

Notice of Meeting:

I hereby give notice that an extraordinary Meeting of the Council will be held on:

Date: Friday 15 November 2019
Time: 9.30am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Extraordinary Council OPEN AGENDA

Membership

Chairperson	Mayor P Southgate
Deputy Chairperson	Deputy Mayor G Taylor
Members	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr A O'Leary
	Cr R Pascoe
	Cr S Thomson
	Cr M van Oosten
	Cr E Wilson

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Becca Brooke
Governance Manager

11 November 2019

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Becca.Brooke@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The Council is responsible for:

1. Providing leadership to, and advocacy on behalf of, the people of Hamilton.
2. Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

Terms of Reference

1. To exercise those powers and responsibilities which cannot legally be delegated by Council:
 - a) The power to make a rate.
 - b) The power to make a bylaw.
 - c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
 - d) The power to adopt a Long Term Plan or Annual Plan, or Annual Report.
 - e) The power to appoint a Chief Executive.
 - f) The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan, or developed for the purpose of the Council's governance statement, including the 30-Year Infrastructure Strategy.
 - g) The power to adopt a remuneration and employment policy.
 - h) The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
 - i) The power to approve or amend the Council's Standing Orders.
 - j) The power to approve or amend the Code of Conduct for Elected Members.
 - k) The power to appoint and discharge members of committees.
 - l) The power to establish a joint committee with another local authority or other public body.
 - m) The power to make the final decision on a recommendation from the Parliamentary Ombudsman, where it is proposed that Council not accept the recommendation.
 - n) The power to amend or replace the delegations in Council's *Delegations to Positions Policy*.
2. To exercise the following powers and responsibilities of Council, which the Council chooses to retain:
 - a) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
 - b) Approval of any changes to Council's vision, and oversight of that vision by providing direction on strategic priorities and receiving regular reports on its overall achievement.
 - c) Approval of any changes to city boundaries under the Resource Management Act.
 - d) Adoption of governance level strategies, plans and policies which advance Council's vision and strategic goals.
 - e) Approval of the Triennial Agreement.
 - f) Approval of the local governance statement required under the Local Government Act 2002.

- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.
- i) Approval of all Council and Committee taskforces and their terms of reference.

Oversight of Policies:

- *Corporate Hospitality and Entertainment Policy*
- *Delegations to Positions Policy*
- *Elected Members Support Policy*
- *Significance and Engagement Policy*

SWEARING IN CEREMONY – Angela O’Leary

The meeting will open with the swearing in of Angela O’Leary.

- *Whakatau (Welcome and Blessing) by Hamilton City Council Kaumatua Tame Pokaia.*
- *Angela O’Leary will read and sign the Statutory Declaration required by the Local Government Act 2002, which will be witnessed by Mayor Paula Southgate. Following her declarations, she will have an opportunity to address the Meeting.*

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1 Apologies

2 Confirmation of Agenda

The Council to confirm the agenda.

3 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for three minutes or longer at the discretion of the Mayor.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6439.

Council Report

Item 5

Committee: Council

Date: 15 November 2019

Author: Tracey Musty

Authoriser: David Bryant

Position: Financial Controller

Position: General Manager Corporate

Report Name: Local Government Funding Agency Annual Meeting 21 November 2019

Report Status	<i>Open</i>
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Purpose

1. To inform and seek Council's approval on the matters being put forward for consideration at the Local Government Funding Agency (LGFA) Annual Meeting on 21 November 2019.

Staff Recommendation

2. That the Council:
 - a) receives the report;
 - b) notes that the Local Government Funding Agency Annual Meeting will be held on 21 November 2019 in Wellington; and
 - c) approves the following proposals which require ordinary shareholder resolutions:
 - i) Linda Robertson is re-appointed to the Local Government Funding Agency's board as an independent director;
 - ii) Michael Timmer is re-appointed to the Local Government Funding Agency's board as a non-independent director;
 - iii) Auckland Council is re-elected as a Nominating Local Authority to the Shareholders' Council;
 - iv) Western Bay of Plenty District Council is re-elected as a Nominating Local Authority to the Shareholders' Council;
 - v) increases to Directors' remuneration;
 - vi) changes to the Local Government Funding Agency's foundation policies; and
 - vii) changes to the Local Government Funding Agency's Shareholders' Agreement.

Background

3. The LGFA is a Council-controlled organisation (CCO), owned 11.1% by the Government and 88.9% by 30 local authorities. Hamilton City Council has an ownership stake of 8.3%.

4. The LGFA was established to provide councils with improved access to cost-effective long-term debt. It is a registered financial institution regulated by the Reserve Bank. Total loans made to local government total around \$10 billion. Together, Auckland Council and Christchurch City Council have approximately 47% of the LGFA's issued debt, with the remainder shared between the other councils.
5. The LGFA's Shareholder's Agreement (SHA) provides that the board may comprise between four and seven directors, a majority of whom must be independent. Since inception in 2011, the board has had six directors, one of which was non-independent (aside from one very short period due to a time lag between the retirement of a director and the appointment of a replacement). The SHA provides that in each year, the longest serving independent director, and the longest serving non-independent director must retire from the board but may offer themselves for re-election.
6. Current board members are Craig Stobo (Chair) who was initially appointed in 2011 and was re-appointed in 2017, Philip Cory-Wright (initially appointed in 2011 and re-appointed in 2016), Linda Robertson (appointed 2015), Anthony Quirk (appointed 2017) and John Avery (initially appointed in 2011 and re-appointed in 2018) and Mike Timmer (initially appointed in 2015 and re-appointed each subsequent year as the only Non-Independent Director).
7. Council oversight is provided through a Shareholders' Council. The members are Auckland Council, Christchurch City Council, Hamilton City Council, Bay of Plenty Regional Council, Greater Wellington Regional Council, Tasman District Council, Tauranga City Council, Wellington City Council, Western Bay of Plenty District Council and Whangarei District Council as well as the NZ Government (with oversight through the Ministers of Local Government and Finance).
8. The SHA provides that the role of the Shareholders' Council is to advise shareholders on certain matters, and that it shall (in relation to the matters for resolution at the Annual Meeting (AM)):
 - review and report to shareholders periodically on the performance of the company and the board;
 - make recommendations on the appointment, removal, re-election, replacement and remuneration of directors; and
 - make recommendations to shareholders on, and endeavour to ensure that shareholders are fully informed on matters concerning the company.
9. Shareholders are entitled to attend and vote at the AM, with a proxy form for voting to be sent to LGFA at least 48 hours prior to the AM.
10. The following matters are being considered at the AM:
 - To receive and consider the financial statements for the year ended 30 June 2019
 - Election of Independent Directors
 - Election of Non-Independent Directors
 - Election of Nominating Local Authorities to Shareholders' Council
 - Increase in Director Remuneration
 - Changes to LGFA's Foundation Documents
 - Changes to LGFA's Shareholders' Agreement

11. Attachment 1 is the Local Government Agency Limited 'Notice of Annual Meeting', which includes Explanatory Notes. Attachment 2 is the associated 'Proxy Form'.

Discussion

12. The LGFA Shareholders' Council (SC) has considered the matters listed above and has written to Shareholders (Attachment 3).
13. The SC's role (as per the Shareholders' Agreement) includes requirements to:
 - make recommendations to Shareholders as to the appointment, removal, re-election, replacement and remuneration of Directors;
 - make recommendations to Shareholders as to any matters which require the approval of Shareholders.
14. It is recommended that Council follows the recommendations of the SC on all matters, noting the information in their letter and the additional information presented below and in the attachments.

Re-election of Directors

15. Linda Robertson has been an independent director and Michael Trimmer has been a non-independent director since 2015 and both are seeking re-election.
16. In Attachment 1 Explanatory Note 2 it sets out the biographies for Linda Robertson and Michael Timmer. Linda Robertson is a professional non-executive director with over 30 years' experience in the NZ finance sector having worked in both banking and the corporate environment. Michael has over 10 years' experience in senior finance roles in Local Government.

Nominating Council

17. Auckland Council and Western Bay of Plenty District Council are seeking re-election as Nominating Local Authority to the Shareholders' Council. Attachment 1 Explanatory Note 3 sets out information on the nominating local authorities.

Director's Remuneration

18. The proposed Director Remuneration increases from the 1 July 2019 are:
 - a. the Director acting as the Chairperson of the Board receives an increase of \$5,000 per annum, from \$97,000 to \$102,000 per annum.
 - b. the other Directors acting as members of the Audit and Risk Committee receive an increase of \$4,000 per annum, from \$55,000 to \$59,000 per annum.
 - c. the Director acting as the Chairperson of the Audit and Risk Committee receives an increase of \$3,000 per annum, from \$60,000 to \$63,000 per annum.
 - d. The other Directors receive an increase of \$2,000 per annum, from \$55,000 to \$57,000 per annum.

19. The recommendations regarding Directors' remuneration are based on market analysis conducted by Board Dynamics. Their report is included at Attachment 4. Attachment 1 Explanatory Note 4 also includes additional information on the increases.

Changes to Foundation Documents and the Shareholders' Agreement

20. At the last AGM (in November 2018) it was agreed to extend LGFA's operations to include direct lending to Council Controlled Organisations (CCOs) and to allow financial covenants to be measured on a Group (rather than Council parent) basis in certain circumstances.
21. LGFA's draft Statement of Intent (SOI) was presented and approved by the Finance Committee in April 2019. The SOI signalled the intention for LGFA to start direct lending to CCOs.
22. The Shareholders' Council supports these changes as being consistent with LGFA's primary objective; to optimise the debt funding terms and conditions for participating local authorities.
23. The Shareholders' Council has played an integral part in this process, taking expert legal advice to ensure that the changes did not compromise our conditional support for this change, which was that there would be no additional risk to guaranteeing councils.
24. Due to growth in LGFA's balance sheet, adjustments are also needed to various elements of the Foundation Policies to keep them aligned to current and project lending volumes, so they remain fit for purpose.
25. The key changes proposed include:
 - a. an increase in the size of LGFA's balance sheet, requiring greater Treasury limits;
 - b. putting in place lending to CCOs;
 - c. allowing other types of lending to give more flexibility.
26. A paper explaining LGFA's evolution since inception and the proposed changes is included at Attachment 5. Attachment 1 Explanatory Note 5 also summarises the key changes to the Foundation Policies and shareholder agreement.
27. The proposed final Shareholders' Agreement is included at Attachment 6 and Foundation Policies are included at Attachment 8.
28. The marked-up documents outlining the changes to the Shareholders' Agreement is included at Attachment 7 and Foundation Policies are included at Attachment 9.

Financial Considerations

29. There are no financial considerations related to this matter other than all the Shareholding Council's provide a guarantee to the LGFA.

Wellbeing Considerations

30. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
31. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.

32. There are no known social, economic, environmental or cultural considerations associated with this matter.

Legal and Policy Considerations

33. This matter complies with the Council's legal and policy requirements.

Risks

34. The associated risks related to this matter have been assessed as low.

Significance and Engagement

35. Having considered the Significance and Engagement Policy, staff have assessed that the matters in this report have a low significance.

Attachments

Attachment 1 - LGFA Notice of Annual Meeting 21 November 2019

Attachment 2 - LGFA AGM Proxy Form 2019

Attachment 3 - Letter - Shareholders' Council AGM Recommendations

Attachment 4 - LGFA Directors' Remuneration Review Report 2019

Attachment 5 - LGFA Background Information Paper

Attachment 6 - LGFA Amended Shareholders' Agreement

Attachment 7 - LGFA Amended Shareholders' Agreement - mark-up against current version

Attachment 8 - LGFA Amended Foundation Policies

Attachment 9 - LGFA Amended Foundation Policies - mark-up against current version .

**NEW ZEALAND LOCAL GOVERNMENT FUNDING AGENCY LIMITED
 NOTICE OF ANNUAL MEETING**

Notice is given that the 2019 annual meeting of shareholders of New Zealand Local Government Funding Agency Limited ("Company" or "LGFA") will be held at the **Bolton Hotel, 12 Bolton Street, Wellington** on **21 November 2019** commencing at **2:00pm**.

BUSINESS

1. **FINANCIAL STATEMENTS AND REPORTS:** To receive and consider the financial statements of the Company for the year ended 30 June 2019 together with the directors' and auditor's reports to shareholders.

2. **ELECTION OF DIRECTORS**

In accordance with clause 3.3 of the SHA, **Linda Robertson** retires by rotation and, being eligible, offers herself for re-election as an Independent Director.

In accordance with clause 3.3 of the SHA, **Michael Timmer** retires by rotation and, being eligible, offers himself for re-election as a non-Independent Director.

Accordingly, to:

- (a) Re-elect **Linda Robertson** as an Independent Director of the Company, by way of Ordinary Resolution;
- (b) Re-elect **Michael Timmer** as a non-Independent Director of the Company, by way of Ordinary Resolution.

(See Explanatory Note 2)

3. **ELECTION OF NOMINATING LOCAL AUTHORITIES**

In accordance with clause 4.6 of the SHA, **Auckland Council** and **Western Bay of Plenty District Council** retire by rotation. **Auckland Council** and **Western Bay of Plenty District Council** being eligible, offer themselves for re-election.

Accordingly, to:

Re-elect **Auckland Council**

as a Nominating Local Authority, by way of Ordinary Resolution.

Accordingly, to:

Re-elect **Western Bay of Plenty District Council**

as a Nominating Local Authority, by way of Ordinary Resolution.

(See Explanatory Note 3)

4. **DIRECTORS' REMUNERATION**

In accordance with clause 3.6 of the SHA, to approve, by way of Ordinary Resolution, an increase in the Directors' fees payable to:

- (a) With effect from 1 July 2019, the Director acting as chairman of the Board, an increase of \$5,000 per annum, from \$97,000 per annum to \$102,000 per annum.

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- (b) With effect from 1 July 2019, each of the other Directors acting as members of the audit and risk committee, an increase of \$4,000 per annum, from \$55,000 per annum to \$59,000 per annum.
- (c) With effect from 1 July 2019, the Director acting as chairman of the audit and risk committee, an increase of \$3,000 per annum, from \$60,000 per annum to \$63,000 per annum.
- (d) With effect from 1 July 2019, each of the other Directors, an increase of \$2,000 per annum, from \$55,000 per annum to \$57,000 per annum

(See Explanatory Note 4)

5. **CHANGES TO FOUNDATION POLICIES**

In accordance with clause 5.1(c) of the SHA, to approve, by way of Ordinary Resolution, the amendments to the foundation policies of the Company ("**Foundation Policies**") as explained in Explanatory Note 5.

6. **CHANGES TO SHA**

In accordance with clauses 5.1(b) and 18.7 of the SHA, to approve, by way of Ordinary Resolution, the amendment and restatement of the SHA as explained in Explanatory Note 5, a copy of which is attached as an appendix to this notice of meeting.

