announced on or about the Announcement Date;
- (d) excludes any obligation under an Excluded Debt Security;
- (e) excludes any obligation excluded by clause 2.4, clause 10.6(b) or clause 10.7; and

(f) excludes any Post-Default Interest;

MARAC Deed of Defeasance means a deed to be entered into and dated on or before the Merger Commencement Date between MARAC Finance Limited, the Principal Debtor, The New Zealand Guardian Trust Company Limited and Trustees Executors Limited, by which (among other things) the Principal Debtor assumes all of MARAC Finance Limited's rights and obligations in relation to all of the Debt Securities issued under debenture trust deed dated 9 March 1984, to which MARAC Finance Limited and The New Zealand Guardian Trust Company Limited are party;

Master Trust Deed means the trust deed dated 29 October 2010 between the Principal Debtor and Trustees Executors Limited;

Merger Assumed Debt Securities means the Assumed Debt Securities as defined in paragraphs (a) and (b) of the definition of that term;

Merger Commencement Date means 5 January 2011;

Merger Plan means the that plan called "Merger Plan" that is included in the Information Memorandum dated 29 October 2010 issued by the Principal Debtor and registered as a Prospectus on that date, subject to any amendment to that plan that is first approved in writing by the Crown;

Net Tangible Assets means, at any time, the difference (which may be expressed as a negative number) between the value of Total Tangible Assets and Total Liabilities at that time;

New Zealand Citizen has the meaning given under the Citizenship Act 1977;

New Zealand Resident means a Person defined as resident in New Zealand pursuant to the Income Tax Act 2007;

Nomination means a deed or agreement between the Crown and a Person (or a written notice from the Crown to a Person or to the public) under which the Crown designates that Person (whether specifically or by reference to a class of Persons) as a "Nominated Beneficiary" for the purposes of this Deed or any Previous Deed (whether that deed, agreement or notice identifies this Deed or that Previous Deed specifically or by reference to a class);

Nominated Beneficiary means, at any time, a Person who has been designated as a "Nominated Beneficiary" under, and at that time remains a "Nominated Beneficiary" in accordance with, a Nomination;

Notice of Claim means a notice, deed or agreement duly executed by or on behalf of a Creditor in a form to be determined by the Crown under which the Creditor requires the Crown to make payment to that Creditor under this Deed;

Other Guarantee means in relation to a Creditor, any guarantee, indemnity or other assurance under which that Creditor is effectively guaranteed and/or is effectively indemnified in respect of any non-payment of Indebtedness by, a person other than

the Crown (whether or not that Other Guarantee extends to all Indebtedness owed to the relevant Creditor) and includes any replacement or substitute guarantee, indemnity or other assurance;

Party means the Crown or the Principal Debtor and *Parties* means them collectively;

Person includes an individual, a body corporate, any association of persons (whether corporate or not), a trust (including the trustees of a trust acting in that capacity), and a state and any agency of a state (in each case whether or not having separate legal personality);

Post-Default Interest means, in respect of a Debt Security, any amount of interest and any amounts in the nature of interest, or having a similar purpose or effect to interest, including without limitation:

- (a) the face amount of that Debt Security less the net proceeds received after its discount or issue;
- (b) any capitalised interest;
- (c) any fee or other amount incurred on a regular or recurring basis payable in respect of that Debt Security; and
- (d) any amount that is required by GAAP to be treated as interest or a financing cost,

in each case to the extent accrued following a Default Event (other than a Default Event as defined in paragraph (a) of the definition thereof that does not relate to that Debt Security), and includes any amount which the Crown reasonably considers to be economically equivalent to interest accrued following such a Default Event;

Previous Deed means each of:

- (a) the deed of guarantee between the Crown and Canterbury Building Society dated 28 May 2010;
- (b) the deed of guarantee between the Crown and MARAC Finance Limited dated 11 March 2010;
- (c) the deed of guarantee between the Crown and Southern Cross Building Society dated 28 May 2010; and
- (d) the deed of guarantee between the Crown and PGG Wrightson Finance Limited dated 1 April 2010;

PWF Assumed Debt Securities means the Assumed Debt Securities as defined in paragraph (c) of the definition of that term;

PWF Commencement Date means the Commencement Date as defined in paragraph (a) of the definition of that term;

PWF Deed of Defeasance means each of:

- (a) a deed to be entered into between PGG Wrightson Finance Limited, the Principal Debtor, New Zealand Permanent Trustees Limited and Trustees Executors Limited, by which (among other things) the Principal Debtor assumes all of PGG Wrightson Finance Limited's rights and obligations in relation to all of the Debt Securities issued under a bond trust deed dated 21 April 2005, to which PGG Wrightson Finance Limited and New Zealand Permanent Trustees Limited are party; and
- (b) a deed to be entered into between PGG Wrightson Finance Limited, the Principal Debtor, New Zealand Permanent Trustees Limited and Trustees Executors Limited, by which (among other things) the Principal Debtor assumes all of PGG Wrightson Finance Limited's rights and obligations in relation to all of the Debt Securities issued under a debenture trust deed dated 7 October 2004, to which PGG Wrightson Finance Limited and New Zealand Permanent Trustees Limited are party;

Registered Bank means a Person registered as a bank under the Reserve Bank Act;

Related Party of the Principal Debtor and/or a Transaction Debtor means a Person who is, or at any date after the Announcement Date was, a Person who would be a "related party" as that term is defined in section 157B of the Reserve Bank Act 1989, as if:

- (a) the Principal Debtor or a Transaction Debtor was a "deposit taker"; and
- (b) "related party" included any Person who controls the Principal Debtor or a Transaction Debtor and any Person who is controlled by any such Person or by the Principal Debtor or a Transaction Debtor;

Reserve Bank Act means the Reserve Bank of New Zealand Act 1989;

Term means the period commencing on 15 December 2010 and ending on the Termination Date (as that term is defined in the Deed of Indemnity and Postponement);

Total Liabilities means, at any time, the aggregate values of all liabilities which would be recognised in a consolidated balance sheet of the Principal Debtor prepared as at that time in accordance with GAAP and (to the extent consistent with GAAP at that time) the Principal Debtor's accounting policies as at the date of this Deed, as if that time was the annual balance date of the Principal Debtor. For the purposes of this definition, the "value" of a liability is the measurement of that liability which would be recognised in that balance sheet;

Total Tangible Assets means, at any time, the aggregate values of all assets (other than goodwill, deferred tax assets and other assets classified as "intangible assets" under GAAP) which would be recognised in a consolidated balance sheet of the Principal Debtor prepared as at that time in accordance with GAAP and (to the extent consistent with GAAP at that time) the Principal Debtor's accounting policies

as at the date of this Deed, as if that time was the annual balance date of the Principal Debtor. For the purposes of this definition, the "value" of an asset is the measurement of that asset which would be recognised in that balance sheet;

Transaction Debtor means each of Canterbury Building Society, MARAC Finance Limited, Southern Cross Building Society and PGG Wrightson Finance Limited;

Wholesale Debt Security means a Debt Security which is or was issued before or during the Guarantee Period pursuant to a supplemental trust deed which describes that Debt Security as a "Wholesale Debt Instrument"; and

Withdrawal Event means an event:

- (a) of the type which would entitle the Crown to exercise rights of withdrawal pursuant to the terms of this Deed or any relevant Previous Deed (as the case may be); and
- (b) which has been notified to:
 - (i) MARAC Finance Limited or PGG Wrightson Finance Limited pursuant to clause 4.4, clause 5.2, clause 6.15 or clause 10.3 of the relevant Previous Deed; or
 - (ii) the Principal Debtor or each other Transaction Debtor pursuant to clause 4.5, clause 5.2, clause 6.17 or clause 10.3 of this Deed or the relevant Previous Deed (as the case may be); and
- (c) which:
 - (i) MARAC Finance Limited or PGG Wrightson Finance Limited (in the case of clause 4.4, clause 5.2 or clause 6.15 of the relevant Previous Deed); or
 - (ii) the Principal Debtor or any other Transaction Debtor (in the case of clause 4.5, clause 5.2 or clause 6.17 of this Deed or the relevant Previous Deed),

has failed to rectify in accordance with the terms of those provisions (as applicable).

1.2 Construction

In this Deed, unless the context requires otherwise:

- (a) *Headings*: headings are for convenience only, and do not affect interpretation;
- (b) *Sections, Clauses and Schedules*: a reference to a Section or a clause or Schedule is a reference to a Section or clause in, or Schedule to, this Deed;
- (c) *Singular and plural*: the singular includes the plural and the converse;

- (d) *Deed or document:* a reference to a deed or a document is to the deed or document as amended, novated, supplemented or replaced from time to time;
- (e) *Legislation:* a reference to legislation or to a provision of legislation includes any amendments and re-enactments of it, a legislative provision substituted for it and a statutory regulation, rule, order or instrument made under or issued pursuant to it;
- (f) *Subsidiary:* includes in relation to a person:
 - (i) a subsidiary, within the meaning of section 5 of the *Companies Act 1993*, of that person, but construed so as to include companies incorporated outside New Zealand; and
 - (ii) any other person whose financial statements are required to be consolidated with the financial statements of that person in accordance with accounting standards, principles and practice applying by law or otherwise which are generally accepted in New Zealand;
- (g) *Control:* a Person ("A") is "controlled" by another Person ("B") if:
 - (i) A is a subsidiary of B under the law of incorporation of A or for the purposes of GAAP; or
 - (ii) B is able to exercise real or effective control, directly or indirectly, over A or over a substantial part of A's business or affairs (whether pursuant to a contract, an arrangement or an understanding, as a result of the ownership or control of securities or other interests in or issued by A, or otherwise) except where A is a natural person and B's control arises solely under an enduring power of attorney granted by A in favour of B;
- (h) *relevant date:* the date on which the Crown becomes obliged to make payment to a Creditor pursuant to the terms of this Deed; and
- (i) *Time:* references to time are to New Zealand time.

1.3 **Creditor**

- (a) Subject to clauses 1.3(b), (c) and (d), in this Deed a "Creditor" is a Person to whom the Principal Debtor has an obligation to pay money (whether present or future) under a Debt Security. For the avoidance of doubt, the Principal Debtor shall be regarded as having such an obligation to a Person if, under the terms of a Debt Security, that obligation is owed:
 - (i) directly to that Person; or
 - (ii) to the trustee under the trust deed under which that Debt Security is constituted, if that Person holds that Debt Security.

- (b) Subject to clauses 1.3(c) and (d), a Person to whom the Principal Debtor has an obligation to pay money (whether present or future) under a Debt Security is not a Creditor:
 - (i) if that Person is:
 - (A) a Related Party;
 - (B) controlled by a Related Party;
 - (C) a Financial Institution;
 - (D) neither a New Zealand Citizen nor a New Zealand Resident; or
 - (E) a Person acting (directly or indirectly) as a nominee of or trustee for a Person referred to in (i)(A), (B), (C) or (D) above; or
 - (ii) if:
 - (A) that Person consists of two or more Persons who jointly hold that Debt Security; and
 - (B) one or more of those Persons would not be a Creditor if the Principal Debtor had a direct obligation to pay money (whether present or future) to that Person individually under that Debt Security; or
 - (iii) to the extent that any Debt Security held by that Person is a Wholesale Debt Security.
- (c) A Person to whom the Principal Debtor has an obligation to pay money (whether present or future) under a Debt Security is not excluded by clause 1.3(b) from being a Creditor to the extent that that Person is:
 - (i) a Nominated Beneficiary that is deemed to be a Creditor under clause 2.5;
 - (ii) a bare trustee for another Person if that other Person would be a "Creditor" if the Principal Debtor had a direct obligation to pay money (whether present or future) to that Person under a Debt Security; or
 - (iii) acting as trustee/s or nominee/s for any one or more Persons (each a "Beneficiary") if that Person (i.e. the Person acting as trustee/s or nominee/s) is not excluded by clause 1.3(b)(i)(A), (B) or (C) from being a Creditor and the Crown (in its sole and unfettered discretion), having regard to (among other things):
 - (A) the identity and nature of each of the Beneficiaries (where known);

- (B) how many of those Beneficiaries (where known) would be Creditors if the Principal Debtor had a direct obligation to pay money (whether present or future) to each of them under that Debt Security,

gives notice in writing to that Person (i.e. that Person acting as trustee/s or nominee/s (which may be by way of public notice and may or may not be subject to such conditions (if any) as the Crown may specify) that that Person (acting in that capacity of trustee/s or nominee/s) is a Creditor.

- (d) A Person ("Joint Holder") consisting of two or more Persons who jointly hold a Debt Security under which the Principal Debtor has an obligation to pay money (whether present or future) to that Joint Holder is not excluded by clause 1.3(b) from being a Creditor if:
 - (i) none of those Persons are excluded by clause 1.3(b)(i)(A), (B), (C) or (E) from being a Creditor;
 - (ii) at least one of those Persons would be a Creditor if the Principal Debtor had a direct obligation to pay money (whether present or future) to that Person individually (rather than jointly) under that Debt Security;
 - (iii) the Joint Holder would not be excluded by clause 1.3(b)(i)(A), (B), (C) or (E) from being a Creditor; and
 - (iv) the Joint Holder does not hold that Debt Security in its capacity as trustee or nominee for one or more other Persons.

2 **GUARANTEE**

2.1 **Eligibility**

[This clause is no longer operative.]

2.2 **Crown Guarantee**

- (a) On and subject to the terms of this Deed the Crown:
 - (i) absolutely and irrevocably guarantees to each Creditor from time to time the due and punctual payment by the Principal Debtor of all Indebtedness that becomes due and payable during the Guarantee Period; and
 - (ii) undertakes to each Creditor from time to time that if the Principal Debtor does not pay to any Creditor any Indebtedness guaranteed under clause 2.2(a)(i) when due and payable, the Crown will pay the amount of that Indebtedness to the Creditor no later than the day that is 14 days after the due date of that Indebtedness (or such earlier date as the Crown may specify) if that Indebtedness is not otherwise paid on or before that day.

(b) To avoid doubt:

- (i) the Crown shall have no liability at any point in time under the Crown Guarantee to a Person who is not, at that time, a Creditor (whether or not that Person was previously a Creditor); and
- (ii) the Crown's guarantee under clause 2.2(a) (i) and the Crown's obligation to make payment to a Creditor under clause 2.2 (a) (ii), is not limited or affected by any counterclaim, right of set-off or netting right, that may be exercisable by the Principal Debtor against or in relation to a Creditor at any time.

2.3 Notice and Quantification

The Crown shall not be obliged to make a payment to a Creditor under clause 2.2 unless and until the Crown:

- (a) receives a Notice of Claim from the Creditor in respect of the relevant Indebtedness within 180 days following the date on which that Indebtedness becomes due and payable (or such longer period as the Crown may agree to in its sole and unfettered discretion); and
- (b) has satisfied itself as to the amount of that Indebtedness and as to such other matters as the Crown reasonably considers appropriate in order to ascertain the extent of its liability under the Crown Guarantee in respect of that Indebtedness.

Despite clause 2.3(a), the Crown may (in its sole and unfettered discretion) waive in writing (generally or in any specific case) the requirement for it to receive a Notice of Claim.

2.4 Indebtedness Incurred or Acquired after Default Event not Covered

- (a) An obligation of the Principal Debtor to pay money (whether present or future) to a Creditor under a Debt Security shall not constitute "Indebtedness" (and accordingly shall not be covered by the Crown Guarantee) to the extent that that Debt Security:
 - (i) is issued after a Default Event; or
 - (ii) is acquired (whether by contract, statute, operation of law or otherwise) by that Creditor after the occurrence of a Default Event except:
 - (A) to the extent otherwise agreed by the Crown in writing (in its sole and unfettered discretion); or
 - (B) where:
 - (i) the Creditor is a trustee, executor or administrator of a deceased person's will or estate and acquired that Debt Security in that capacity from the deceased person; and

- (ii) the obligation would have constituted "Indebtedness" if that person had not died and had continued to hold that Debt Security.