The proposed amendment and restatement of the SHA is approved and will take effect on the date the Company notifies the shareholders that the "effective date" for the deed amending and restating the Shareholder's Agreement has occurred.

7. **GENERAL BUSINESS**

To consider such other business as may properly be raised at the meeting.

Please refer to the explanatory notes that accompany this notice of meeting.

By order of the board:



Craig Stobo, Chairman

26 September 2019

ORDINARY RESOLUTIONS: *Ordinary resolutions are resolutions approved by a simple majority of more than 50% of the votes of the shareholders entitled to vote and voting at the annual meeting.*

SHAREHOLDERS ENTITLED TO ATTEND AND VOTE: *Pursuant to section 125 of the Companies Act 1993, for the purposes of voting at the annual meeting, those registered shareholders of the Company as at 9.00am on Thursday 21 November 2019 shall be entitled to exercise the right to vote at the meeting.*

CAPITALISED TERMS: *Unless otherwise defined in this notice, capitalised terms have the meanings given to them in the Shareholders' Agreement dated 7 December 2011 (as amended and restated on 4 June 2015) ("SHA").*

EXPLANATORY NOTES

EXPLANATORY NOTE 1 - PROXY VOTE

A shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the shareholder. The proxy need not be a shareholder. To be effective, a copy of the proxy form must be received by the Company at **Level 8, City Chambers, 142 Featherston Street, Wellington 6145** not later than 48 hours before the start of the meeting.

A corporation may appoint a person to attend the meeting as its representative in the same manner as that in which it could appoint a proxy.

EXPLANATORY NOTE 2 - ELECTION OF DIRECTORS

The SHA provides that, beginning at, and including, the annual meeting for 2013, two Directors comprising one Director who is an Independent Director and one Director who is not an Independent Director shall retire from office at the annual meeting of the Company in each year. The Directors to retire shall be that Independent Director, and that director who is not an Independent Director, who have been longest in office since their last election. If two or more relevant Directors were last elected on the same day, the Directors to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Director is eligible for re-election.

In this case, **Linda Robertson** (being an Independent Director) who has been longest in office since being elected on 24 November 2015 (Philip Cory-Wright having been re-elected on 24 November 2016, Craig Stobo having been re-elected on 21 November 2017, Anthony Quirk having been elected on 21 November 2017 and John Avery having been re-elected on 21 November 2018) and **Michael Timmer** (being the only Director who is not an Independent Director) shall retire by rotation at this annual meeting. **Linda Robertson** and **Michael Timmer**, being eligible, offer themselves for re-election.

The following biographies have been provided by the candidates:

Linda Robertson Biography

Linda is a professional non-executive director with over 30 years' experience in the NZ finance sector having worked in both banking and the corporate environment. In the corporate environment she has worked predominately in the energy sector and has held various senior management roles encompassing: treasury, credit management, audit, risk management, procurement and insurance.

Linda has been a fulltime company director since 2015 and is an experienced director, chair and committee chair. Her governance experience includes: listed, council controlled, government owned, co-operative and private companies, having held board positions since 1999. Former directorships include New Zealand Post, Kiwi Bank, Speirs Group, Earthquake Commission, King Country Energy, Auckland Council Investments and NZPM Group.

Linda is currently Chair of Pacific Radiology Group Ltd, Crown Irrigation Investments Ltd and Central Lakes Trust. She is currently a director of Dunedin City Holdings Ltd and related subsidiaries Dunedin Stadium Property Limited and Dunedin City Treasury Limited. Linda is also a member of the Risk & Audit Committee and the Capital Markets Advisory Committee for The Treasury and Chairs the Audit and Risk Committee for Central Otago District Council.

Linda has been a director of LGFA since November 2015 and she chairs the Audit & Risk Committee.

She is a Certified Treasury Professional, a Distinguished Fellow of the Institute of Finance Professionals New Zealand (INFINZ), a Fellow of Governance New Zealand; a Chartered Fellow of the New Zealand Institute of Directors and a Graduate Member of the Australian Institute of Company Directors. Linda has a Bachelor of Commerce Degree and a Diploma in Banking.

Michael Timmer Biography

Mike has over 10 years' experience in senior finance roles in Local Government, having joined Wellington Regional Council as Treasurer in January 2007.

He holds Bachelor of Agricultural Science and Bachelor of Business Studies degrees from Massey University and is a certified Chartered Accountant and an INFNZ (cert) professional.

As Treasurer, his responsibilities include Treasury activities involving commercial paper issuance, bond placement, standby facilities, interest rate risk management, balance sheet structure, security documentation, funding and optimising subsidiary company borrowings. Other responsibilities have included risk management, insurance, business assurance (internal audit), and managing the Council's WRC Holdings board.

He has also been acting Chief Financial Officer for the Council for around two years in total. Previous roles have involved Treasury and Accounting activities and working in the dealing room at Citibank for 5 years.

He has been active with local and sector CFO groups, has served on the initial Local Government Risk Agency establishment group and the LGFA establishment committee. Mike was involved with the establishment of the LGFA initiating the idea and was one of the nine representatives involved in setting up the LGFA documentation. He has been on the Shareholders' Council since its inception where he was vice chairman prior to taking up the LGFA directorship role.

Mike is a member of the Institute of Directors. He is Chairman of the Finance Committee of Physiotherapy New Zealand Incorporated and has been a director of LGFA since 2015.

EXPLANATORY NOTE 3 - ELECTION OF NOMINATING LOCAL AUTHORITIES

The SHA provides that a Principal Shareholder may be appointed or removed as a nominator to the Shareholders' Council ("**Nominating Local Authority**") at any time by an Ordinary Resolution, provided that no more than nine Nominating Local Authorities may be so appointed. Each Nominating Local Authority, and the New Zealand Government (for so long as it is a shareholder), may appoint one member of the Shareholders' Council, and remove and replace any member so appointed, in accordance with clause 4.4 of the SHA.

The SHA provides that, beginning at, and including, the annual meeting for 2013, the shareholders shall ensure that two Nominating Local Authorities retire from office at the annual meeting of the Company in each year. The Nominating Local Authorities to retire shall be those who have been longest in office since their last election, and if two or more of those Nominating Local Authorities were last elected on the same day, the Nominating Local Authority to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Nominating Local Authority is eligible for re-election.

In this case, Western Bay of Plenty District Council, which was re-elected as a Nominating Local Authority on 25 November 2014, and Auckland Council, having been re-elected as a Nominating Local Authority on 24 November 2015, are the Nominating Local Authorities who have been longest in office since their last election (Tasman District Council having been re-elected as a Nominating Local Authority on 24 November 2015, Wellington City Council having been re-elected as a Nominating Local Authority on 24 November 2016, Christchurch City Council having been elected as a Nominating Local Authority on 24 November 2016, Whangarei District Council having been re-elected as a Nominating Local Authority on 21 November 2017, Bay of Plenty Regional Council having been re-elected as a Nominating Local Authority on 21 November 2017, Hamilton City Council having been re-elected as a Nominating Local Authority on 21 November 2018 and Tauranga City Council having been re-elected as a Nominating Local Authority on 21 November 2018). Accordingly, being the longest in office since their last election, **Auckland Council** and **Western Bay of Plenty District Council** shall retire by rotation at this annual meeting.

The Shareholders' Council is comprised of between five and ten members. The New Zealand Government can appoint a member and the remaining members are nominated by up to nine Nominating Local Authorities. Following the retirement of **Auckland Council** and **Western Bay of Plenty District Council** there are currently two positions available.

Auckland Council offer themselves for re-election as a Nominating Local Authority.

Western Bay of Plenty District Council offer themselves for re-election as a Nominating Local Authority.

EXPLANATORY NOTE 4 – DIRECTORS’ REMUNERATION

This resolution seeks shareholders’ approval for an increase in Directors’ remuneration with effect from 1 July 2019. The proposed fee increases for Directors (as set out in the notice of meeting) have been calculated based on a 7.3% increase for Directors who are on the risk and audit committee, a 5.2% increase for the chairman of the Board, a 5.0% increase for the chair of the Audit and Risk Committee and a 3.6% increase for other Directors for the 2019-2020 year. The fee increases have been set following an independent external review.

The Shareholders’ Council have provided to shareholders a background document outlining the proposed fee increases.

EXPLANATORY NOTE 5 – CHANGES TO FOUNDATION POLICIES AND SHA

This resolution seeks shareholders’ approval for amendments to the Foundation Policies of the Company and the SHA.

The Foundation Policies of the Company are set out in schedule 1 to the SHA. Clause 5.1(c) of the SHA provides that neither the Board nor any shareholder shall take or permit any action to cause any alteration to any of the Company’s Foundation Policies unless it is approved by Ordinary Resolution of the Company’s shareholders (or, if required by law, a Special Resolution).

Clauses 5.1(b) and 18.7 of the SHA provides that the SHA may be amended in accordance with the terms of any Ordinary Resolution. If any such Ordinary Resolution is passed, the amendment in that Ordinary Resolution shall take effect in accordance with their terms and the Company shall prepare a deed recording such amendments and may execute that deed on behalf of each Shareholder.

The proposed changes to the Foundation Policies requiring shareholder approval by Ordinary Resolution relate to:

1. an increase in the size of the Company’s balance sheet, requiring greater Treasury Policy limits; and
2. putting in place lending to council-controlled organisations (“CCOs”).

Adjustments required to recognise growth in balance sheet

There are several Foundation Policy limits that are incorporated into the LGFA Treasury Policy. While the Treasury Policy is approved by the LGFA Board, any changes to the Foundation Policy limits contained within the Treasury Policy require Shareholder approval. The LGFA Board notes that the Company’s business has both grown and changed significantly since the Foundation Policy limits were drafted in 2011 and changes last approved by Shareholders at the 2017 AGM. Primarily, there is a requirement for a larger portfolio of liquid assets because of:

- (a) The significant growth in the Company’s assets over the past five years as outlined in the following table:

	Actual June 2014	Actual June 2015	Actual June 2016	Actual June 2017	Actual June 2018	Actual June 2019
Total Assets	\$3.92 billion	\$5.41 billion	\$7.26 billion	\$8.49 billion	\$8.84 billion	\$10.38 billion
Total Liabilities	\$3.89 billion	\$5.38 billion	\$7.21 billion	\$8.44 billion	\$8.77 billion	\$10.31 billion
Liquid Assets Portfolio (LAP)	\$101.7 million	\$108.0 million	\$266.3 million	\$327.5 million	\$302.8 million	\$448.1 million
LAP as % of Total Assets	2.6%	2.0%	3.7%	3.9%	3.4%	4.3%
Net Profit	\$7.0 million	\$9.2 million	\$9.5 million	\$11.0 million	\$11.8 million	\$11.2 million

The proportion of liquid assets to total assets (4.3%) is low compared to our Nordic peer agencies (13% to 25%) and it is prudent to increase the amount of liquid assets over time.

- (b) Bespoke lending continues to gain in popularity with 45% of council borrowing in the 2018-19 financial year being of non-LGFA maturities. LGFA must ensure it holds enough liquid assets to meet the repayment at maturity of any LGFA bonds that are not backed with council loans or have been refinanced prior to maturity. Furthermore, LGFA must hold liquid assets in the periods between LGFA tender dates to meet any council borrowing demand.
- (c) Short dated lending to councils, matched where possible with the issuance of LGFA Bills, has been successful with short term loans outstanding at \$430 million to thirty-one councils as at 31 August 2019. LGFA Bills on issue total \$450 million as at 31 August 2019 and any difference between LGFA Bills issued and short dated loans to councils is invested as part of the Liquid Asset Portfolio.
- (d) Cash collateral received as security from the lending of LGFA Bonds to banks (who provide market pricing and liquidity in LGFA Bonds) is required to be invested for the term of the LGFA Bond loan.
- (e) LGFA is considering the provision of standby facilities for councils and these will be backed by liquid assets.

The proposed changes to the Foundation Policy and the rationale for those proposed changes are set out in the table below.

Current	Proposed change	Rationale for change
Category 2 Assets Maximum individual counterparty limit of \$200 million. Maximum of 80% of assets. Maximum term of 3 years.	Category 2 Assets Maximum individual counterparty limit of \$300 million. Maximum 80% of assets. Maximum term of 3 years.	The increase in the LGFA balance sheet, the amount of bespoke lending outside of the regular tender schedule and increased short term lending requires a larger Liquid Asset Portfolio. Individual category volume limits need to be increased to reflect the increasing size of the Liquid Asset Portfolio.
Category 3 Assets Maximum individual counterparty limits of \$125 million (AA-) and \$150 million (AA and AA+). Maximum of 80% of assets rated "AA-" or better. Maximum term of 3 years.	Category 3 Assets Maximum individual counterparty limits increased to \$200 million for AA-, AA and AA+. Maximum of 80% allocation to assets rated "AA-" or better. Maximum term of 3 years.	The increase in the LGFA balance sheet, the amount of bespoke lending outside of the regular tender schedule and increased short term lending requires a larger Liquid Asset Portfolio. Individual category volume limits need to be increased to reflect the increasing size of the Liquid Asset Portfolio. The four major NZ banks are rated AA- so counterparty limits need to be adjusted to reflect their relative size.
Category 4 Assets Maximum individual counterparty limit of \$125 million for a NZ Registered Bank. Maximum individual counterparty limit of \$30 million for other issuers	Category 4 Assets NZ Registered Bank Maximum individual counterparty limit of \$200 million for a NZ Registered Bank.	The addition of limits for NZ Registered Banks allows for the possibility that the credit ratings of the Australasian parents of the NZ Registered Banks could be downgraded. If this should occur, then the credit ratings of

Minimum credit rating for assets of "A1" short term rating and "A" long term rating. Maximum term of 1 year.	Maximum of 60% allocation to NZ Registered Bank assets rated "A+ ". Maximum term of 3 years.	the NZ subsidiaries would also be downgraded. Given the systemic importance of the NZ Registered Banks and RBNZ supervision we are comfortable holding their assets in the Liquid Asset Portfolio. The maximum term is to be extended to 3 years to ensure consistency with the maximum term for NZ Registered Banks with a credit rating of AA- or better.
	Category 5 Assets Other Issuers Maximum individual counterparty limit of \$50 million for other issuers. Maximum of 10% allocation to Non-NZ Registered Bank assets rated "A+ ". Maximum term of 1 year.	It is preferred to distinguish between NZ Registered Banks and non-bank issuers. Non-bank issuers are not supervised and therefore a lower individual counterparty limit, maximum allocation limit and shorter maximum term are preferred.
Derivative Policy The Company will only enter into derivative transactions with New Zealand Debt Management Office as counterparty.	Unless explicitly approved otherwise by the Board, all derivative transactions must be transacted with New Zealand Debt Management as counterparty.	LGFA has ISDAs in place with three NZ Registered Banks, in case New Zealand Debt Management cannot provide derivatives to LGFA. This is for BCP.
Market Risk The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$40,000. The Company's total portfolio VAR daily limit is \$400,000.	The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$100,000. The Company's total portfolio VAR daily limit is \$1,000,000.	The current size of LGFA's balance sheet exceeds the original forecast and is projected to grow further in the next three years. Hence the need for a larger PDH limit. The larger balance sheet impacts on the size of the 3-month bank bill rate sets. Market volatility has also increased, resulting in an increase in VaR, holding all other variables constant. The LGFA Board will manage the exposure by having a lower limit threshold in the Treasury Policy.

Adjustments to allow lending to CCOs:

Currently, LGFA can only lend to a council. However, several councils borrow and on-lend to their CCO subsidiaries and LGFA has been asked to change so that it can lend directly to CCOs (with the consent of the parent council).

There are several reasons for LGFA to lend to CCOs:

- LGFA estimates that forty-seven of its sixty-four member councils have CCOs and a few councils currently borrow and on-lend to their CCO subsidiaries;

- CCOs are an important part of the Local Government sector and LGFA cannot currently lend directly to CCOs;
- It is difficult for multiple owned CCOs to access financing from LGFA and with potential reform of the water sector signalled by Central Government, LGFA needs to consider what this might mean for sector borrowing; and
- Dunedin City Council is one of the few councils not to borrow through LGFA and part of the reason is that they undertake their borrowing through a CCO subsidiary.

LGFA received shareholder approval at the November 2018 AGM to proceed with establishing the framework and process to lend directly to CCOs. Russell McVeagh and LGFA management have been working on the structure, process and drafting changes to the LGFA legal documents. Simpson Grierson have acted on behalf the Shareholders' Council to provide feedback on the proposal. Minor amendments are proposed in the Foundation Policies to reflect the final CCO lending structure.

The documentation, structure and process has been influenced by the following:

- LGFA will only lend to CCOs or council-controlled trading organisations ("CCTOs") if:
 - in the case of CCOs, its obligations are guaranteed by its council parent; or
 - in the case of CCTOs, it is supported by uncalled capital within the CCTO;
- All parent council shareholders must be guarantors of LGFA;
- Any CCO/CCTO borrower must be wholly owned, directly or indirectly, by one or more councils and Central Government (if applicable);
- Council shareholder(s) must agree to their CCO/CCTO joining LGFA. All shareholders of the CCO/CCTO must countersign the relevant accession deeds to the Notes Subscription Agreement and the Multi-Issuer Deed;
- CCO/CCTO holds the Borrower Notes, but prior to conversion the Borrower Notes are transferred to the relevant council shareholder(s);
- LGFA Board to approve each CCO/CCTO to join. LGFA to undertake financial and credit analysis of each CCO /CCTO before its accession, with ongoing surveillance. Russell McVeagh to review each CCO/CCTO's council shareholders' Debenture Trust Deed and CCO/CCTO security structure as part of the acceptance process by the LGFA Board;
- Bespoke covenants are to be negotiated between LGFA and each CCO/CCTO. LGFA may allow no covenants if LGFA is sufficiently comfortable with the guarantee/uncalled capital structure and the credit quality of the council shareholder(s);
- Annual testing of the CCO/CCTO compliance with financial covenants (if relevant) and reporting as per council membership;
- Credit analysis of the council shareholders and ongoing compliance with LGFA covenants will be undertaken on a parent basis and reported on a parent and consolidated group basis;
- Borrowing process to be as close as possible to the borrowing process for council lending;
- Pricing on CCO/CCTO loans in line with council shareholder borrowing, but set by LGFA;
- Lending to CCO/CCTO by LGFA is expected to be on the same (or better) security terms than their existing banking security;
- Redemption of LGFA loans to CCO/CCTO if the CCO ceases to be a CCO; and
- Reporting to LGFA shareholders on a quarterly basis as to breakdown of CCO/CCTO lending.

Adjustments to allow other types of lending:

To date, the Foundation Policies have only contemplated lending by securities. To allow LGFA greater flexibility in its lending, the proposed amendments to the Foundation Policies would permit LGFA to enter into facility arrangements with borrowers.

Amendments to the SHA:

In addition to the changes to the Foundation Policies, minor amendments are proposed in respect of the SHA to reflect the potential lending to CCOs. The changes to the SHA will take effect on the date LGFA notifies the Shareholders that the "effective date" of the deed amending and restating the SHA has occurred.

APPENDIX: FORM OF AMENDED SHAREHOLDERS' AGREEMENT

Item 5

Attachment 1

NEW ZEALAND LOCAL GOVERNMENT FUNDING AGENCY LIMITED

PROXY FORM



I/We _____

of _____

being a shareholder of New Zealand Local Government Funding Agency Limited ("Company") appoint _____

of _____ or failing him/her _____

of _____ as my/our proxy to vote for me/us at the annual meeting of the Company to be held on 21 November 2019 and at any adjournment thereof.

If you wish to direct the proxy how to vote, please indicate with a ☒ in the appropriate box below. If the proxy can vote as he or she thinks fit, please indicate with a ☒ in the following box:

	For	Against
1(a) To re-elect Linda Robertson as an Independent Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>
1(b) To re-elect Michael Timmer as a non-Independent Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>
2. To re-elect Auckland Council as a Nominating Local Authority	<input type="checkbox"/>	<input type="checkbox"/>
3. To re-elect Western Bay of Plenty District Council as a Nominating Local Authority	<input type="checkbox"/>	<input type="checkbox"/>
4. To approve the following increases in director fees payable		
(a) With effect from 1 July 2019 the director acting as chairman of the board of directors of \$5,000 per annum, from \$97,000 per annum to \$102,000 per annum	<input type="checkbox"/>	<input type="checkbox"/>
(b) With effect from 1 July 2019, each of the other directors acting as members of the audit and risk committee, an increase of \$4,000 per annum, from \$55,000 per annum to \$59,000 per annum	<input type="checkbox"/>	<input type="checkbox"/>
(c) With effect from 1 July 2019, the director acting as chairman of the audit and risk committee of \$3,000 per annum, from \$60,000 per annum to \$63,000 per annum.	<input type="checkbox"/>	<input type="checkbox"/>
(d) With effect from 1 July 2019, each of the other directors an increase of \$2000 per annum, from \$55,000 per annum to \$57,000 per annum	<input type="checkbox"/>	<input type="checkbox"/>
5. To approve the changes to the foundation policies of the Company	<input type="checkbox"/>	<input type="checkbox"/>
6. To approve the changes to the Shareholders Agreement	<input type="checkbox"/>	<input type="checkbox"/>

(Please refer to the notice of meeting for details of the resolutions)

Signature of Shareholder

Dated: 2019

Notes:

1. If you wish you may appoint as your proxy the chairperson of the meeting.
2. If you are a body corporate, this proxy form must be signed on behalf of the body corporate by a person acting under the body corporate's express or implied authority.
3. For this proxy form to be valid, you must complete it and produce it to the Company at least 48 hours before the time for holding the meeting. You can produce it to the Company by delivering it to **Level 8, City Chambers, 142 Featherston Street, Wellington 6145. It must be received at least 48 hours before the time for holding the meeting.**
4. If this proxy form has been signed under a power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must be produced to the Company with this proxy form.
5. If you return this form without directing the proxy how to vote on any particular matter, the proxy can vote how he or she thinks fit if authorised by you in this proxy form by ticking the appropriate box. Otherwise, the proxy will be deemed to have abstained from voting on that matter.
6. Capitalised terms in this proxy form have the meanings given to them in the shareholders' agreement dated 7 December 2011 (as amended from time to time) between the Company and its shareholders.



27 September 2019

The Shareholders
NZ Local Government Funding Agency

Dear Shareholder

You have recently received papers from the LGFA for its Annual General Meeting (AGM) on 21 November 2019. The Shareholders' Council (SC) has considered this material and wishes to make recommendations to help with your decision making prior to the AGM.

Our role (as per the Shareholders' Agreement) includes requirements to:

- make recommendations to Shareholders as to the appointment, removal, re-election, replacement and remuneration of Directors.
- make recommendations to Shareholders as to any matters which require the approval of Shareholders

Our recommendations on the different AGM resolutions are as follows:

Resolution 1 – Financial Statements and Reports

The Shareholders' Council recommends approval is given for this resolution.

Resolution 2 - Election of Directors

Linda Robertson and Mike Timmer have both proven themselves to be effective and competent directors and they have the support of the SC.

There have been no other nominations.

The Shareholders' Council recommends approval is given for this resolution.

Resolution 3 - Election of Nominating Local Authorities

- Auckland Council is represented by John Bishop.
- Western Bay of Plenty Council is represented by Kumaren Perumal.

Both are actively involved in LGFA matters and wish to continue their association.

We are not aware of any other Councils that wish to have direct representation on the SC at this time and no other nominations have been received. However, some interest has been expressed from potential new members next year.

The Shareholders' Council recommends approval is given for this resolution.

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 WELLINGTON Level 8, City Chambers, 142 Featherston Street
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Resolution 4 – Directors’ Remuneration

The Shareholder’s Council commissioned Board Dynamics to undertake an LGFA director remuneration review. This review was to provide an update to the Board Dynamics review undertaken in 2017.

Board Dynamics Review

The Shareholder’s Council met in August to review the report on your behalf. The outcome of our meeting was to make the following recommendations to shareholders, based on our review of the report.

That Annual Fees are set from 2019 as follows:

- | | |
|---|-----------|
| • Independent Chair | \$102,000 |
| • Director with Audit and Risk Chair role | \$63,000 |
| • Director | \$57,000 |
| • Director with Audit and Risk Committee membership | \$2,000* |

**this additional fee is at the lower end of the recommended range*

The report also provides some useful background and information relating to the LGFA, the Board, and remunerations levels at other comparable Boards. You may find this information useful should you need to take a report and recommendations through your governance approval processes.

If you have any questions or queries relating to the report please feel free to contact either myself or Mat Taylor (mat.taylor@boprc.govt.nz), at Bay of Plenty Regional Council who was part of the sub- group of the Shareholder’s Council who oversaw the preparation of the report.

There is very strong (although not quite unanimous) support for the remuneration changes and the Shareholders’ Council recommend that approval is given for this resolution.

Lending directly to CCOs

- **Resolution 5 - Changes to Foundation Documents**
- **Resolution 6 - Changes to the Shareholders’ Agreement**

At the November 2018 AGM LGFA received shareholder approval to proceed with establishing the framework and process to lend directly to CCOs. LGFA management subsequently commissioned Russell McVeagh to help develop the structure, process and drafting changes to the LGFA legal documents to implement the required changes.

The Shareholders Council received draft documentation to review and provide feedback. We in turn commissioned Simpson Grierson to give independent advice on the overall approach and documentation.

As you will be aware the LGFA documentation (Shareholders’ Agreement, Multi-Issuer Deed, Notes Issuer Agreement and Guarantee & Indemnity) is complex and detailed. It has gone through numerous iterations as feedback from LGFA, two legal firms and the Shareholders’ Council (comprising nine council and two central government appointees) has been reviewed and incorporated. We have now reached agreement that the proposed changes to the documentation are appropriate and will allow LGFA to lend directly to CCOs without exposing guarantors to additional risk, which was a fundamental aspect of the 2018 AGM decision.

The Notice of Meeting from LGFA includes some information about the proposed changes, so I will not include that in this letter. However, we have worked with LGFA management to prepare two discussion papers that

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provide 'plain English' explanations. Councils may wish to include one or both of these in agendas if any Elected Member approvals are required.

However, I would like to point out that during this process the SC facilitated considerable discussion about:

- ensuring that the proposed arrangements did not add any additional risk to guarantors
- the way financial covenants should be calculated where there are lending arrangements at both Parent and Group level for a council; particularly those relating to the Debt to Revenue ratio. We will be working with LGFA to review this going forward.
- limiting direct lending to CCO's that are 100% in the ownership of one or more councils (with the sole exception being those with a Central Government shareholding)
- incorporating the ability to lend to CCOs with less than 100% council ownership **in the future**. A minimum of 51% ownership would be required, with this facility only being 'switched on' following a Special Resolution of shareholders at a later date. This high approval threshold (which requires at least 75% approval) has been set at the SC's request as lending to entities (even though they would be minority shareholders) outside our sector is seen as a fundamental change in LGFA's operating model.
- ensuring any agreements embedded in the foundation documents are not compromised by the proposed changes
- having all documents drafted so that they meet all requirements for this change, but are not so prescriptive that they hinder the practical application of the underlying principles as LGFA conduct their business.

This has been a complex and time-consuming process with some robust discussion between the parties involved. Much of the complexity has arisen because we have had to accommodate the wide (and often subtle) variations in the way councils and their CCOs are structured across our sector as we have contemplated both current and potential future scenarios (such as the formation of jointly-owned water service providers).

During our deliberations the SC members recognised that we have separate interests as shareholders, guarantors and borrowers. However, given the cooperative structure of LGFA, we felt that these interests did not give rise to any specific conflicts that precluded any members from participation in the process.

We also note there are also some minor amendments required to reflect the lending growth of LGFA and these changes are supported.

We have now reached a point where there is very strong (although not quite unanimous) support for all the proposed changes, and the Shareholders' Council recommend that approvals are given for both these resolutions.

I trust you find this information helpful. Please contact me or your Shareholders' Council liaison should you wish to discuss any matter relating to this letter or any other aspects of LGFA operations.

Yours sincerely



Alan Adcock
Chair, LGFA Shareholders' Council

cc. Mark Butcher, Chief Executive LGFA

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Item 5

Attachment 4



Introduction

Board Dynamics has been engaged by the Shareholder Council to provide a report on the current director remuneration at Local Government Funding Agency (LGFA) and make recommended changes (if any) in the current fees based on current market data since our last review in 2017.

In benchmarking the LGFA board remuneration we have used the financial services industry as the sector of reference (excluded State-Owned Enterprises (SOEs), the largest trading banks in NZ and overseas banks involved in unrelated activities). This is because LGFA is operating in a specialised technical financial services space aligned with the practices and disciplines of the financial services industry, despite operating as an agency for Local Government funding.

LGFA board remuneration has been benchmarked against similar sized organisations in New Zealand, based on assets under management and shareholder funds. We have referenced the current remuneration of Chairs and Directors on boards of organisations ranging from a small bank, private equity firm and asset management firms.

As of 30 June 2019, the average board remuneration in the financial services industry in New Zealand for a **Chair is (range) \$90,000-\$185,000** and for a **Director is (range) \$70,000-\$110,000**. The range depends on breakdown – assets, revenue or industry. Average Fee increases were 2.4% across all industries surveyed and for financial services the average was 3.0%.