For the avoidance of doubt clause 2.4(a)(ii)(B) is to be read subject to clauses 1.3(b) and 1.3(c).

- (b) For the purposes of clause 2.4(a), a Debt Security shall be deemed to have been issued after a Default Event (and accordingly no obligations of the Principal Debtor in respect of that Debt Security shall constitute "Indebtedness" for the purposes of the Crown Guarantee) if:
 - (i) the terms of that Debt Security are varied or supplemented (whether by agreement between the Principal Debtor and a Creditor, by agreement between the Principal Debtor and the trustee for that Debt Security, by Court order, or otherwise); or
 - (ii) any other arrangement is entered into by the Principal Debtor which in substance is equivalent to a variation or supplement to the terms of that Debt Security,

in each case under the terms of, or in contemplation of entry by the Principal Debtor into, a compromise or arrangement with any creditors of the Principal Debtor (including (without limitation) any moratorium or debt rescheduling) (any such variation, supplement or arrangement being a "Variation"), except to the extent (if any) that the Crown (in its sole and unfettered discretion) agrees otherwise in writing (which may be by way of public notice).

2.5 **Nominated Beneficiaries**

Nominated Beneficiaries shall be deemed to be Creditors for the purposes of this Deed, provided that the Crown's liability to a Nominated Beneficiary shall be limited to the amount (if any) specified in or determined in accordance with the relevant Nomination.

2.6 **Liability cap**

- (a) The Maximum Aggregate Liability of the Crown to each Creditor is:
 - (i) in respect of a Nominated Beneficiary, such amount as may be specified in or determined in accordance with the relevant Nomination; and
 - (ii) in respect of the Indebtedness in respect of the Merger Assumed Debt Securities owed to each Creditor who as at the end of the day immediately preceding the Merger Commencement Date held one or more Merger Assumed Debt Securities where the obligations of the relevant Transaction Debtor were "Indebtedness" for the purposes of the relevant Previous Deed, the aggregate amount of:
 - (A) all such "Indebtedness" under those Merger Assumed Debt Securities as at the end of the day immediately preceding the

Merger Commencement Date (or where the "Indebtedness" of each relevant Transaction Debtor exceeded the "Maximum Aggregate Liability" under the relevant Previous Deed, that part of that "Indebtedness" that is less than or equal to the "Maximum Aggregate Liability" under the relevant Previous Deed); less

- (B) all amounts paid to the Creditor in respect of those Merger Assumed Debt Securities on or after the Merger Commencement Date (irrespective of whether any part of those amounts has been invested in other Debt Securities that are not Merger Assumed Debt Securities); and
- (iii) in respect of the Indebtedness in respect of the PWF Assumed Debt Securities owed to each Creditor who as at the end of the day immediately preceding the PWF Commencement Date held one or more PWF Assumed Debt Securities where the obligations of PGG Wrightson Finance Limited were "Indebtedness" for the purposes of the relevant Previous Deed, the aggregate amount of:
 - (A) all such "Indebtedness" under those PWF Assumed Debt Securities as at the end of the day immediately preceding the PWF Commencement Date (or where the "Indebtedness" of PGG Wrightson Finance Limited exceeded the "Maximum Aggregate Liability" under the relevant Previous Deed, that part of that "Indebtedness" that is less than or equal to the "Maximum Aggregate Liability" under the relevant Previous Deed); less
 - (B) all amounts paid to the Creditor in respect of those PWF Assumed Debt Securities on or after the PWF Commencement Date (irrespective of whether any part of those amounts has been invested in other Debt Securities that are not PWF Assumed Debt Securities); and
- (iv) in all other cases, either:
 - (A) two hundred and fifty thousand New Zealand dollars (\$250,000.00) minus for the avoidance of doubt the amount of Indebtedness in respect of Assumed Debt Securities (a negative number will be treated as zero);
 - (B) or such greater amount as the Crown may (in its sole and unfettered discretion), in connection with any merger, amalgamation, conversion, acquisition or other reorganisation involving the Principal Debtor, agree in respect of one or more Creditors, (which agreement may identify such Creditor/s either individually or by reference to a class).
- (b) For the purposes of clause 2.6(a), "Maximum Aggregate Liability" means the maximum aggregate liability of the Crown to a Creditor under the Crown

Guarantee and any Replacement Guarantee/s, for which purpose "Replacement Guarantee" means any guarantee provided by the Crown as a result of the acceptance by the Principal Debtor of an offer made by the Crown under clause 10.5 (in connection with the withdrawal of the Crown Guarantee pursuant to that clause), any third guarantee provided by the Crown in connection with the withdrawal of that second guarantee under any similar provision, any fourth guarantee provided by the Crown in connection with the withdrawal of that third guarantee under any similar provision, any fifth guarantee provided by the Crown in connection with the withdrawal of that fourth guarantee under any similar provision, and so on.

2.7 Condition to guarantee

[This clause is no longer operative.]

3 FEE

- 3.1 Subject to clause 3.3, the Principal Debtor will pay to the Crown (in accordance with clause 3.2), in respect of each calendar month during the Guarantee Period (each a "Relevant Month"), a non-refundable fee calculated as follows:

$$F = \text{GA multiplied by Percentage divided by 12}$$

where:

"F" means the fee payable by the Principal Debtor in respect of that Relevant Month;

"GA" means the Guaranteed Amount on the last day of that Relevant Month;

"Percentage" means the relevant percentage figure specified in the Ratings Table below by reference to the organisation credit rating of the Principal Debtor on the last date of that Relevant Month from Standard & Poors Ratings Services, for which purpose the ratings in that table shall be deemed to refer also to the equivalent ratings from Moody's Investors Service Inc, Fitch Inc and any other rating agency approved by the Crown in writing - provided that:

- (a) if the Principal Debtor has two or more such credit ratings, the Principal Debtor's credit rating for the purposes of this definition shall be deemed to be the lowest of them; and
- (b) if the Principal Debtor has no such credit rating current on the last date of that Relevant Month it shall be deemed to have such a credit rating of lower than BB.

Ratings Table

<i>Credit rating</i>	<i>Percentage</i>
AAA- or higher	0.15%
AA+	0.15%
AA	0.15%
AA-	0.15%
A+	0.20%
A	0.20%
A-	0.20%
BBB+	0.25%
BBB	0.30%
BBB-	0.40%
BB+	0.50%
BB or lower	0.60%

- 3.2 The following provisions shall apply in respect of all payments by the Principal Debtor required under clause 3.1:
- (a) The Principal Debtor will prepare an estimate of the amount payable by it under clause 3.1 and provide that estimate (together with details of its calculation), and make payment of the estimated amount, to the Crown within 14 days after the end of the Relevant Month. That estimate must constitute the best estimate the Principal Debtor is reasonably able to make of the relevant amount in the time available.
 - (b) In respect of each such payment, the Principal Debtor must provide to the Crown a final calculation of the amount payable by it under clause 3.1 in respect of the Relevant Month, together with sufficient details of that calculation (and the information on which it relies) to enable the Crown to assess its accuracy, no later than the date which is three (3) months after the end of that Relevant Month (or such later date as the Crown may, in its sole discretion, agree in writing with the Principal Debtor).
 - (c) The Crown shall review each final calculation and, after considering any additional information provided to it by the Principal Debtor at its request, will notify the Principal Debtor either that:

- (i) it agrees with the amount calculated by the Principal Debtor (and that amount shall then be the "Final Amount" in respect of the Relevant Month); or
 - (ii) it disagrees with the amount calculated by the Principal Debtor, in which case the Crown shall also notify the Principal Debtor of the amount which (acting reasonably) it considers the Principal Debtor should have calculated (and that amount shall then be the "Final Amount" in respect of the Relevant Month).
 - (d) Within 7 days of notice being given by the Crown under clause 3.2(c):
 - (i) if the Final Amount is less than the relevant estimated amount paid to the Crown in respect of the Relevant Month, the Crown will refund the difference to the Principal Debtor; and
 - (ii) if the Final Amount is greater than the relevant estimated amount paid to the Crown, the Principal Debtor will pay the difference to the Crown in respect of the Relevant Month.
 - (e) Notwithstanding the applicable Commencement Date and the withdrawal of each Previous Deed:
 - (i) the Principal Debtor will perform the obligations of each Transaction Debtor under clauses 3.1 and 3.2 of the relevant Previous Deed in respect of each "Relevant Month" (for the purposes of the relevant Previous Deed) where the Transaction Debtor had not completed the estimate, calculation and/or payment required under clause 3.2 of the relevant Previous Deed prior to the applicable Commencement Date, as if, and on the basis that, the relevant Previous Deed had not been withdrawn; and
 - (ii) the Crown will pay to the Principal Debtor any amount which would have been payable by the Crown to a Transaction Debtor under clause 3.2(d)(i) of the relevant Previous Deed if the Previous Deed had not been withdrawn on the applicable Commencement Date.
- 3.3 The fee payable by the Principal Debtor in respect of the calendar month in which the applicable Commencement Date falls shall, for the purposes of this clause 3, be:
- (a) the aggregate of the amount calculated in accordance with clause 3.1 of the relevant Previous Deed on the basis that the Guaranteed Amount in respect of that calculation is limited to the maximum amount for which the Crown would have been liable under the relevant Previous Deed (but for the withdrawal of that Previous Deed) in respect of the relevant Assumed Debt Securities, if all Indebtedness in respect of those Assumed Debt Securities was (and had been, for 15 days after the relevant date)) due and payable and was not paid by the Principal Debtor, multiplied (in each case) by "x"; and

- (b) the amount calculated in accordance with clause 3.1 of this Deed multiplied by "y",

and any payment by the Principal Debtor of any amount calculated under paragraph (a) above will be satisfaction in full of the obligation of each relevant Transaction Debtor to pay the corresponding amount under the relevant Previous Deed before its withdrawal.

3.4 For the purposes of clause 3.3:

- (a) "x" shall be calculated as follows:

$$x = \frac{A}{B}$$

where A is the number of days from (and including) the first day of that calendar month in which the applicable Commencement Date falls to (and including) the day before the applicable Commencement Date; and

B is the total number of days in the calendar month in which the applicable Commencement Date falls.

- (b) "y" shall be calculated as follows:

$$y = \frac{C}{B}$$

where C is the number of days from (and including) the applicable Commencement Date to (and including) the last day of the calendar month in which the applicable Commencement Date falls; and

B has the meaning given to it in subparagraph (a).

- 3.5 As soon as practicable after becoming aware that a Person has become a Nominated Beneficiary, the Principal Debtor shall pay to the Crown such additional amount/s (if any) as would have been payable by it under this clause 3 had that Person been a Nominated Beneficiary on the first day of the Guarantee Period.
- 3.6 To avoid doubt, the agreement of the Crown to (and any notice from the Crown concerning) any amount or amounts payable under this clause 3 (including any Final Amount) shall be solely for the purposes of this clause 3, and shall not constitute evidence of, or the agreement of the Crown as to the extent of, its liability under this Deed (or in any other way limit or prejudice the rights of the Crown in relation to such liability).
- 3.7 If, on the last date of a Relevant Month, the Principal Debtor holds an organisation credit rating higher than its organisation credit rating on the Merger Commencement

Date ("New Rating"), the Crown will rebate to the Principal Debtor the amount (if any) by which:

- (a) the aggregate amount paid by the Principal Debtor under clauses 3.1 and 3.2 in respect of the part of the Guarantee Period prior to the Relevant Month, less any amount already refunded to the Principal Debtor under this clause 3.7,

exceeds

- (b) the aggregate amount that would have been paid by the Principal Debtor under clauses 3.1 and 3.2 in respect of that period if the Principal Debtor had had (and retained) the New Rating from the commencement of the Guarantee Period.

To avoid doubt, the Crown shall not be required to make any such rebate until all relevant "Final Amounts" in respect of the part of the Guarantee Period prior to the Relevant Month have been determined in accordance with clause 3.2.

4 REPORTING

4.1 Principal Debtor to Supply Information to the Crown

The Crown may at any time require from the Principal Debtor:

- (a) any information in the possession or under the control of the Principal Debtor or any of its subsidiaries relating to the financial position or affairs, or the business, management, ownership or operation, of a Transaction Debtor, the Principal Debtor and/or any of its subsidiaries (including, without limitation, previous or proposed transactions involving a Transaction Debtor, the Principal Debtor and/or any of its subsidiaries); or
- (b) any other information in the possession or under the control of the Principal Debtor or any of its subsidiaries concerning the financial position or affairs, or the business, management, ownership or operation, of any Person (or group of Persons) by whom a Transaction Debtor or the Principal Debtor (or any subsidiary of a Transaction Debtor or the Principal Debtor) is (or was, at any time since the Announcement Date) controlled; or
- (c) any information concerning any investor in securities issued or proposed to be issued by the Principal Debtor or any of its subsidiaries to the extent the Crown reasonably requires such information for the purposes of:
 - (i) determining the nature and extent of any of its rights and obligations under this Deed;
 - (ii) exercising its rights and remedies under this Deed; or
 - (iii) administering payments to be made by it under this Deed.

4.2 Principal Debtor to maintain Register of Securities

- (a) Without limiting the Principal Debtor's obligations under clause 4.1, the Principal Debtor must at all times maintain the following information:
- (i) a register of the current holder of each outstanding Assumed Debt Security and each other Debt Security issued by the Principal Debtor that complies with the requirements of section 51 of the Securities Act 1978 (a "current holder"); and
 - (ii) such additional particulars (derived from the Principal Debtor's determination of the Guaranteed Amount in each Relevant Month for the purposes of clause 3) that are sufficient to identify on that register any current holder that the Principal Debtor has reason to believe does not qualify as a Creditor, and the reasons why;
 - (iii) in respect of each current holder of each outstanding Assumed Debt Security or other Debt Security issued by the Principal Debtor a record (consistent with the standard of records kept by a prudent deposit taker) of the transaction history between the Principal Debtor and/or a Transaction Debtor (as applicable) and that current holder in respect of that Assumed Debt Security or other Debt Security.
- (b) The Crown may require the Principal Debtor to provide it or its nominee or agent with a copy of the information referenced in clause 4.2(a) at any time and in any format the Crown may reasonably request.

4.3 Third Party Information

The Principal Debtor authorises the Crown to contact and request information from those third parties that the Crown requires, including (but not limited to):

- (a) the trustee of any Debt Security issued by the Principal Debtor;
- (b) the auditors of the Principal Debtor and its subsidiaries;
- (c) the bankers or any other providers of finance to the Principal Debtor or any of its subsidiaries;
- (d) the Financial Markets Authority;
- (e) the Registrar of Building Societies, the Registrar of Companies or the Registrar of Financial Service Providers;
- (f) any rating agency contracted to provide rating information in respect of the Principal Debtor or any of its subsidiaries (or any Debt Securities issued by the Principal Debtor or any of its subsidiaries); and
- (g) the Reserve Bank of New Zealand,

and hereby authorises (and shall take any other step requested by the Crown to authorise) all such requested disclosure, and will use its best endeavours to ensure that any such person provide the requested information as soon as practicable.

4.4 Sharing of Information

The Principal Debtor authorises the Crown to share information provided in accordance with clauses 4.1, 4.2 and 4.3 with the Reserve Bank of New Zealand, the Financial Markets Authority and any "inspector" appointed under clause 6.5.