The current LGFA board comprises of 1 Independent Chair, 1 Director and 4 Independent Directors. The remuneration fees per annum are set as follows:

Role	Remuneration
Independent Chair	\$97K
Director with Audit and Risk Chair role	\$60K
Director	\$55K

We have taken into consideration the complexity of the industry, size of portfolio and technical skills required of each director or Chair. **Note: we have excluded director fees of the largest trading banks in New Zealand to prevent skewing the results.**

Recommendations

Our recommendation is based on several factors including the Financial Industry, Assets under Management and Shareholder Funds of the market data referenced in this report for both Chair and Director fees.

LGFA is an organisation where the board operates in an industry most similar to Financial Services, with Assets Under Management of \$10.4 Billion (as of June 30, 2019). Note: up from \$7.76 Billion (as of March 31, 2017).

LGFA has market share of 90.0% of total council borrowing for the rolling twelve-month period to June 2019. There is a sizeable increase since our last full review in 2017.

To summarise relevant Chair and Director fee reference data that is highlighted in the tables:

1. Average relevant Chair Fees and Workload 2019

	Annual Average Fee	Annual Average Hours
Industry – Financial Services	\$95,564	228
Assets Under Management >1000M	\$185,572	380
Shareholder Funds 50M-100M	\$98,120*	
AVERAGE	\$126,419	304 Hrs = 28 Hrs per Month

*Upper Quartile value used as representative in the case of LGFA

2. Average relevant Director Fees and Workload 2019

	Annual Average Fee	Annual Average Hours
Industry – Financial Services	\$79,761*	147
Assets Under Management >1000M	\$110,433	243
Shareholder Funds 50M-100M	\$70,000	
AVERAGE	\$86,731	195 Hrs = 16 Hrs per Month

*Upper Quartile value used as representative in the case of LGFA



Recommended LGFA Chair and Director Fee Increase:

Accordingly, we suggest the current Chair and Director fees at LGFA are at industry average if we understand the workload to be in the range suggested of 29 hours per month for the Chair and 19 hours per month for a Director.

The current pool of future directors as part of succession planning is limited in New Zealand with the level of experience required as a LGFA director. The greater risk that directors take in a regulated environment also has an impact on market rates for the financial services industry.

We would initially recommend the following small fee increases:

- Annual Director fees at LGFA be increased from the current of \$55,000 - \$60,000 into a range **between \$60,000 and \$65,000.**
- Annual Chair fees at LGFA be increased from the current \$97,000 into a range between **\$100,000 and \$105,000.**

These fee increases are the represented average fee increases for Industry, Assets Under Management and Shareholder Funds.

This small fee increase recognises the increasing financial services sector knowledge requirements for an LGFA director role, and the workload expectations on directors. In addition, the size of the organisation in respect to market share over 90% and the increased risks to manage as a result. Greater workload and increased demand of directors' time and knowledge/experience.

Factors to be aware of when interpreting and applying market data

We recommend that this information is considered in the context of the following factors which outline the key determinants of director remuneration decisions:

1. Technical skillset

The skill set required is limited based on current director pool available without conflict and availability in New Zealand. We estimate this number to range from 30 to 40 individuals. LGFA may decide to pay a premium in order to attract or retain directors.

2. Risks

Directors take on considerable financial and reputational risks as a director within a number of sectors including financial services.

3. Performance of the organisation

The director's performance and value has also been taken into consideration where LGFA has performed consistently well since inception. Assets under management are now at \$10.4 Billion. The organisation is also planning to offer additional products and services in the near future and the directors will have wider governance activities as a result.



LGFA Board Role	Current Fee	Recommended Fee	Corresponding Workload
Independent Chair	\$97K	\$102K	28 hrs per month
Director with Audit and Risk Chair role	\$60K	\$63K	16.5 hrs per month
Director	\$55K	\$57K	14 hrs per month
Director with Audit & Risk committee membership only (not Chair)	\$0K	\$2K to \$3K	2 hrs per month

While this recommendation may not precisely reflect the standard market 2.0:1X ratio between Chair and Director fees, we believe it is more important to follow actual market practice than simply to apply a ratio.

Consistent with the past, the Board chooses to pay a separate committee fee for Audit & Risk Chair only. We would recommend that the shareholder council consider an additional fee for members of this committee. This is standard practice and recognises additional workload. Recommended range: \$2K to \$3K per annum.



In our view, the recommended ranges represent appropriate and competitive levels for a successful, large in respects to market share/funds for a New Zealand financial services company.

These fee increases may represent, depending on final decisions, the annual governance pool rising from \$377K (approximate) to \$393K. This is a rise of \$16K per annum for the board total REM. Slightly higher if A&R director committee fee approved.

Finally, this document represents the objective recommendation of Board Dynamics regarding board fees at LGFA. However, any board fee discussion involves a variety of factors of which the information in this document is just one. We suggest using this information as a starting point in a review that should serve to further develop the relationship between the LGFA Board and the Shareholder Council.

Appendix (1)

Role of the Board

The board is responsible for the overall governance, management and strategic direction of the organisation and for delivering accountable corporate performance in accordance with the organisation's goals and objectives. This responsibility is usually set out in the organisation's constitution or in the enabling legislation under which the organisation is registered or incorporated.

In performing its role, specific responsibilities commonly reserved to the board either in its constitution, its board or governance charter or by cultural practice include:

- Providing strategic direction to the organisation and deciding upon the organisation's strategies and objectives in conjunction with the CEO;
- Monitoring the strategic direction of the organisation and the attainment of its strategies and objectives in conjunction with the executive;
- Monitoring the operational and financial position and performance of the organisation generally;
- Driving organisational performance so as to deliver member value or benefit;
- Assuring a prudential and ethical base to the organisation's conduct and activities having regard to the relevant interests of its stakeholders;
- Assuring the principal risks faced by the organisation are identified and overseeing that appropriate control and monitoring systems are in place to manage the impact of these risks;
- Reviewing and approving the organisation's internal compliance and control systems and codes of conduct;
- Assuring that the organisation's financial and other reporting mechanisms are designed to result in adequate, accurate and timely information being provided to the board;
- Appointing and, where appropriate, removing the CEO, monitoring other key executive appointments, and planning for executive succession;
- Overseeing and evaluating the performance of the CEO, and through the CEO, receiving reports on the performance of other senior executives in the context of the organisation's strategies and objectives and their attainment;
- Reviewing and approving the CEO's and, in conjunction with the CEO, other senior executive remuneration;



- Approving the organisation's budgets and business plans and monitoring major capital expenditures, acquisitions and divestitures, and capital management generally;
- Ensuring that the organisation's financial results are appropriately and accurately reported on in a timely manner in accordance with constitutional and regulatory requirements;
- Ensuring that the organisation's affairs are conducted with transparency and accountability;
- Overseeing the design, implementation and periodic review of appropriate and effective policies, processes and codes for the organisation, which depending on the organisation, may include with respect to ethics, values, conduct, securities trading, disclosure of securities' price sensitive information, employment, remuneration, diversity and otherwise;
- Ensuring sound board succession planning including strategies to assure the Board is comprised of individuals who are able to meet the responsibilities of directors of the organisation;
- Overseeing member and stakeholder engagement, reporting and information flows.

In practice, the role of the board including governing, directing and monitoring an organisation's business, affairs and operations in two broad areas.

Overall organisational performance:

Ensuring the organisation develops and implements strategies and supporting policies to enable it to fulfil the objectives set out in the organisation's constitution. Commonly the board delegates the day to day operations of the organisation to the management team via the CEO but remains accountable to the members and shareholders for the organisation's performance. The board monitors and supports management in an on-going way.

Overall compliance:

Ensuring the organisation develops and implements systems, processes and procedures to enable it to comply with its legal, regulatory and industry obligations (complying with the law and adhering to accounting and other industry standards) and ensure the organisation's assets and operations are not exposed to undue risks through appropriate risk management.

Appendix (2)

Chair and Director Fees in NZ

Non-Executive Chair Fees 2019 – Breakdown*

* LGFA relevant data highlighted in yellow

Breakdown By Industry:

Industry	Fee components	Sample		Payment value			
		No.	%	Lower quartile	Median	Upper quartile	Average
Banking, Financial and Insurance Services	Annual fee (\$)	30	7%	52,992	80,000	129,862	95,564
	Hourly rate (\$)	24	6%	232	298	817	1,321
	Total hours	32	8%	128	179	295	228

Breakdown By Total Assets:

		No.	%	Lower quartile	Median	Upper quartile	Average
0-5M	Annual fee (\$)	61	15%	20,000	30,000	40,000	37,352
	Hourly rate (\$)	61	15%	113	194	317	266
	Total hours	137	33%	82	127	200	168
5.1-10M	Annual fee (\$)	27	6%	24,500	40,000	57,000	43,278
	Hourly rate (\$)	27	6%	130	189	289	229
	Total hours	41	10%	100	190	312	236
10.1-20M	Annual fee (\$)	25	6%	30,000	40,000	60,000	48,850
	Hourly rate (\$)	25	6%	145	197	286	217
	Total hours	32	8%	148	211	357	276

20.1-50M	Annual fee (\$)	31	7%	34,000	48,000	56,500	48,791
	Hourly rate (\$)	30	7%	164	266	336	308
	Total hours	34	8%	151	193	288	231
50.1-100M	Annual fee (\$)	25	6%	42,500	50,000	75,000	57,992
	Hourly rate (\$)	22	5%	127	232	312	266
	Total hours	26	6%	144	258	426	445
100.1-200M	Annual fee (\$)	19	5%	45,460	70,320	100,000	77,077
	Hourly rate (\$)	8	2%	162	256	405	306
	Total hours	10	2%	145	222	481	325
200.1-500M	Annual fee (\$)	37	9%	67,000	78,000	100,000	94,235
	Hourly rate (\$)	15	4%	193	404	559	630
	Total hours	19	5%	136	248	395	287
500.1-1000M	Annual fee (\$)	20	5%	62,769	97,045	160,000	117,085
	Hourly rate (\$)	14	3%	339	598	2,518	1,563
	Total hours	14	3%	57	180	297	193
>1000M	Annual fee (\$)	42	10%	81,094	143,258	205,250	185,572
	Hourly rate (\$)	18	4%	245	504	982	1,597
	Total hours	19	5%	96	324	455	379

Non-Executive Director Fees 2019 – Breakdown*

* LGFA relevant data highlighted in yellow

Breakdown By Industry:

Industry	Fee components	Sample		Payment value			
		No.	%	Lower quartile	Median	Upper quartile	Average
Banking, Financial and Insurance Services	Annual fee (\$)	88	8%	33,312	59,801	97,917	79,761
	Hourly rate (\$)	61	5%	224	407	839	931
	Total hours	81	7%	40	100	187	127

Breakdown By Total Assets:

		No.	%	Lower quartile	Median	Upper quartile	Average
0-5M	Annual fee (\$)	79	7%	12,000	19,000	25,000	19,225
	Hourly rate (\$)	79	7%	89	161	278	225
	Total hours	262	23%	50	91	138	110
5.1-10M	Annual fee (\$)	35	3%	15,750	21,500	30,000	23,643
	Hourly rate (\$)	34	3%	83	152	244	187
	Total hours	73	6%	72	131	193	163
10.1-20M	Annual fee (\$)	40	4%	18,075	28,000	31,875	26,197
	Hourly rate (\$)	40	4%	113	195	314	249
	Total hours	64	6%	77	125	216	159
20.1-50M	Annual fee (\$)	45	4%	20,800	30,000	35,000	29,352
	Hourly rate (\$)	41	4%	149	214	313	257
	Total hours	65	6%	85	129	180	163
50.1-100M	Annual fee (\$)	70	6%	20,750	25,000	36,000	29,108
	Hourly rate (\$)	44	4%	84	130	232	188
	Total hours	54	5%	116	177	262	253
100.1-200M	Annual fee (\$)	60	5%	27,875	39,360	59,478	44,843
	Hourly rate (\$)	32	3%	129	202	326	506
	Total hours	43	4%	133	195	274	207
200.1-500M	Annual fee (\$)	137	12%	37,500	47,000	62,000	50,541
	Hourly rate (\$)	43	4%	171	278	839	509
	Total hours	59	5%	56	179	269	205
500.1-1000M	Annual fee (\$)	83	7%	55,918	69,500	90,000	80,159
	Hourly rate (\$)	45	4%	377	1,227	1,591	1,307
	Total hours	52	5%	40	44	202	140
>1000M	Annual fee (\$)	183	16%	69,022	87,590	120,400	110,433
	Hourly rate (\$)	57	5%	187	419	1,563	921
	Total hours	68	6%	96	187	288	279



Understanding data measures

Lower Quartile	This represents the point at which, when ranked from the lowest value to the highest value, 25 per cent of the sample is lower and 75 per cent of the sample is higher. The lower quartile is also known as the 25 th percentile.
Median	When data is ranked from the lowest value to the highest value, the median represents the middle point of the data. At the median, 50 per cent of the sample is lower and 50 per cent of the sample is higher. The median is also known as the 50 th percentile.
Upper Quartile	This represents the point at which, when ranked from the lowest value to the highest value, 75 per cent of the sample is lower and 25 per cent of the sample is higher. The upper quartile is also known as the 75 th percentile.
Average	Indicates the average value of remuneration or benefit in any given sample. The average is calculated by adding the numbers in a sample and then dividing by the count of the sample.

Source Data

Our market data (Chair and Director Fees) has been sourced from the EY IoD Director Fee Survey and our own Board Dynamics director survey.
Prepared by Henri Eliot

August 20, 2019

Henri Eliot
CEO
Board Dynamics

Background information and an update on CCO lending

The New Zealand Local Government Funding Agency (LGFA) is an agency specialised in financing the New Zealand local government sector. LGFA was established to raise debt on behalf of councils on terms that are more favourable to them than if they raised the debt directly. LGFA was incorporated as a limited liability company under the Companies Act 1993 on 1 December 2011, following the enactment of the Local Government Borrowing Act 2011. As LGFA is majority owned by councils, it constitutes a “council-controlled organisation” under the Local Government Act 2002.