4.5 Failure to Comply with Information Request

- (a) If the Crown considers that the Principal Debtor has failed to comply with clause 4.1, clause 4.2 or clause 4.3, or has supplied information or data that is false or misleading in a material particular, the Crown may give the Principal Debtor notice (which may be by way of public notice) that:
 - (i) it considers that the Principal Debtor has failed to comply with the relevant provision or has supplied information or data that is false or misleading in a material particular; and
 - (ii) the Principal Debtor has 14 days to rectify that failure or supply, for which purpose "rectify" means:
 - (A) complying with that provision to the satisfaction of the Crown or supplying such additional information or data as (in the reasonable opinion of the Crown) is required to ensure that the information or data previously supplied is not false or misleading in a material particular (as the case may be); or
 - (B) satisfying the Crown that it has already complied with that provision or that the relevant information or data is not false or misleading in a material particular (as the case may be).
- (b) If the Principal Debtor fails to so rectify that failure or supply within the 14 day period referred to in clause 4.5(a)(ii) the Crown may give public notice that the Crown Guarantee is withdrawn on the date of that notice (or will be withdrawn at such later date as may be specified in that notice).
- (c) On the day of (or, as the case may be, the date specified in) that notice, the Crown Guarantee is withdrawn in respect of all obligations which arise under any Debt Security issued following the date of withdrawal and such obligations shall not be covered by the Crown Guarantee, and the provisions of clause 10.7 shall apply in respect of all such obligations.

5 COMPLIANCE WITH PRUDENTIAL SUPERVISION OR OTHER MATTERS

5.1 If the Crown at any time considers that:

- (a) the Principal Debtor or any of its subsidiaries has failed to comply with any applicable provision of the Reserve Bank Act, the Building Societies Act, the Companies Act or any prudential supervision direction, notice or requirement

under the Reserve Bank Act, the Building Societies Act, the Companies Act (as applicable) or otherwise; or

- (b) the Principal Debtor has failed to comply with the terms of any Debt Securities or of any trust deed for Debt Securities issued by the Principal Debtor to a Creditor; or
- (c) the Principal Debtor or any of its subsidiaries has failed to comply with any rules and other constituting documents relating to them respectively,

then the Crown may give the Principal Debtor notice (which may be by way of public notice) that:

- (d) It considers that the Principal Debtor or a subsidiary (as the case may be) has failed to comply with that provision, direction, notice or requirement or those rules, constituting documents or terms (as the case may be); and
- (e) the Principal Debtor has 14 days to rectify that failure, for which purpose "rectify" means:
 - (i) complying (or procuring compliance) with that provision, direction, notice or requirement or those rules, constituting documents or terms to the Crown's satisfaction; or
 - (ii) satisfying the Crown that it has not failed to comply with its obligations under this clause 5.

5.2 If the Principal Debtor fails to so rectify (or procure the rectification of) that failure within the 14 day period referred to in clause 5.1(e) the Crown may give public notice that the Crown Guarantee is withdrawn on the date of that notice (or will be withdrawn at such later date as may be specified in that notice).

5.3 On the day of (or, as the case may be, the date specified in) that notice, the Crown Guarantee is withdrawn in respect of all obligations which arise under any Debt Security issued following the date of withdrawal and such obligations shall not be covered by the Crown Guarantee, and the provisions of clause 10.7 shall apply in respect of all such obligations.

6 ONGOING OBLIGATIONS

6.1 Prohibited capital and other transactions

- (a) During the Term the Principal Debtor shall not (and shall ensure that its subsidiaries shall not), except with the prior written consent of the Crown:
 - (i) authorise or pay or effect any dividend;
 - (ii) redeem or acquire any shares issued by it;

- (iii) provide any financial assistance for the purpose of or in connection with the acquisition of any shares issued or to be issued by it ("financial assistance");
- (iv) cancel or reduce the liability to it of any of its shareholders (to the extent that liability arises under the terms of issue of any shares issued by it, under its constitution, rules or other constituting document, or under the terms of any contract or deed for the issue of those shares);
- (v) make any other distribution (as defined in the Companies Act 1993);
- (vi) if not a company incorporated in New Zealand, take any equivalent action or do any equivalent thing,

other than:

- (vii) to any extent required by law;
 - (viii) the redemption of any shares which is required to be made under the terms of those shares (as they existed at the date of this Deed), other than any shares which are redeemable at the option of the holder and which are held by any person who controls or is under common control with the Principal Debtor;
 - (ix) the payment of fixed dividends on any shares which are required to be made under the terms of those shares (as they existed at the date of this Deed);
 - (x) the payment of dividends by the Principal Debtor if the aggregate amount of such dividends in any financial year does not exceed the after tax profit for the previous financial year of the Principal Debtor (as shown in the annual financial statements of the Principal Debtor for the immediately preceding financial year which comply with the Financial Reporting Act 1993);
 - (xi) the making of any distribution by a subsidiary of the Principal Debtor to the Principal Debtor or to any wholly-owned subsidiary of the Principal Debtor; or
 - (xii) the provision of financial assistance by a wholly-owned subsidiary of the Principal Debtor to the Principal Debtor or to any wholly-owned subsidiary of the Principal Debtor.
- (b) During the Term the Principal Debtor shall not and shall ensure that:
- (i) each of its subsidiaries;
 - (ii) each Group Company (to the extent that such company is not also a subsidiary);

- (iii) each Indemnifier (as that term is defined in the Deed of Indemnity and Postponement) that is not also a Group Company or a subsidiary,

shall not through any act or omission be in breach or be in default of any of the terms of the Deed of Indemnity and Postponement unless the Crown has first (in its sole and unfettered discretion) granted a waiver to the Principal Debtor and/or the relevant subsidiary in relation to that act or omission which but for the granting of that waiver, would constitute a breach or default of the Deed of Indemnity and Postponement.

- (c) During the Term the Principal Debtor shall promptly notify the Crown of any application it makes to become a registered bank for the purposes of the Reserve Bank Act.

6.2 Substitution of Principal Debtor

During the Term the Principal Debtor shall:

- (a) notify the Crown if it is contemplated that the Principal Debtor may be substituted as the issuer of the Debt Securities pursuant to the Master Trust Deed; and
- (b) not, without the Crown's prior written consent, substitute any other person as the issuer of Debt Securities pursuant to the Master Trust Deed.

6.3 Other transactions

- (a) *Arms' length transactions*

The Principal Debtor shall not (and shall ensure that its subsidiaries shall not), during the Term without the prior written consent of the Crown, enter into any transaction (or series of linked or related transactions) having a value (at the time of entry) exceeding one percent (1%) of the Total Tangible Assets of the Principal Debtor (at the time of entry) otherwise than on arms' length terms. For the purposes of this clause 6.3(a) (but without limiting the generality of the meaning of the phrase "arms' length terms") a transaction is not at arms' length terms if:

- (i) in the case of the acquisition by the Principal Debtor (or any of its subsidiaries) of any business, property or services, the value of the consideration given or to be given for the acquisition of that business, property or services at the time of the acquisition exceeds the open market value (as between a willing but not anxious seller and a willing but not anxious buyer) of the business, property or services acquired or to be acquired;
- (ii) in the case of the disposition or provision by the Principal Debtor (or any of its subsidiaries) of any business, property or services, or the issue of any shares, the open market value (as between a willing but not anxious seller or issuer and a willing but not anxious buyer or subscriber) of the business, property, services or shares at the time of the disposition, provision or issue exceeds the value of consideration

received or to be received by the Principal Debtor (or its relevant subsidiary).

(b) *Related Party transactions*

The Principal Debtor shall not (and shall ensure that its subsidiaries shall not), during the Term without the prior written consent of the Crown, enter into any transaction (or series of linked or related transactions) having a value (at the time of entry) exceeding one percent (1%) of the Total Tangible Assets of the Principal Debtor (at the time of entry):

- (i) to which a Related Party (other than a wholly-owned subsidiary of the Principal Debtor) is party (by itself or through a nominee, custodian or trustee); or
- (ii) in which any Related Party (other than a wholly-owned subsidiary of the Principal Debtor) derives a material financial benefit or is otherwise materially interested (ignoring for these purposes any interest resulting from any ownership interest of that Related Party (or any of any Person controlled by it) in the Principal Debtor or its relevant subsidiary/ies.