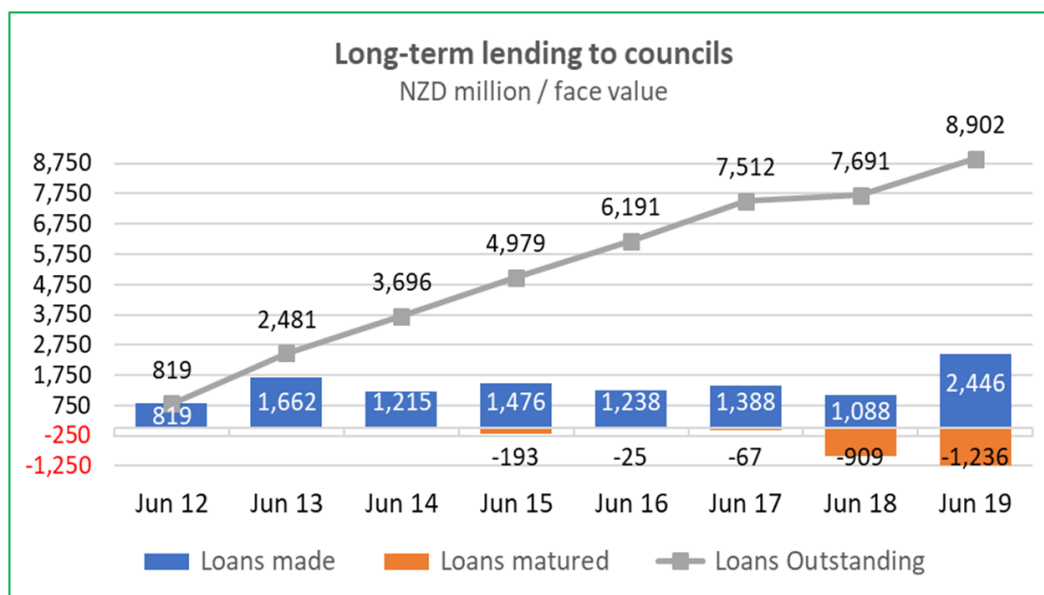
Capital structure and shareholding

As at 2 September 2019, LGFA had 45 million ordinary shares on issue, 20 million of which remain uncalled. There are currently 31 shareholders, comprising the New Zealand Government at 20% and 30 councils at 80%. Any councils wanting to become new shareholders are required to purchase shares from existing council shareholders. The capital structure of LGFA comprises fully paid shares, unpaid shares, retained earnings and borrower notes. Borrower notes are subordinated convertible debt instruments which each council that borrows from LGFA must subscribe for (in an amount equal to 1.6% of the long term borrowing from LGFA by that council). LGFA will redeem borrower notes when the council’s related borrowings are repaid or no longer owed to LGFA. Currently there are NZ\$147 million of borrower notes on issue.

Borrowing and lending

LGFA operates with the primary objective of optimising the debt funding terms and conditions for participating councils. LGFA borrows by issuing LGFA bonds (greater than one-year maturity) and LGFA Bills (less than one-year maturity) to investors and banks and then on-lends the proceeds to councils. As at 2 September 2019, there are NZ\$10.005 billion of LGFA bonds listed on the NZX across nine maturities from 2020 to 2033. These bonds include \$450 million of treasury stock issued to LGFA for liquidity purposes. As at 2 September 2019, there are \$463 million of LGFA Bills on issue.

LGFA has experienced strong growth in lending to the sector and has approximately 92% market share of all council borrowing. As at 30 June 2019, LGFA had lent \$362 million on a short-term basis to councils and \$8.902 billion on a long-term basis.



As at 2 September 2019, there are 64 Participating Local Authorities (“PLAs”) who are members of LGFA. There are 63 borrowers amongst the PLAs with MacKenzie District the only non-Borrower to date. The PLAs cover 98% of the local government sector debt. Auckland Council is restricted to borrowing no more than 40% of LGFA lending and is currently at 25%.

The ten largest council borrowers from LGFA as at 2 September 2019 are

Council Borrower	\$ millions	%
Auckland	\$2,407	24.8%
Christchurch City	\$1,802	18.6%
Wellington City	\$585	6.0%
Tauranga City	\$500	5.1%
Greater Wellington Regional	\$400	4.1%
Hamilton City	\$385	4.0%
Kapiti Coast District	\$215	2.2%
Bay of Plenty Regional	\$192	2.0%
Rotorua District	\$187	1.9%
Hutt City	\$179	1.8%
53 others	\$2,861	29.5%
	\$9,713	100%

Guarantee structure

LGFA’s obligations in relation to its securities issued are guaranteed by the councils that are guarantors under the Guarantee and Indemnity Deed. Other than the New Zealand Government, each shareholder in LGFA must be a guarantor. In addition, any council that borrows in aggregate

NZ\$20 million or more from LGFA must be a guarantor. The guarantee will be in favour of the obligations of LGFA. Any call under the guarantee will be allocated across all the guarantors on a pro rata basis in relation to their rates revenue.

There are 52 Guarantors of LGFA. The only non-Guarantors (due to their small amount of borrowing) are Northland and West Coast Regional Councils and Grey, Central Hawkes Bay, Opotiki, Buller, Rangitikei, Stratford, Wairoa, MacKenzie, Clutha and Westland District Councils.

The New Zealand Government does not guarantee LGFA.

Governance and oversight

The LGFA Board is responsible for the strategic direction and control of LGFA's activities and comprises five independent and one non-independent directors. The Board guides and monitors the business and affairs of LGFA, in accordance with the

- Local Government Act 2002
- Local Government Borrowing Act 2011
- Companies Act 1993
- LGFA's Constitution
- LGFA Shareholder Agreement
- LGFA Annual Statement of Intent

The LGFA Shareholders' Council comprises five to ten appointees from the council shareholders and the New Zealand Government. The role of the Shareholders' Council is to

- Review and report performance of LGFA and the board
- Recommend to shareholders as to the appointment, removal, replacement and remuneration of directors
- Recommend to shareholders as to any changes to policies, or the SOI, requiring their approval
- Update shareholders on LGFA matters and
- Co-ordinate shareholders on governance decisions.

LGFA is audited by Audit NZ.

Risk management

The LGFA risk management framework follows industry best practice principles and the three lines of defence model to identify, assess and mitigate the risks faced by the business, as a part of its daily business operations.

The LGFA board and the audit and risk committee are responsible for the governance oversight of LGFA's risk management, compliance and internal audit functions. The CEO and the Manager, Risk and Compliance are responsible for the daily operational controls and processes that are in place to mitigate the business risks of the organisation.

The Risk and Compliance Manager also undertakes the board approved internal audit operations of LGFA and KPMG (appointed by Audit NZ) are the LGFAs external auditors.

The major risks and mitigants faced by LGFA are:

- Interest Rate Risk is where LGFA is subject to adverse movements in interest rates or borrowing spreads. This is mitigated by very tight treasury policy and board-imposed limits and compliance reporting requirements to the LGFA board.
- Funding Risk is where LGFA incurs a mismatch between its borrowing and lending activities and either cannot borrow to match its maturities or incurs a financial loss in doing so. LGFA can issue short dated and long dated instruments, borrows for long terms than it on-lends to councils and has a Liquid Assets Portfolio (LAP) and a standby facility from the New Zealand Government
- Credit Risk is where a loan to a council cannot be repaid or an investment in the LAP incurs a loss due to a credit event. This is mitigated through LGFA lending to councils on a secured basis (against rates revenue) and each council borrower must comply with LGFA imposed financial covenants. LGFA has strict limits on what investments can be held in the LAP in terms of type, term, amounts and credit ratings of investments in individual securities and issuers.

LGFA also has a defined compliance framework in place, to ensure that all legal, regulatory and treasury compliance requirements are actively managed and reported to the LGFA board.

Credit rating

LGFA has credit ratings from both S&P Global Ratings and Fitch Ratings Services. The credit rating of AA+ is the same as the rating of the New Zealand Government and is on positive outlook by S&P.

LGFA history

Since establishment in 2012, LGFA has sought to continuously improve to meet the requirements of its council members. A brief timeline is as follows

February 2012	Commenced issuing bonds and on-lending to councils. Councils could only borrow at times that LGFA was issuing bonds and only borrow into maturity dates that LGFA was issuing bonds into. LGFA bond maturity dates matched the New Zealand Government Bond (NZGB) maturity dates and all LGFA bond issuance via a tender was held approximately every 6 weeks.
March 2015	Commenced bespoke lending where a council could borrow at anytime and into any maturity date between the end points of the LGFA bond curve (currently between 2020 and 2033).
June 2015	Transitioned the front, middle and back office from New Zealand Treasury to an in-house model incorporating a new treasury system.
October 2015	Commenced short term lending where a council can borrow for terms of between 30 days and 365 days. LGFA commenced issuing LGFA bills with maturity dates of less than 1 year.
November 2015	LGFA bonds listed on the NZX debt market.

June 2016	LGFA established bond lending facility where banks can borrow LGFA bonds to assist with trading and market liquidity.
November 2017	Shareholders approved changes to Foundation Policy at AGM regarding LGFA investment portfolio to accommodate growth in LGFA balance sheet.
April 2018	April 2022 LGFA bond issued – this was the first LGFA bond that did not match a NZGB maturity.
November 2018	Shareholders approved changes to Foundation Policy at AGM to allow lending to Council Controlled Organisations (CCOs).
March 2019	First LGFA bond issued via syndication rather than by tender with a maturity date of April 2024.
November 2019	LGFA will be approaching shareholders to approve documents to progress CCO lending (see below).

CCO lending – for shareholder approval at November 2019 AGM

Currently LGFA can only lend to a council. However, a number of councils borrow and on-lend to their CCO subsidiaries and LGFA has been asked to change so that it can lend direct to CCOs (with the consent of the parent council).

There are several reasons for LGFA to lend to CCOs.

- LGFA estimates that forty-seven of its sixty-four member councils have CCOs and a number of councils currently borrow and on-lend to their CCO subsidiaries.
- CCOs are an important part of the Local Government sector and LGFA cannot currently lend directly to CCOs.
- It is difficult for multiple owned CCOs to access financing from LGFA and with potential reform of the water sector signalled by Central Government, LGFA needs to consider what this might mean for sector borrowing.
- Dunedin City Council is one of the few councils not to borrow through LGFA and part of the reason is that they undertake their borrowing through a CCO subsidiary.

LGFA needs to continuously evolve to meet changes in the operating environment and stakeholder demands and in 2018 we started to look at whether LGFA could lend to CCOs.

LGFA received shareholder approval at the November 2018 AGM to proceed with establishing the framework and process to lend directly to CCOs. Russell McVeagh and LGFA management have been working on the structure, process and drafting changes to the LGFA legal documents. Simpson Grierson have acted on behalf of LGFA member councils to provide feedback on the proposal.

There is no additional risk for LGFA guarantors as a result of lending to CCOs because

- The existing four financial covenant requirements at council parent level remain the key metrics for LGFA lending decisions. Given that any LGFA lending to CCOs must have a parent guarantee or uncalled capital availability, these annually tested parent covenants must remain inviolate, thus providing no less security for LGFA member guarantors than exists now;

- The LGFA board will make the decisions to lend to CCOs following extensive credit analysis of the CCO;
- LGFA will lend only to CCOs that are 100% owned by a council, a group of councils or a mix of councils and Central Government
- LGFA will report to shareholders on direct lending to CCOs which will provide more transparency for members than the current mechanism where parent councils borrow and on-lend to their CCO subsidiaries;
- LGFA member councils have the right to apply for LGFA to monitor their covenants at a Group level. So far, no council has yet applied to the LGFA.

Russell McVeagh have drafted changes to the following documents

- Multi Issuer Deed
- Notes Subscription Agreement
- Guarantee and Indemnity
- Shareholder Agreement

Approvals for these changes will be sought at the AGM in November 2019.

Shareholders' Agreement

PARTIES

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

each a **Shareholder**

New Zealand Local Government Funding Agency Limited
Company

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AGREEMENT dated 7 December 2011 (as amended on 16 November 2012 and 19 November 2013 and amended and restated on 4 June 2015 and [●] 2019)

PARTIES

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

(each a "**Shareholder**")

New Zealand Local Government Funding Agency Limited
("**Company**")

INTRODUCTION

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

AGREEMENT

1. INTERPRETATION

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

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

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

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

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

"**Bill Rate**" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Seller" has the meaning given in clause 10.2.

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

"Shareholder" means:

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

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

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

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

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

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

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

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

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

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

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

2. BUSINESS OF COMPANY

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

3. BOARD

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

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

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

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

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

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

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

4. SHAREHOLDERS' COUNCIL

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

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

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

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

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

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

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

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

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

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

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

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

5. SHAREHOLDER APPROVAL

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

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

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

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

6. SHARES

- 6.1 **Classes:** The Company may issue the following classes of Shares only:
- (a) Ordinary Shares;
 - (b) Redeemable Shares, pursuant to a Guarantor's Equity Commitment or the conversion of the Borrower Notes; and
 - (c) any other class of Shares approved by Shareholders under clause 5.1(f).
- 6.2 **Shareholders:** Only a Local Authority or the New Zealand Government may be a Shareholder, and no person may become a Shareholder without entering into an Accession Deed (so as to be bound by this agreement) or being deemed to have agreed to be bound by this agreement. No person may become the holder of any Ordinary Shares (other than the New Zealand Government) unless that person is a Guarantor and has entered into a Guarantor's Equity Commitment.
- 6.3 **Calls:** Calls on any Ordinary Shares which are not fully paid up shall be made at such times, and in such amounts, as determined by the Board, provided that the Board has determined that there is a risk of imminent default by the Company under its Borrowed Money Indebtedness. Any call on Ordinary Shares shall be made proportionately across all Ordinary Shares which are not fully paid up on issue at the time the call is made. Payment of a call shall be made within 10 Business Days of notice of the call being provided to a Shareholder.
- 6.4 **Redemption:** In the event the Company determines to redeem any Redeemable Shares, any redemption must be effected, if the redemption is required by a Guarantor's Equity Commitment, in accordance with the Guarantor's Equity Commitment and otherwise:
- (a) such that the Redeemable Shares are redeemed in the order in which they were issued; and
 - (b) if Redeemable Shares were issued at the same time, proportionately across the holders of such Redeemable Shares (in accordance with the number of Redeemable Shares held).
- 6.5 **Additional funding:** A Shareholder shall not have any obligation to contribute any funding to the Company except as expressly set out in this agreement or in any other legally binding documentation entered into between the Company and that Shareholder.

7. FIRST OPENING

- 7.1 **Initial shareholdings:** Immediately following the First Opening (which shall take place on or about the date of this agreement), each Principal Shareholder as at the date of this agreement (in this clause 7 an "**Original Principal Shareholder**") will hold the number of Shares as set out in schedule 2.
- 7.2 **Reimbursement:** From the proceeds received pursuant to the First Opening, the Company shall pay to each Local Authority listed in schedule 3 the amount listed alongside its name in that schedule, in reimbursement of payments made by such Original Principal Shareholder

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

- 7.3 **Repayment:** The parties acknowledge that the New Zealand Government has made an advance to NZLGA to assist with the funding of the establishment costs of the Company. The Company shall pay to the New Zealand Government an amount of \$950,000.00 by way of set off from the amount to be paid by the New Zealand Government to the Company pursuant to the First Opening. Following such payment and notwithstanding the terms of any facility or other agreement between NZLGA and the New Zealand Government, the New Zealand Government shall forgive (in writing) the advance made by it to NZLGA.
- 7.4 **NZLGA funds:** Following completion of the payments referred to in clauses 7.2 and 7.3, each Original Principal Shareholder shall direct NZLGA (in writing) to pay to the Company all moneys which remain held by NZLGA from payments made to it by that Original Principal Shareholder as referred to in clauses 7.2 and 7.3 (to the extent not required by NZLGA to pay establishment costs).

8. SECOND OPENING

- 8.1 **Board to determine:** The Board shall determine when, and if, the Second Opening is to occur, and shall provide the then current Shareholders with not less than 25 Business Days' notice of the Second Opening in accordance with clause 8.2.
- 8.2 **Pro rata sell down:** In the Second Opening, each Principal Shareholder (other than the New Zealand Government) ("**Sell-Down Shareholder**") shall, subject to the following provisions of this clause 8, be required to transfer a number set by the Company of the Ordinary Shares held by the Sell-Down Shareholder to Incoming Principal Shareholders (as directed by the Company) (which number may comprise a number of paid up Ordinary Shares, and a number of Ordinary Shares which are not fully paid up, as set by the Company). The Company shall, subject to the following provisions of this clause 8, set that number for each Sell-Down Shareholder such that:
- (a) if the Sell-Down Shareholder holds Ordinary Shares which are not fully paid up, the Ordinary Shares to be transferred are such that, following the transfer, the Sell-Down Shareholder would hold paid up Ordinary Shares, and Ordinary Shares which are not fully paid up, in the same proportion as prior to the transfer;
 - (b) the proportion of Ordinary Shares to be transferred by each Sell-Down Shareholder shall be the same, other than:
 - (i) where a Sell-Down Shareholder would, as a result of such a transfer, hold less than 100,000 fully paid Ordinary Shares, in which case the Company shall set the number of Shares for that Sell-Down Shareholder as the maximum number which could be transferred by that Sell-Down Shareholder without the Sell-Down Shareholder thereafter holding less than 100,000 fully paid Ordinary Shares; and
 - (ii) as considered reasonable by the Company to allow for rounding; and
 - (c) Auckland Council, Christchurch City Council, Hamilton City Council, Tasman District Council, Tauranga City Council, Wellington City Council, Wellington Regional Council, Western Bay of Plenty District Council and Whangarei District

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

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

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

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

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

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

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

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

9. SECTION 107 CONSENTS

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

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

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

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

10. PRE-EMPTIVE RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

clauses 10.1 to 10.9 shall again apply.

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

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

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

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

11. PROTECTED TRANSACTION

11.1 **[Not used]**

11.2 **[Not used]**

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

(a) in compliance with the Local Government Act;

(b) not contrary to any provision of the Local Government Act;

(c) within the capacity, rights and powers of the relevant Principal Shareholder; and

(d) for the purpose authorised by the Local Government Act or any other statute.

12. FINANCIAL

- 12.1 **Records:** The Board shall ensure that proper accounting and other records of the Company are maintained in accordance with generally accepted accounting practice (as defined in section 5 of the Local Government Act) and all relevant legal requirements.
- 12.2 **Audit:** The Board shall ensure that the financial statements of the Company are audited by the Auditor as at the end of each financial year (as defined in section 5 of the Local Government Act).
- 12.3 **Reporting:** The Company must provide reports to Shareholders in accordance with the requirements of the Local Government Act, including:
- (a) by the end of February in each year, the Board must deliver to Shareholders a report on the Company's operations during the six month period ending on 31 December in the previous year in accordance with section 66 of the Local Government Act; and
 - (b) by the end of September in each year, the Board must deliver to Shareholders, and make available to the public, a report on the Company's operations during the year ending on the preceding 30 June in accordance with section 67 of the Local Government Act.

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

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

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

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

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

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

13. DEFAULT

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

- 13.2 **Default interest:** If any party does not pay any amount payable under this agreement on the due date for payment ("**Due Date**") that party shall pay to the other party interest (both before and after judgment) on that amount. That interest:
- (a) shall be paid at the Bill Rate plus five per cent. per annum;
 - (b) shall be paid by instalments at intervals of ten Business Days from the Due Date; and
 - (c) shall be calculated on a daily basis from and including the Due Date until the unpaid amount is paid in full.

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

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

14. CONFIDENTIALITY

- 14.1 **Confidentiality Obligation:** Subject to clause 14.2, each Shareholder and, in respect of (a) and (b) below only, the Company, shall keep confidential, and make no disclosure of:
- (a) the existence and contents of this agreement;
 - (b) all information obtained from the Shareholders under this agreement or in the course of negotiations in respect of this agreement; and
 - (c) all information obtained from the Company, or developed or held for the purposes of the Company,
- (together "**Information**").
- 14.2 **Exceptions:** Information may be disclosed by a Shareholder or the Company if:
- (a) written consent to the disclosure is given by the party to which the Information relates;
 - (b) disclosure is required by law, is necessary to comply with the listing rules of any recognised stock exchange, or if the Company determines disclosure in any prospectus, investment statement, product disclosure statement, offering memorandum or offer or disclosure document of the Company is necessary or desirable; or
 - (c) disclosure is necessary to obtain the benefits of, and fulfil obligations under, this agreement or as necessary for the enforcement of, or any proceedings or claims with respect to, this agreement (or any other agreements or deeds which concern the Company);

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

15. NOTICES

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

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

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

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

16. DISPUTES

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

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

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

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

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

17. WARRANTIES

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

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

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

18. GENERAL

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

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

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

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

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

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

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

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

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

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

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

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

SIGNATURES

[Original execution blocks intentionally deleted]

SCHEDULE 1
Foundation Policies
(Clause 5.1)

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

Credit Risk

Lending Policy

All Local Authorities that borrow from the Company will:

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

Financial covenant	Lending policy covenants	Foundation policy covenants
Net Debt / Total Revenue	<175%	<250%
Net Interest / Total Revenue	<20%	<20%
Net Interest / Annual Rates Income	<25%	<30%
Liquidity	>110%	>110%

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

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

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

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

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

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

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

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

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

- The CCO is a "council-controlled organisation" as defined in section 6 of the Local Government Act 2002, where the CCO is a company in which equity securities carrying at least 51% or more of the voting rights at a meeting of the shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities (respectively, a "CCO" and each such Local Authority being a "CCO Shareholder");
- Each CCO Shareholder provides a guarantee in respect of the CCO in favour of the Company and/or there is sufficient uncalled capital in respect of the CCO to meet the financial obligations of the CCO;
- Each CCO Shareholder provides equity commitment liabilities to the Company, guarantees liabilities to a security trustee approved for the Company's creditors, and provides debenture security for its equity commitments to the Company and guarantee liabilities to the security trustee;
- Each CCO Shareholder complies with Lending policy financial covenants, Foundation policy financial covenants or other financial covenants required by the Board (if any);
- The CCO complies with any covenants required by the Board; and
- If required by the Board, the CCO will grant security in favour of the Company (which may be subject to any intercreditor arrangements acceptable to the Board).

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

Notwithstanding the definition of "CCO" set out above, the Board may not approve a CCO to borrow from the Company unless 100% of the equity securities carrying voting rights at a meeting of

shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities and the Crown (if applicable).

Cash and Liquid Investment Policy

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

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

Counterparty ¹	S & P Credit Rating or equivalent (Short-term / long-term) ²	Maximum % Limit (Total Cash + Liquid Assets)	Minimum % Limit (Total Cash + Liquid Assets)	Maximum New Zealand Dollar counterparty Limit (millions) ³	Maximum term (years) ⁴
Category 1: NZ Government or RBNZ ⁵	N/A	100%	20%	Unlimited	No longer than the longest dated LGFA maturity on issue
Category 2	A1+ / AAA	80%	N/A	300	3
Category 3	A1+: A1 / AA+	80%	N/A	200	3
	A1+: A1 / AA	80%	N/A	200	3
	A1+: A1 / AA-	80%	N/A	200	3
Category 4	A1: /A+, NZ Registered Bank	60%	N/A	200	3
Category 5	A1: /A+ Other Issuers	10%	N/A	50	1

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

Derivative Policy

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

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

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

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

⁴ Maximum term applies from the date of settlement.

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

Market Risk

The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$100,000⁶.

The Company's total portfolio Value at Risk (VaR) daily limit is \$1,000,000⁷.

Foreign exchange risk policy

The Company will take no foreign exchange risk.

Operational Risk

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

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

Dividend policy

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

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

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

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

SCHEDULE 2
First Opening
(Clause 7.1)

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

SCHEDULE 3
Reimbursement
(Clause 7.2)

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

SCHEDULE 4
Form of Accession Deed
(Clause 10.11)

DEED dated []

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

INTRODUCTION

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

OPERATIVE PROVISIONS

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

SIGNED AS A DEED

SCHEDULE 5
Events of Default
(Clause 13.1)

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

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

SCHEDULE 6
Addresses for Notice
(Clause 15.2)

PARTY	ADDRESS FOR NOTICES
The Company	<p>Address: Russell McVeagh, Vero Centre, 48 Shortland Street PO Box 8, Auckland 1140</p> <p>Fax: 09 367 8163</p> <p>Attention: Grant Kemble</p>
Auckland Council	<p>Delivery Address: 1 Greys Avenue Auckland Central</p> <p>Postal Address: Private Bag 92300 Auckland 1142</p> <p>Fax: (09) 368 5964</p> <p>Attention: Mark Butcher</p>
Bay Of Plenty Regional Council	<p>Delivery Address: 5 Quay Street Whakatāne</p> <p>Postal Address: P O Box 364 Whakatāne 3158</p> <p>Fax: 0800 884 882</p> <p>Attention: Brian Trott</p>
Christchurch City Council	<p>Delivery Address: Civic Offices 53 Hereford Street Christchurch</p> <p>Postal Address: P O Box 73016 Christchurch 8154</p> <p>Fax: 03 941 8811</p> <p>Attention: Paul Anderson</p>
Hamilton City Council	<p>Delivery Address: Council Building Garden Place Hamilton</p>

PARTY	ADDRESS FOR NOTICES
	<p>Postal Address: Private Bag 3010 Hamilton 3240</p> <p>Fax: 07 838 6616</p> <p>Attention: Matthew Walker</p>
Hastings District Council	<p>Delivery Address: 207 Lyndon Road East Hastings 4122</p> <p>Postal Address: Private Bag 9002 Hastings 4156</p> <p>Fax: 06 871 5101</p> <p>Attention: Tony Gray</p>
Masterton District Council	<p>Delivery Address: 64 Chapel Street Masterton 5840</p> <p>Postal Address: PO Box 444 Masterton 5840</p> <p>Fax: 06 378 8400</p> <p>Attention: David Paris</p>
New Plymouth District Council	<p>Delivery Address: Liardet St New Plymouth</p> <p>Postal Address: Private Bag 2025 New Plymouth 4342</p> <p>Fax: 06 759 6072</p> <p>Attention: Philip Armstrong</p>
Otorohanga District Council	<p>Delivery Address: 17 Maniapoto Street Otorohanga 3940</p> <p>Postal Address: PO Box 11 Otorohanga 3940</p> <p>Fax: 07 873 4300</p> <p>Attention: Graham Bunn</p>

PARTY	ADDRESS FOR NOTICES
Selwyn District Council	<p>Delivery Address: 2 Norman Kirk Drive Rolleston</p> <p>Postal Address: P O Box 90 Rolleston 7643 Fax: 03 347 2799</p> <p>Attention: Douglas Marshall</p>
South Taranaki District Council	<p>Delivery Address: 105-111 Albion Street Hawera 4610</p> <p>Postal Address: Private Bag 902 Hawera 4640</p> <p>Fax: 06 278 8757</p> <p>Attention: Vipul Mehta</p>
Tasman District Council	<p>Delivery Address: 189 Queen Street, Richmond, Nelson 7050</p> <p>Postal Address Private Bag 4 Richmond, Nelson 7050</p> <p>Fax: 03 543 9524</p> <p>Attention: Murray Staite</p>
Taupo District Council	<p>Delivery Address: 72 Lake Terrace Taupo 3330</p> <p>Postal Address: Private Bag 2005 Taupo 3352</p> <p>Fax: 07 377 2985</p> <p>Attention: Rob Williams</p>
Tauranga City Council	<p>Delivery Address: 91 Willow Street Tauranga 3143</p> <p>Postal Address: Private Bag 12022 Tauranga 3143</p> <p>Fax: 07 577 7056</p>

PARTY	ADDRESS FOR NOTICES
	Attention: Mohan De Mel
Waipa District Council	<p>Delivery Address: 101 Bank Street Te Awamutu</p> <p>Postal Address: Private Bag 2402 Te Awamutu 3800</p> <p>Fax: 07 872 0033</p> <p>Attention: Ken Morris</p>
Wellington City Council	<p>Delivery Address: 101 Wakefield Street Wellington</p> <p>Postal Address: PO Box 2199 Wellington 6140</p> <p>Fax: 04 801 3090</p> <p>Attention: Danny McComb</p>
Wellington Regional Council	<p>Delivery Address: 142 Wakefield Street Wellington</p> <p>Postal Address: P O Box 11646 Manners Street Wellington 6142</p> <p>Fax: 04 385 3973</p> <p>Attention: Mike Timmer</p>
Western Bay Of Plenty District Council	<p>Delivery Address: Barkes Corner Greerton Tauranga</p> <p>Postal Address: Private Bag 12803 Tauranga 3143</p> <p>Fax: 07 577 9280</p> <p>Attention: Matthew Potton</p>
Whangarei District Council	<p>Delivery Address: Forum North Rust Avenue</p>

PARTY	ADDRESS FOR NOTICES
	<p>Whangarei</p> <p>Postal Address: Private Bag 9023 Whangarei 0148</p> <p>Fax: 09 438 7632</p> <p>Attention: Alan Adcock</p>
New Zealand Government	<p>Delivery Address: Minister of Finance Parliament Buildings, Wellington</p> <p>And to: Minister of Local Government Parliament Buildings, Wellington</p> <p>With a copy to: William More, The Treasury, No 1 The Terrace Wellington 6011</p> <p>Postal Address: The Treasury, No 1 The Terrace Wellington 6011 Attention: William More</p> <p>Fax: 04 472 3792</p>

Shareholders' Agreement

PARTIES

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

each a **Shareholder**

New Zealand Local Government Funding Agency Limited

Company

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AGREEMENT dated 7 December 2011 (as amended on 16 November 2012 and 19 November 2013 and amended and restated on 4 June 2015 [and \[●\] 2019](#))

PARTIES

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

(each a **"Shareholder"**)

New Zealand Local Government Funding Agency Limited
(**"Company"**)

INTRODUCTION

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

AGREEMENT

1. INTERPRETATION

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

"Acceptance Date" has the meaning in clause 10.3.

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

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

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

"Bill Rate" means [\[●\]](#)

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(a) in respect of any rate of interest to be calculated pursuant to this agreement the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45 am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day, or

(b) if the rate cannot be determined pursuant to paragraph (a) above, the rate determined by the Board in its absolute discretion as a reasonable estimate of the Company's cost of funds on that date.

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

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

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

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

"Buyer" has the meaning in clause 10.4.