6.4 Conduct of business

During the Term the Principal Debtor shall ensure its business and operations (and the business and operations of its subsidiaries) are conducted in a proper, businesslike, efficient and prudent manner. In particular, but without limiting the foregoing, the Principal Debtor shall:

- (a) use its best endeavours to maintain its shareholders' funds at a prudent level, for which purpose "shareholders' funds" means, at any time, the amount which is the lesser of the aggregate amount which would be required to be disclosed as issued capital and reserves attributable to owners of the Principal Debtor in:
 - (i) a consolidated balance sheet of the Principal Debtor; or
 - (ii) a non consolidated balance sheet of the Principal Debtor,in both cases prepared as at that time in accordance with GAAP and (to the extent consistent with GAAP at that time) the Principal Debtor's accounting policies at the date of this Deed, as if that time was the annual balance date of the Principal Debtor;
- (b) ensure transactions entered into by it or any of its subsidiaries that (directly or indirectly) involve, and exposures of it and its subsidiaries to, Related Parties (and other Persons controlled by Related Parties) do not exceed prudent levels;
- (c) use its best endeavours to ensure arrears on loans and other financial accommodation made by the Principal Debtor (or any of its subsidiaries) do not exceed prudent levels;

- (d) adopt and maintain (and ensure its subsidiaries adopt and maintain) prudent policies and practices in relation to provisioning of bad or doubtful debts;
- (e) adopt and maintain (and ensure its subsidiaries adopt and maintain) prudent policies and practices in relation to the obtaining, retaining and valuation of security and required "loan to value" ratios;
- (f) ensure it and each of its subsidiaries avoid imprudent concentration of maturities of Debt Securities and other financial obligations;
- (g) ensure it and each of its subsidiaries avoid imprudent concentration of loans and other financial accommodation (i) on any party (or any group of associated or related parties) and (ii) in any sector; and
- (h) ensure it and each of its subsidiaries adopts and maintains prudent policies and practices in relation to management of loans and other financial accommodation provided by it.

6.5 **Reporting**

The Principal Debtor shall prepare and provide to the Crown, as soon as practicable after requested, any reports concerning the business, management, ownership, operations, or financial position or affairs of the Principal Debtor and/or its subsidiaries, and shall ensure that all such reports are accurate, complete and not misleading.

6.6 **Inspector**

The Crown may at any time during the Term:

- (a) appoint a person; or
- (b) require the Principal Debtor to immediately appoint any person nominated by the Crown,

(an "inspector") to report to the Crown on such matters as the Crown may specify. The Principal Debtor shall provide (and will procure that each of its subsidiaries provide) access at all reasonable times to all its books and records, and to such of its directors and senior officers as may be specified, to any such inspector, and otherwise take all reasonable steps to facilitate that inspector's inspection and review and report. The Crown may require the Principal Debtor to reimburse the Crown, and the Principal Debtor shall thereupon reimburse the Crown, for all or part of the fees, costs and expenses of any inspector appointed under clause 6.6(a) which have been paid by the Crown. The Principal Debtor shall be responsible for all fees, costs and expenses of any inspector appointed under clause 6.6(b).

6.7 **Excluded Securities**

The Principal Debtor shall ensure that:

- (a) the prospectus (if any) and investment statement (if any), or, if applicable, other offering document, pursuant to which an Excluded Debt Security is offered, and each application form for subscription for any Excluded Debt

Security, contains a prominent warning statement in bold font at least as large as the font predominantly used elsewhere in that document to the effect that none of the Principal Debtor's obligations under or in respect of that Excluded Debt Security will have the benefit of the Crown Guarantee;

- (b) each advertisement (as that term is defined in the Securities Act 1978) relating to that Excluded Debt Security contains a prominent statement to the same effect; and
- (c) in respect of any Debt Security which the Crown has agreed shall be an Excluded Debt Security (for the purposes of paragraph (c) of the definition of that term in clause 1.1), the Principal Debtor complies with any conditions specified by the Crown in or for the purposes of that consent.

6.8 Default Events

The Principal Debtor shall immediately give notice to the Crown of any:

- (a) Default Event or any circumstance or event which, with the passage of time, the giving of notice or the taking of any other action would, or would be likely to, constitute or give rise to a Default Event; and
- (b) event or circumstance occurring in relation to any subsidiary of the Principal Debtor that:
 - (i) would be a Default Event, if that event or circumstance had occurred in relation to the Principal Debtor;
 - (ii) which, with the passage of time, the giving of notice or the taking of any other action would, or would be likely to, constitute or give rise to a Default Event, if it occurred in relation to the Principal Debtor.

6.9 Change in Control

The Principal Debtor must:

- (a) give notice to the Crown as soon as it is aware of any actual or proposed event or circumstance as a result of which the Principal Debtor will or has become, or will cease or has ceased to be, controlled by a Person (except as a result of the shareholding rearrangement contemplated by the Merger Plan, but only to the extent so contemplated); and
- (b) provide the Crown with such information as the Crown may request in connection with that actual or proposed change in control.

6.10 Negative Pledge

- (a) The Principal Debtor must not create nor permit to subsist any Security Interest over all or any part of its assets or those of its subsidiaries unless:
 - (i) Security Interest is a Permitted Security; or

- (ii) the Crown (in its sole and unfettered discretion) has first consented to the creation or subsistence of that Security Interest.

(b) For the purposes of this clause 6.9:

"Permitted Security" means:

- (i) any netting or set-off arrangement entered into by the Principal Debtor or any of its subsidiaries in the ordinary course of business;
- (ii) any lien arising by operation of law and in the ordinary course of trading or securing taxes or other governmental or regulatory levies, duties or imposts;
- (iii) securities arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired by the Principal Debtor or any of its subsidiaries in the ordinary course of its business;
- (iv) any security, the total principal amount of indebtedness secured by which, when aggregated with all other indebtedness secured by a security (excluding securities permitted by any other paragraph of this definition of Permitted Security) created or permitted to arise or subsist by the Principal Debtor or any of its subsidiaries does not exceed 1% of Total Tangible Assets.

"Security Interest" means any mortgage, charge, encumbrance, lien, pledge, hypothecation, deferred purchase, title retention, finance lease, contractual right of set-off, flawed asset arrangement, sale-and-repurchase and sale-and-leaseback arrangement and other arrangement of any kind, the economic effect of which is to secure a creditor or similar interest (including any "security interest" as defined in the Personal Property Securities Act 1999 excluding any interest under section 17 thereof).

6.11 Undertakings

The Crown may require the Principal Debtor to ensure that each director of the Principal Debtor provides an undertaking to the Crown, in such form as the Crown requires, to:

- (a) use his or her best endeavours to ensure that the Principal Debtor complies with its obligations under this Deed; and
- (b) notify the Crown immediately he or she becomes aware that the Principal Debtor has not complied with any of its obligations under this Deed.

6.12 Assistance

The Principal Debtor shall (at its own cost), prior to and during the Guarantee Period and at any times or during any periods thereafter as the Crown may reasonably specify, provide (or procure that any of its subsidiaries provide) such assistance to the Crown as the Crown may reasonably request for the purposes of or in connection with:

- (a) the administration of or the discharging of its obligations under this Deed;
- (b) the exercise of all indemnity, contribution, subrogation or other rights the Crown may have as a result of the performance of the Crown's obligations under this Deed,

including, without limitation, such assistance as the Crown may require for the purposes of verifying the extent of the Crown's liability (including the entitlements of Creditors) under this Deed, taking such actions as the Crown may require for the purposes of making payments under this Deed (including making such payments on behalf of the Crown out of funds provided by the Crown for the purpose), and the exercise of all or any rights of recovery the Crown may have against or in respect of the Principal Debtor or any Group Company that is an "Indemnifier" for the purposes of the Deed of Indemnity and Postponement (including by way of indemnity, contribution, subrogation or other rights, under statute, or otherwise).