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

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

"Companies Act" means the Companies Act 1993.

"Constitution" means the constitution of the Company.

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

"Director" means a director of the Company.

~~"EC Securities" has the meaning given in the Multi-Issuer Deed.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"**Participating Borrower**" means a Participating Local Authority ~~means a Local Authority which is or a Participating CCO.~~

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

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

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

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

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(g) treasury.

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

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

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

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

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

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

"**Second Opening**" means the introduction of Incoming Principal Shareholders, to be effected by way of a transfer of Ordinary Shares held by the then current Principal Shareholders (other than the New Zealand Government), in accordance with clause 8.8.

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

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

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

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

"**Shareholder**" means:

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

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

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

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

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

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

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

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

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

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

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

2. BUSINESS OF COMPANY

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

3. BOARD

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

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Company in each year. The Directors to retire shall be that Independent Director, and that non-Independent Director, who have been longest in office since their last election (or if there are only Independent Directors, those Independent Directors who have been longest in office since their last election). If two or more relevant Directors were last elected on the same day, the Directors to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Director shall be eligible for re-election.

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

- (a) whether to take, and the nature of, any legal, enforcement or other action following the occurrence of an Event of Review;
- (b) whether to take, and the nature of, any legal, enforcement or other action (including declaring any Securities to be immediately due and payable) following an "Event of Default" (as defined in the Multi-Issuer Deed) or a default under ~~clause~~ clauses 7.6, 7.7, 7.8 or clause 7.79 of the Multi-Issuer Deed;
- (c) without limiting clause 5.1, the preparation of a Statement of Intent as and when required by the Local Government Act; and
- (d) without limiting clause 5.1, any amendment of, or departure from, the Policies or Statement of Intent.

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

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

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4. SHAREHOLDERS' COUNCIL

- 4.1 **Establishment:** The Shareholders shall ensure that a Shareholders' Council is established, maintained and operated in accordance with this agreement. The Shareholders' Council shall have no more than ten, and no less than five, members. The initial members of the Shareholders' Council shall be Alan Adcock, Mohan De Mel, Douglas Marshall, Matt Potton, Murray Staite, Mike Timmer, Brian Trott, Matthew Walker and Warwick Hayes (together with any person appointed by the New Zealand Government in accordance with clause ~~4.4~~4.4).
- 4.2 **Role:** The role of the Shareholders' Council shall be to advise Shareholders on certain matters (with Shareholders, and not the Shareholders' Council, to make decisions with respect to those matters). The Shareholders' Council shall:
- (a) review the performance of the Company and the Board, and report to Shareholders on these matters on a periodic basis, being no less frequently than every six months;
 - (b) make recommendations to Shareholders as to the appointment, removal, re-election, replacement and remuneration of Directors. For this purpose, the Shareholders' Council may request information from, and meet with, Directors (or persons nominated for election as Directors);
 - (c) make recommendations to Shareholders as to any matters which require the approval of Shareholders pursuant to clause ~~5.4~~5.1; and
 - (d) endeavour to ensure that Shareholders are fully informed on matters concerning the Company, and endeavour to co-ordinate Shareholders on decisions required of Shareholders with respect to governance of the Company.
- 4.3 **Appointment of Nominating Local Authority by Shareholders:** A Principal Shareholder may be appointed or removed as a nominator to the Shareholders' Council ("**Nominating Local Authority**") at any time by an Ordinary Resolution, provided that no more than nine Nominating Local Authorities may be so appointed.
- 4.4 **Appointment of members of the Shareholders' Council:** Each Nominating Local Authority may appoint one member of the Shareholders' Council, and remove and replace any member so appointed by it, in each case, by notice to the Company. Each member appointed by a ~~Nominated~~Nominating Local Authority must be an employee or councillor of that Nominating Local Authority. In addition, the New Zealand Government (for so long as it is a Shareholder) may appoint one other member of the Shareholders' Council, and remove and replace such other member so appointed by it, in each case, by notice to the Company.
- 4.5 **Notification and consent:** Each member of the Shareholders' Council appointed by a Nominating Local Authority must give consent in writing to the appointment (which consent shall confirm that the person shall comply with the terms of this agreement as they apply to members of the Shareholders' Council). Notice by a Nominating Local Authority of the appointment of a member and consent from that person to the appointment must be received by the Company before any member may attend a meeting of the Shareholders' Council.
- 4.6 **Rotation of Nominating Local Authorities:** Beginning at, and including, the annual meeting for 2013, the Shareholders shall ensure that two Nominating Local Authorities shall retire from office at the annual meeting of the Company in each year. The Nominating Local

Authorities to retire shall be those who have been longest in office since their last election. If two or more of those Nominating Local Authorities were last elected on the same day, the Nominating Local Authority to retire shall (unless they otherwise agree among themselves) be determined by lot. A retiring Nominating Local Authority shall be eligible for re-election.

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

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notice of meeting for that meeting (or the written resolution to be signed by Shareholders, as the case may be); and

- (d) if requested by the Shareholders' Council, the Company shall distribute a report for the Shareholders' Council as to the matters referred to in clause ~~4.2(a)~~4.2(a) and ~~4.2(d)~~4.2(d) to Shareholders with reports delivered to Shareholders under clause ~~12.3(a)~~12.3(a) or clause ~~12.3(b)~~12.3(b).

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

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

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

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

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

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

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

5. SHAREHOLDER APPROVAL

- 5.1 **Restrictions:** Neither the Board nor any Shareholder shall take or permit any action to cause any of the following to occur in respect of the Company unless it is approved by an Ordinary Resolution or, if required by law, or in relation to clause 5.1(k), a Special Resolution:
- (a) any alteration to, or revocation of, the Constitution;
 - (b) any alteration or amendment to this agreement;
 - (c) subject to clause 5.1(k), any alteration to, or departure by the Company from any of the policies set out in schedule 1, whether such an alteration or departure will occur by way of amendment to, or departure from, a Policy or the Statement of Intent, or by way of the adoption of a new Statement of Intent or a new Policy;
 - (d) the payment of dividends other than in cash;
 - (e) **[not used]**
 - (f) any issue of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares except:
 - (i) pursuant to the First Opening;
 - (ii) the issue of Borrower Notes, or the issue of Redeemable Shares on the conversion of any Borrower Notes; and
 - (iii) the issue of any Redeemable Shares pursuant to a Guarantor's Equity Commitment;
 - (g) any purchase or other acquisition by the Company of its own Shares and any redemption of Shares (other than of Redeemable Shares in accordance with clause 6.4);
 - (h) any consolidation, division, or subdivision of Shares;
 - (i) the giving of any financial assistance for the purpose of, or in connection with, the purchase of Shares, except any financial assistance given for the purpose of, or in connection with:
 - (i) a Guarantor's Equity Commitment; and
 - (ii) Borrower Notes, or the conversion of any Borrower Notes; or
 - (j) the acquisition or subscription of any shares in a body corporate, except as is consistent with the Policy concerning investing by the Company, and except for the formation of a wholly-owned subsidiary of the Company (and any subsequent subscription of shares in such a subsidiary); or
 - (k) any alteration to, or departure by the Company from, the following policy set out in schedule 1 whether such an alteration or departure will occur by way of amendment to, or departure from, a Policy, or by way of the adoption of a new Policy:

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

6. SHARES

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

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

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

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

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

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

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

7. FIRST OPENING

7.1 **Initial shareholdings:** Immediately following the First Opening (which shall take place on or about the date of this agreement), each Principal Shareholder as at the date of this

agreement (in this clause 7 an "**Original Principal Shareholder**") will hold the number of Shares as set out in schedule 2.

- 7.2 **Reimbursement:** From the proceeds received pursuant to the First Opening, the Company shall pay to each Local Authority listed in schedule 3 the amount listed alongside its name in that schedule, in reimbursement of payments made by such Original Principal Shareholder to New Zealand Local Government Association Inc. ("**NZLGA**") to fund the establishment costs of the Company.
- 7.3 **Repayment:** The parties acknowledge that the New Zealand Government has made an advance to NZLGA to assist with the funding of the establishment costs of the Company. The Company shall pay to the New Zealand Government an amount of \$950,000.00 by way of set off from the amount to be paid by the New Zealand Government to the Company pursuant to the First Opening. Following such payment and notwithstanding the terms of any facility or other agreement between NZLGA and the New Zealand Government, the New Zealand Government shall forgive (in writing) the advance made by it to NZLGA.
- 7.4 **NZLGA funds:** Following completion of the payments referred to in clauses 7.2 and 7.3, each Original Principal Shareholder shall direct NZLGA (in writing) to pay to the Company all moneys which remain held by NZLGA from payments made to it by that Original Principal Shareholder as referred to in clauses 7.2 and 7.3 (to the extent not required by NZLGA to pay establishment costs).
8. **SECOND OPENING**
- 8.1 **Board to determine:** The Board shall determine when, and if, the Second Opening is to occur, and shall provide the then current Shareholders with not less than 25 Business Days' notice of the Second Opening in accordance with clause 8.2.
- 8.2 **Pro rata sell down:** In the Second Opening, each Principal Shareholder (other than the New Zealand Government) ("**Sell-Down Shareholder**") shall, subject to the following provisions of this clause 8, be required to transfer a number set by the Company of the Ordinary Shares held by the Sell-Down Shareholder to Incoming Principal Shareholders (as directed by the Company) (which number may comprise a number of paid up Ordinary Shares, and a number of Ordinary Shares which are not fully paid up, as set by the Company). The Company shall, subject to the following provisions of this clause 8, set that number for each Sell-Down Shareholder such that:
- (a) if the Sell-Down Shareholder holds Ordinary Shares which are not fully paid up, the Ordinary Shares to be transferred are such that, following the transfer, the Sell-Down Shareholder would hold paid up Ordinary Shares, and Ordinary Shares which are not fully paid up, in the same proportion as prior to the transfer;
 - (b) the proportion of Ordinary Shares to be transferred by each Sell-Down Shareholder shall be the same, other than:
 - (i) where a Sell-Down Shareholder would, as a result of such a transfer, hold less than 100,000 fully paid Ordinary Shares, in which case the Company shall set the number of Shares for that Sell-Down Shareholder as the maximum number which could be transferred by that Sell-Down Shareholder without the Sell-Down Shareholder thereafter holding less than 100,000 fully paid Ordinary Shares; and

- (ii) as considered reasonable by the Company to allow for rounding; and
- (c) Auckland Council, Christchurch City Council, Hamilton City Council, Tasman District Council, Tauranga City Council, Wellington City Council, Wellington Regional Council, Western Bay of Plenty District Council and Whangarei District Council shall, following that transfer, retain (in aggregate) 51% of all Ordinary Shares, provided that this clause 8.2(c) shall have no application if such Local Authorities did not hold (in aggregate) 51% of all Ordinary Shares immediately prior to the Second Opening.

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

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

- (a) no notice is received from Sell-Down Shareholders in accordance with clause 8.4, each Non-Pro Rata Sell-Down Shareholder shall be obliged to transfer the Specified Sale Number of Ordinary Shares (comprised of such numbers of paid up Ordinary Shares, and Ordinary Shares which are not paid up, as were specified in the notice of the Company under clause 8.2) in the Second Opening;
- (b) notices are received from Sell-Down Shareholders in accordance with clause 8.4, the Company shall determine:
 - (i) for each Non-Pro Rata Sell-Down Shareholder, the number of paid up Ordinary Shares, and Ordinary Shares which are not paid up, by which the Specified Sale Number of the Non-Pro Rata Sell-Down Shareholder shall be reduced (which may not exceed the numbers set out in the notice given by the Non-Pro Rata Sell-Down Shareholder under clause 8.3); and
 - (ii) for each Sell-Down Shareholder which gave notice under clause 8.4, the number of paid up Ordinary Shares, and Ordinary Shares which are not paid up, by which the Specified Sale Number of the Non-Pro Rata Sell-down Shareholder shall be increased (which may not exceed the numbers set out in the notice given by the Sell-Down Shareholder under clause 8.4).

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

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

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- (c) each Sell-Down Shareholder shall transfer to each Incoming Principal Shareholder good title to the Ordinary Shares free of any security interest; and
 - (d) on settlement of the purchase of the Ordinary Shares, each Incoming Principal Shareholder shall pay the purchase price to the relevant Sell-Down Shareholder in cleared funds, the Sell-Down Shareholder shall deliver to the relevant Incoming Principal Shareholder a transfer of the Ordinary Shares in a form reasonably acceptable to that Incoming Principal Shareholder, and each Incoming Principal Shareholder and Sell-down Shareholder shall enter into and deliver to the Company an Accession Deed in accordance with clause 10.11. If any Shareholder fails to enter into that Accession Deed, it shall nevertheless be conclusively deemed to have done so. The Board shall take all necessary steps to cause the Incoming Principal Shareholder to be registered as holder of the relevant Ordinary Shares.
- 8.9 **Clause 10:** Nothing in clause 10 (except clause 10.11) applies to a transfer of Ordinary Shares in the Second Opening.
- 9. SECTION 107 CONSENTS**
- 9.1 **Consent:** Each Shareholder hereby consents:
- (a) for the purposes of section 107(d) of the Companies Act, to any redemption from time to time, in accordance with this agreement and the Constitution, of any of the Redeemable Shares by the Company, being otherwise than in accordance with sections 69 to 72 of the Companies Act;
 - (b) for the purposes of section 107(e) of the Companies Act, to financial assistance (if any) being given by the Company from time to time for the purpose of, or in connection with, the purchase of any Shares, otherwise than in accordance with sections 76 to 80 of the Companies Act, where such assistance is in the form of:
 - (i) any loan, advance or other financial accommodation given by the Company which funds (directly or indirectly) the subscription by a Participating [Local Authority Borrower](#) of Borrower Notes, or of the Redeemable Shares issued on conversion of Borrower Notes, and any incidental assistance; or
 - (ii) any loan, advance or other financial accommodation given by the Company which funds (directly or indirectly) the subscription by a Guarantor of Redeemable Shares pursuant to the Guarantor's Equity Commitment, and any incidental assistance; and
 - (c) for the purposes of section 107(2) of the Companies Act, to any issue of Redeemable Shares from time to time pursuant to conversion of Borrower Notes, or pursuant to a Guarantor's Equity Commitment, being otherwise than in accordance with sections 42, 44 or 45 of the Companies Act.
- 9.2 **No withdrawal:** Each Shareholder covenants that it shall not withdraw any consent provided under clause 9.1. If any Shareholder does withdraw any such consent, this shall constitute a breach of this agreement which shall be an Event of Default.