6.13 **Changes to Debt Security Terms**

As soon as possible after becoming aware of:

- (a) any proposed change to the terms of any Debt Securities and/or any changes to the terms of the trust deed (and/or other documents) under which any Debt Securities are constituted or which otherwise contain the terms and conditions of or relating to any Debt Securities (each a "Variation") which will or may increase the potential liability of the Crown under this Deed in respect of those Debt Securities or which will or may increase the likelihood of a Default Event occurring, other than a Variation the sole effect of which is to permit or effect the issue of additional Debt Securities on the same terms as the existing Debt Securities; or
- (b) in the case of a Principal Debtor that is a Building Society, any proposal to members to approve a scheme for conversion of that Building Society into a company pursuant to section 113A of the Building Societies Act,

the Principal Debtor will notify the Crown of the proposed Variation or the conversion scheme (whichever is the case) together with the reasons for it and all other material information relating to it.

6.14 **Other guarantor/s – Group Companies**

- (a) This clause applies to Other Guarantees given or to be given by any Group Company.
- (b) The Principal Debtor may not permit any Group Company to enter any Other Guarantee unless:
 - (i) that Group Company is already party to the Deed of Indemnity and Postponement as an "Indemnifier"; and
 - (ii) the Crown (acting reasonably) has first approved of the terms of that Other Guarantee,

(c) The Principal Debtor:

- (i) shall use all reasonable endeavours to ensure that the Creditors who have the benefit of an Other Guarantee the subject of this clause 6.14 claim under it before claiming against the Crown under the Crown Guarantee;
 - (ii) undertakes and agrees that during the Term it will not, without the prior written consent of the Crown, permit any amendment or variation of, or any supplement to, the terms of any Other Guarantee to which any Group Company is party, or permit any act or omission on the part of any such Group Company that has the effect of discharging or releasing that Group Company in any way from, or waiving, any of the obligations of that Group Company under that Other Guarantee; and
 - (iii) undertakes and agrees that during the Term the Principal Debtor will not, without the prior written consent of the Crown, issue any Debt Securities which create or give rise to Indebtedness which does not constitute indebtedness which is also guaranteed by any Group Company that is for the time being party to an Other Guarantee.
- (d) Notwithstanding any other provision of this Deed, except to the extent (if any) otherwise agreed by the Crown in its absolute and unfettered discretion, the Crown shall not be obliged to make any payment under this Deed in respect of any Indebtedness to any Creditor who has the benefit of, and is entitled to claim under, an Other Guarantee the subject of this clause 6.14, in respect of that Indebtedness except to the extent that that Creditor has made a claim under that Other Guarantee in respect of that Indebtedness and has not, within 14 days of the date of that claim, received payment in respect of that Indebtedness under that Other Guarantee.

6.15 No challenge

The Principal Debtor shall not and shall ensure that no Indemnifier (as defined in the Deed of Indemnity and Postponement) shall take any action to challenge or adversely affect any rights or remedies the Crown may at any time have (including by way of subrogation or indemnity, under statute, or otherwise) against the Principal Debtor or against any Indemnifier which arise under or in connection with this Deed or the Deed of Indemnity and Postponement (whether as a result of the payment of any amounts by the Crown to Creditors under this Deed or otherwise).

6.16 Crown may notify Principal Debtor of suspected failure to comply

If the Crown considers that the Principal Debtor has failed to comply with any of its obligations under this clause 6, the Crown may give the Principal Debtor notice (which may be by way of public notice) that:

- (a) it considers that the Principal Debtor has failed to comply with its obligations under this clause 6; and
- (b) the Principal Debtor has 14 days to rectify that failure, for which purpose "rectify" means:

- (i) complying (or procuring compliance) with its obligations under this clause 6 to the satisfaction of the Crown; or
- (ii) satisfying the Crown that it has not failed to comply with its obligations under this clause 6.

6.17 Crown may give public notice of withdrawal of guarantee

If the Principal Debtor fails to so rectify (or procure rectification of) that failure within the 14 day period referred to in clause 6.16(b), the Crown may give public notice that the Crown Guarantee is withdrawn on the date of that notice (or will be withdrawn at such later date as may be specified in that notice).

6.18 Withdrawal of guarantee

On the day of (or, as the case may be, the date specified in) that notice, the Crown Guarantee is withdrawn in respect of all obligations which arise under any Debt Security issued following the date of withdrawal and such obligations shall not be covered by the Crown Guarantee, and the provisions of clause 10.7 shall apply in respect of all such obligations.

7 ACKNOWLEDGEMENT

The Parties acknowledge that the offering or entering into of this Deed does not in any respect restrict any regulatory or supervisory action by the Reserve Bank of New Zealand or any action the Crown may take, including but not limited to offering a guarantee to any person whether under the same terms or different.

8 NO ASSIGNMENT

Neither Party may assign or transfer any of its rights under this Deed.

9 GOVERNING LAW AND JURISDICTION

9.1 Governing Law

This Deed is governed by and is to be construed in accordance with New Zealand law.

9.2 New Zealand Courts

Each of the Parties irrevocably and unconditionally agrees that the Courts of New Zealand shall have non-exclusive jurisdiction to hear and determine each suit, action or proceeding (proceedings) and to settle disputes that may arise out of or in connection with this Deed and for these purposes irrevocably submits to the non-exclusive jurisdiction of those courts.

10 GENERAL

10.1 Contracts (Privity) Act 1982

The promises and obligations of the Crown under this Deed are intended to confer a benefit on, and accordingly are enforceable against the Crown under the Contracts (Privity) Act 1982 by, each Creditor, provided that the parties to this Deed may, on

request of the Crown, by deed vary or discharge any of the provisions of this Deed, without the consent or agreement of any Creditor.

10.2 Entire Agreement

This Deed and the Deed of Indemnity and Postponement constitutes the entire agreement between the Parties in relation to its subject matter. They replace all earlier discussions, negotiations and agreements relating to that subject matter, except that any rights of the Crown and obligations of the Principal Debtor arising as a result of any misrepresentation by or on behalf of the Principal Debtor prior to execution of this Deed shall continue.

10.3 Withdrawal as a result of Inappropriate Activity

If the Crown considers that:

- (a) the business or affairs of the Principal Debtor, and/or any of its subsidiaries and/or any other Person who controls, is controlled by or is under common control with the Principal Debtor have been, are being, or are intended or likely to be carried on in a manner which:
 - (i) will or may extend the effective benefit of the Crown Guarantee to Persons who are not intended to receive that benefit; or
 - (ii) is or would be otherwise inconsistent with the Crown's intentions in entering into this Deed; or
- (b) the Principal Debtor or any of its subsidiaries will, is likely to or has become, or will or is likely to cease or has ceased to be, controlled by a Person (except as a result of the shareholding rearrangement contemplated by the Merger Plan, but only to the extent so contemplated), in each case without the Crown's prior written consent,

in each case an "Inappropriate Activity", the Crown may withdraw the Crown Guarantee by written notice to the Principal Debtor.

10.4 Withdrawal as a result of change in circumstances

If the Crown considers at any time that:

- (a) there has been a material reduction in the Net Tangible Assets of the Principal Debtor since the end of the most recent Commencement Date; and
- (b) the Crown's net liability under the Crown Guarantee (should claims be made thereunder) will or may be materially greater as a result of that reduction,

the Crown may (whether or not it is able to exercise any other right or remedy under this Deed) withdraw the Crown Guarantee by written notice to the Principal Debtor. For the purposes of this clause 10.4, the term "net liability" in relation to the Crown means the Crown's estimate of the difference between:

- (c) the Crown's liability under the Crown Guarantee if claims were made thereunder; and

- (d) the value of the recoveries (if any) that the Crown would receive (as a result of paying those claims) by virtue of its statutory, contractual and other rights of indemnity, contribution and subrogation.

10.5 Withdrawal for other reasons

If the Crown for any other reason considers it appropriate to do so (including but without limitation, the Principal Debtor approves a scheme for the conversion of the Principal Debtor into a company pursuant to section 113A of the Building Societies Act) it may withdraw the Crown Guarantee by written notice to the Principal Debtor. However, the Crown may not give a notice under this clause 10.5 (and no such purported notice shall be effective) unless the Crown offers, before such notice is given, to enter into a new deed of guarantee with the Principal Debtor, with effect from such notice taking effect, under which:

- (a) the Crown provides a guarantee to substantially all those Persons who, during the period for which the guarantee subsists ("New Deed Period"), would have had the benefit of the Crown Guarantee were it not withdrawn before the end of the New Deed Period; and
- (b) the aggregate maximum liability of the Crown to a Person in respect of that guarantee and the Crown Guarantee is no less than the aggregate maximum liability of the Crown to that Person under clause 2.5 or clause 2.6 (as applicable) of this Deed,

and which is otherwise on such terms and conditions as the Crown (in its sole and unfettered discretion) considers appropriate.

10.6 Operation and effect of withdrawal

- (a) Any notice given under clause 10.3, 10.4 or 10.5, may be expressed to take effect immediately on delivery or at any time thereafter, and shall take effect accordingly. On the day of (or, as the case may be, the date specified in) a notice given by the Crown under clause 10.3, 10.4 or 10.5 the Crown Guarantee is withdrawn in respect of all obligations which arise under any Debt Security issued following the date of withdrawal and such obligations shall not be covered by the Crown Guarantee, and the provisions of clause 10.7 shall apply in respect of all such obligations.
- (b) Without limiting clause 10.6(a) or clause 10.7, on the taking effect of a notice given under clause 10.3, the Crown Guarantee will be withdrawn in respect of all obligations of the Principal Debtor under Debt Securities (whether existing at that time or subsequently arising) owed to any Creditor who is concerned in, and has or ought to have knowledge of, any Inappropriate Activity, and no such obligations shall constitute "Indebtedness" (and accordingly no such obligations shall be covered by the Crown Guarantee).

10.7 Indebtedness incurred or acquired after withdrawal

An obligation of the Principal Debtor to pay money (whether present or future) to a Creditor under a Debt Security shall not constitute "Indebtedness" (and accordingly shall not be covered by the Crown Guarantee) to the extent that that Debt Security:

- (a) is issued after the taking effect of a notice given under clause 4.4(b), 5.2, 6.17, 10.3, 10.4 or 10.5 ("Effective Time"); or
- (b) is acquired (whether by contract, statute, operation of law or otherwise) by that Creditor after the Effective Time, except:
 - (i) to the extent (if any) otherwise agreed by the Crown in writing (in its sole and unfettered discretion); or
 - (ii) where:
 - (A) that Creditor is a trustee, executor or administrator of a deceased person's will or estate and acquired that Debt Security in that capacity from the deceased person; and
 - (B) that obligation would have constituted "Indebtedness" if that person had not died and had continued to hold that Debt Security.
- (c) For the avoidance of doubt clause 10.7(b)(ii) is to be read subject to clauses 1.3(b) and 1.3(c).

10.8 Currency amounts

Any reference in this Deed to an amount shall, to the extent that that amount is not already denominated in New Zealand Dollars, mean the amount determined by the Crown to be the New Zealand Dollar equivalent of that amount as at the time relevant to its calculation or determination.

10.9 Public Notice

A certificate from the Crown (i) to the effect that it is satisfied that it has given public notice for the purposes of this Deed and (ii) as to the date on which that public notice was given shall, in the absence of manifest error, be conclusive evidence of that public notice and that date.

10.10 Other guarantor/s

- (a) This clause applies to Other Guarantees other than those given or to be given by any Group Company (in which case clause 6.14 shall apply).
- (b) If any Indebtedness is or becomes the subject of any guarantee, indemnity or other arrangement under which it is effectively guaranteed, or the relevant Creditor is effectively indemnified in respect of any non-payment of that Indebtedness by, any other person ("Other Guarantee"), whether or not that Other Guarantee extends to all Indebtedness owed to the relevant Creditor:
 - (i) the Principal Debtor must notify the Crown of the material particulars of that Other Guarantee and use all reasonable endeavours to ensure that Creditors who have the benefit of that Other Guarantee claim under it before claiming against the Crown under the Crown Guarantee and/or that the Crown has the benefit of that Other Guarantee in respect of

any amounts paid to relevant Creditors under the Crown Guarantee;
and

- (ii) notwithstanding any other provision of this Deed, except to the extent (if any) otherwise agreed by the Crown in its absolute and unfettered discretion, the Crown shall not be obliged to make any payment under this Deed in respect of any Indebtedness to any Creditor who has the benefit of, and is entitled to claim under, that Other Guarantee in respect of that Indebtedness except to the extent that that Creditor has made a claim under that Other Guarantee in respect of that Indebtedness and has not, within 14 days of the date of that claim, received payment in respect of that Indebtedness under that Other Guarantee.

10.11 Warranty

The Principal Debtor represents and warrants to the Crown that it is duly authorised to execute and deliver this Deed, and that upon execution of this Deed by it and the Crown it will constitute the legal, valid and binding obligations of the Principal Debtor enforceable against the Principal Debtor in accordance with its terms.

10.12 Subrogation

Without prejudice to any rights the Crown may at any time have against or in respect of the Principal Debtor (including by way of subrogation or indemnity, under statute, or otherwise), the Principal Debtor irrevocably acknowledges and agrees that any money paid by the Crown to a Creditor under this Deed shall, immediately upon such payment, constitute a debt due from the Principal Debtor to the Crown, which debt shall be payable by the Principal Debtor to the Crown over any period of time and on any terms and conditions that the Crown (in its sole and unfettered discretion) considers appropriate.

10.13 Counterparts

This Deed may be executed in any number of counterparts. Once a party has executed a counterpart, and the other party has received a copy of the signed counterpart, that counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by both parties.

10.14 Waiver

- (a) A waiver of any provision of this Deed shall not be effective unless given in writing, and then it shall be effective only to the extent that it is expressly stated to be given.
- (b) A failure, delay or indulgence by any party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

10.15 Severability

If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed, but the Principal Debtor and

the Crown shall, if requested by either of them, negotiate in good faith in an endeavour to agree on such alternative provisions and/or amendments as shall achieve as nearly as possible the original intent of this Deed (including the severed part).

10.16 Working days

Any payment required to be made, or other action required to be taken, by this Deed on or by a date which is not a working day (as defined in the Companies Act 1993) shall be validly done if made or taken on or by (as the case may be) the next working day (as so defined) following that date.

10.17 Release and Reinstatement

- (a) The Crown shall not be obliged to execute a release of the Principal Debtor from its obligations under this Deed until it is satisfied that:
 - (i) all obligations of the Principal Debtor under this Deed have been irrevocably satisfied in full; and
 - (ii) the Crown's obligations under this Deed have been irrevocably satisfied or discharged in full.
- (b) Any release of the Principal Debtor from its obligations under this Deed shall be conditional upon no payment made under this Deed to the Crown being set aside or avoided for any reason whether by statute or otherwise. If any payment by or on behalf of the Principal Debtor to the Crown under this Deed is set aside or avoided for any reason whatsoever then:
 - (i) the relevant payment shall be deemed not to have been made; and
 - (ii) the liability and obligations of the Principal Debtor shall be the same as if no payment had been made, notwithstanding that the Principal Debtor has been released from its obligations.

10.18 Delivery of Documents

A document required to be delivered to the Crown pursuant to clause 2.7 shall be effectually delivered if it is signed and sent in PDF format by email to each of the following email addresses:

- (a) stephen.revill@treasury.govt.nz
- (b) john.park@treasury.govt.nz
- (c) andre.anderson@treasury.govt.nz
- (d) chris.obrien@minterellison.co.nz

EXECUTED AND DELIVERED as a Deed by

Her Majesty the Queen in right of)
New Zealand acting by and through Philip)
Combes, **Deputy Secretary – Financial**)
Operations and Head of NZDMO acting) Philip Combes
under delegation of the Secretary to the)
Treasury for and on behalf of the Minister of)
Finance in the presence of:)

Witness' signature:

Witness' occupation:

Witness' address:

Heartland Building Society by:

Signature of Director

Name of Director

Signature of Director

Name of Director

Annexure One

Deed of Indemnity and Postponement

[This annexure is no longer required in the Deed of Guarantee]