- 9.3 **Not exhaustive:** For the avoidance of doubt, nothing in this clause 9 prohibits or restricts the Board or the Company from redeeming any Shares, providing financial assistance for the purpose of, or in connection with, the purchase of any Shares or issuing any Shares without consent under section 107 of the Companies Act, where permitted under the Companies Act, and subject to the other terms of this agreement.
- 10. PRE-EMPTIVE RIGHTS**
- 10.1 **No sale:** No Principal Shareholder shall directly or indirectly sell, transfer, or dispose of the legal or beneficial ownership of, or the control of, any of its Ordinary Shares otherwise than in compliance with clause 8, this clause 10 or clause 13. No interest in, or control of, any Ordinary Share may be sold, transferred or disposed of except the full legal and beneficial ownership of an Ordinary Share.
- 10.2 **Sale notice:** If any Principal Shareholder ("**Seller**") wishes to sell, transfer or otherwise dispose of the legal or beneficial ownership of, or the control of, any of its Ordinary Shares ("**Sale Interest**"), that Shareholder shall give notice (a "**Sale Notice**") to the other Principal Shareholders specifying:
- (a) the precise nature of the Sale Interest (including the number of Shares involved, which must be an equal proportion of any paid up, and unpaid, Ordinary Shares held by the Seller),
 - (b) the price which the Seller wishes to receive for the Sale Interest; and
 - (c) any other terms and conditions of sale of the Sale Interest (which shall be described sufficiently precisely to enable an acceptance of the offer in the Sale Notice to constitute a binding contract).
- 10.3 **Acceptance of Sale Notice:** Each Principal Shareholder other than the Seller may, not later than the date ("**Acceptance Date**") 10 Business Days after the giving of the Sale Notice, give notice to the Seller that that Principal Shareholder wishes to acquire the Sale Interest on the terms specified in the Sale Notice.
- 10.4 **Terms of sale:** A Principal Shareholder which gives notice to the Seller in accordance with clause 10.3 that it wishes to acquire the Sale Interest (a "**Buyer**") shall be entitled and bound (subject to clause 10.5) to acquire the Sale Interest. If more than one Principal Shareholder gives notice to the Seller that it wishes to acquire the Sale Interest, those Principal Shareholders shall be entitled and bound to acquire the Sale Interest in proportion to their respective holdings of Ordinary Shares. The purchase of the Sale Interest shall be effected at the price, and on the terms and conditions, specified in the Sale Notice, and, subject to anything to the contrary in the Sale Notice, on the following terms:
- (a) the purchase of the Sale Interest shall be settled on the date 10 Business Days after the Acceptance Date, or if clause 10.5 applies, 10 Business Days after the last of the consents referred to in clause 10.5 is obtained;
 - (b) if there is more than one Buyer, the purchase of the Sale Interest by all Buyers shall be settled simultaneously;
 - (c) the Seller shall transfer to each Buyer good title to its relevant part of the Sale Interest free of any security interest; and

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- (d) on settlement of the purchase of the Sale Interest each Buyer shall pay the relevant purchase price to the Seller in cleared funds, and the Seller shall deliver to each Buyer a transfer of its relevant part in the Sale Interest in a form reasonably acceptable to that Buyer. All Shareholders and the Board shall take all necessary steps to cause the Buyer to be registered as holder of the relevant Shares.

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

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

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

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

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

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

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

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

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

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

- 10.9 **Clause to apply again:** If:
- (a) notice is given to the Seller pursuant to clause 10.3, but the obligation to buy and sell the Sale Interest is terminated pursuant to clause 10.5 (other than for the reason specified in clause 10.6(b));
 - (b) the Seller proposes to sell, transfer, or otherwise dispose of the Sale Interest outside the period referred to in clause 10.6, or at a price, or on terms and conditions more favourable to a buyer than, specified in the Sale Notice; or
 - (c) the Seller does not obtain the approval referred to in clause 10.8,
- clauses 10.1 to 10.9 shall again apply.
- 10.10 **Redeemable Shares:** Clauses 10.1 to 10.9 shall not apply to Redeemable Shares. No Shareholder shall directly or indirectly sell, transfer, or dispose of the legal beneficial ownership of, or control of, any of its Redeemable Shares except with the prior written approval of the Board (which approval may be granted or not, at the discretion of the Board).
- 10.11 **Accession Deed:** Whenever a Shareholder transfers the legal or beneficial ownership of any Shares to a person who is not a party to this agreement, that person and that Shareholder shall enter into and deliver to each other an Accession Deed. Each person entering into an Accession Deed shall also deliver to the Company such evidence as it reasonably requires in order to be satisfied that that Accession Deed is valid, binding, and enforceable as against that person. The Company is irrevocably authorised to execute each Accession Deed on behalf of all Shareholders (other than the transferring Shareholder).
- 10.12 **Security:** Notwithstanding the other provisions of this clause 10, a Shareholder shall, subject to obtaining the prior written consent of the Board (which approval may be granted or not, at the discretion of the Board), be permitted to grant a security interest over its Shares subject to the holder of the security interest agreeing, in a form reasonably acceptable to the Company, to be bound by this agreement.
- 10.13 **Amalgamation:** Nothing in clauses 10.1 to 10.11 shall apply to a Local Authority succeeding, by process of law, to the Shares of another Local Authority, pursuant to an amalgamation of Local Authorities.
11. **PROTECTED TRANSACTION**
- 11.1 **[Not used]**
- 11.2 **[Not used]**
- 11.3 **Protected transaction:** Each Principal Shareholder (other than the New Zealand Government) warrants that, for the purposes of section 117 of the Local Government Act, the entry by it into, and the performance by it of, this agreement, is:
- (a) in compliance with the Local Government Act;
 - (b) not contrary to any provision of the Local Government Act;
 - (c) within the capacity, rights and powers of the relevant Principal Shareholder; and

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- (d) for the purpose authorised by the Local Government Act or any other statute.

12. FINANCIAL

- 12.1 **Records:** The Board shall ensure that proper accounting and other records of the Company are maintained in accordance with generally accepted accounting practice (as defined in section 5 of the Local Government Act) and all relevant legal requirements.
- 12.2 **Audit:** The Board shall ensure that the financial statements of the Company are audited by the Auditor as at the end of each financial year (as defined in section 5 of the Local Government Act).
- 12.3 **Reporting:** The Company must provide reports to Shareholders in accordance with the requirements of the Local Government Act, including:
- (a) by the end of February in each year, the Board must deliver to Shareholders a report on the Company's operations during the six month period ending on 31 December in the previous year in accordance with section 66 of the Local Government Act; and
 - (b) by the end of September in each year, the Board must deliver to Shareholders, and make available to the public, a report on the Company's operations during the year ending on the preceding 30 June in accordance with section 67 of the Local Government Act.

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

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

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

(ba) to the extent known by the Company, promptly notify each Shareholder (in writing):

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

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

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

13. DEFAULT

- 13.1 **Consequences:** If an Event of Default occurs in respect of a Shareholder (the "**Defaulting Shareholder**"):

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

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Event of Default becoming remedied (after deduction of any amounts owing to the Company by such Defaulting Shareholder).

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

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

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

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

14. CONFIDENTIALITY

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

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

(together "**Information**").

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

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

with respect to, this agreement (or any other agreements or deeds which concern the Company);

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

15. NOTICES

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

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

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

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

16. DISPUTES

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

- 16.2 **Appeals on points of law:** The parties waive any right to seek a determination by the court of a preliminary point of law (pursuant to section 4, Second Schedule to the Arbitration Act 1996) and to appeal on a question of law (pursuant to section 5, Second Schedule to the Arbitration Act 1996).
- 16.3 **Costs:** The parties will bear their own costs (including legal costs) and an equal share of the costs of the award in relation to the arbitration, unless the arbitrator determines that a party shall bear some proportion of, or all of, the costs of any other party because of impropriety, lack of cooperation or unreasonable conduct by that party.
- 16.4 **Binding:** The determination of an arbitrator appointed pursuant to clause 16.1 shall be binding on the parties.
- 17. WARRANTIES**
- 17.1 **Warranties:** Each party represents and warrants that:
- (a) **Power:** it has full legal capacity and power to enter into this agreement and to carry out the transactions that it contemplates;
 - (b) **Authorisations:** it holds each Authorisation that is necessary or desirable to:
 - (i) execute this agreement and to carry out the transactions that it contemplates;
 - (ii) ensure that this agreement is legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business, and it is complying with any conditions to which any of these Authorisations is subject;
 - (c) **Documents effective:** this agreement constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally); and
 - (d) **No contravention:** neither its execution of this agreement nor the carrying out by it of the transactions that it contemplates, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) require it to make any payment or delivery in respect of any financial accommodation or financial instrument before it would otherwise be obliged to do so.
- 17.2 **Consultation:** Without limiting clause 17.1, each Shareholder which is a Local Authority represents and warrants to each other party that it has complied with section 56 of the Local

Government Act in connection with its subscription for and/or acquisition of Shares in the Company.

18. GENERAL

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

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

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

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

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

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

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

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

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

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

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- 18.8 **Governing law:** This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement.
- 18.9 **No guarantee:** The parties acknowledge that the obligations and liabilities of the Company under this agreement are not guaranteed by the Crown.

SIGNATURES

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SCHEDULE 1
Foundation Policies
(Clause 5.1)

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All foundation policies may be reviewed annually by Principal Shareholders at the annual meeting of Shareholders. Any alteration requires approval pursuant to clause ~~5.4~~ 5.1.

Credit Risk

Lending Policy

All Local Authorities that borrow from the Company will:

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

Financial covenant	Lending policy covenants	Foundation policy covenants
Net Debt / Total Revenue	<175%	<250%
Net Interest / Total Revenue	<20%	<20%
Net Interest / Annual Rates Income	<25%	<30%
Liquidity	>110%	>110%

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

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

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

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

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

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

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

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

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

- The CCO is a "council-controlled organisation" as defined in section 6 of the Local Government Act 2002, where the CCO is a company in which equity securities carrying at least 51% or more of the voting rights at a meeting of the shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities (respectively, a "CCO" and each such Local Authority being a "CCO Shareholder");
- Each CCO Shareholder provides a guarantee in respect of the CCO in favour of the Company and/or there is sufficient uncalled capital in respect of the CCO to meet the financial obligations of the CCO;
- Each CCO Shareholder provides equity commitment liabilities to the Company, guarantees liabilities to a security trustee approved for the Company's creditors, and provides debenture security for its equity commitments to the Company and guarantee liabilities to the security trustee;
- Each CCO Shareholder complies with Lending policy financial covenants, Foundation policy financial covenants or other financial covenants required by the Board (if any);
- The CCO complies with any covenants required by the Board; and
- If required by the Board, the CCO will grant security in favour of the Company (which may be subject to any intercreditor arrangements acceptable to the Board).

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

Notwithstanding the definition of "CCO" set out above, the Board may not approve a CCO to borrow from the Company unless 100% of the equity securities carrying voting rights at a meeting of

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shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities and the Crown (if applicable).

Cash and Liquid Investment Policy

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

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

Counterparty ¹	S & P Credit Rating or equivalent (Short-term / long-term) ²	Maximum % Limit (Total Cash + Liquid Assets)	Minimum % Limit (Total Cash + Liquid Assets)	Maximum New Zealand Dollar counterparty Limit (millions) ³	Maximum term (years)	Formatted: Font: Bold
Category 1: NZ Government or RBNZ ⁵	N/A	100%	20%	Unlimited	10	Formatted Table
Category 2	A1+ / AAA	100%	150%	300	3	Formatted Table
Category 3	A1+ / A1 / AA+	80%	110%	200	3	Formatted Table
	A1+ / A1 / AA	80%	N/A	200	3	Formatted Table
	A1+ / A1 / AA-	80%	N/A	200	3	Formatted Table
Category 4	A1+ / A1 / A+, NZ Registered Bank	20%	30%	200	3	Formatted Table
Category 5	A1+ / A+, Other Issuers	10%	N/A	50	1	Formatted Table

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

Derivative Policy

The Company will only enter into derivative transactions unless explicitly approved otherwise by the Board, all derivative transactions must be transacted with the New Zealand Debt Management Office as counterparty or such other counterparty approved by the Board from time to time.

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

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

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

⁴ Maximum term applies from the date of settlement.

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

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Market Risk

The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$~~40~~100,000⁶.

The Company's total portfolio Value at Risk (VaR) daily limit is \$~~250~~1,000,000⁷.

Foreign exchange risk policy

The Company will take no foreign exchange risk.

Operational Risk

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

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

Dividend policy

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

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

⁶ PDH risk measures the sensitivity of a portfolio to a one basis point change in underlying interest rates. For example a PDH of \$~~40~~100,000 means that the portfolio value will fall by \$~~40~~100,000 for a one basis point fall in interest rates. The PDH limit will be set at 0.025% of the 12 month forecast portfolio amount until this forecast reaches \$1 billion, following which this \$40,000 limit applies.

⁷ VaR measures expected loss for a given period with a given confidence. For example, 95% confidence, daily VaR of \$~~250~~1,000,000 means that it is expected that the portfolio will lose \$~~250~~1,000,000 on 5% of days, i.e. 1 day in 20 the portfolio value will decrease by \$~~250~~1,000,000.

SCHEDULE 2
First Opening
(Clause 7.1)

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

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SCHEDULE 3
Reimbursement
(Clause 7.2)

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

SCHEDULE 4
Form of Accession Deed
(Clause 10.11)

DEED dated []

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

INTRODUCTION

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

OPERATIVE PROVISIONS

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

SIGNED AS A DEED

SCHEDULE 5
Events of Default
(Clause 13.1)

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

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

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SCHEDULE 6
Addresses for Notice
 (Clause 15.2)

PARTY	ADDRESS FOR NOTICES
The Company	<p>Address: Russell McVeagh, Vero Centre, 48 Shortland Street PO Box 8, Auckland 1140</p> <p>Fax: 09 367 8163</p> <p>Attention: Grant Kemble</p>
Auckland Council	<p>Delivery Address: 1 Greys Avenue Auckland Central</p> <p>Postal Address: Private Bag 92300 Auckland 1142</p> <p>Fax: (09) 368 5964</p> <p>Attention: Mark Butcher</p>
Bay Of Plenty Regional Council	<p>Delivery Address: 5 Quay Street Whakatāne</p> <p>Postal Address: P O Box 364 Whakatāne 3158</p> <p>Fax: 0800 884 882</p> <p>Attention: Brian Trott</p>
Christchurch City Council	<p>Delivery Address: Civic Offices 53 Hereford Street Christchurch</p> <p>Postal Address: P O Box 73016 Christchurch 8154</p> <p>Fax: 03 941 8811</p> <p>Attention: Paul Anderson</p>
Hamilton City Council	<p>Delivery Address: Council Building Garden Place Hamilton</p>

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McLeagh

PARTY	ADDRESS FOR NOTICES
	<p>Postal Address: Private Bag 3010 Hamilton 3240</p> <p>Fax: 07 838 6616</p> <p>Attention: Matthew Walker</p>
Hastings District Council	<p>Delivery Address: 207 Lyndon Road East Hastings 4122</p> <p>Postal Address: Private Bag 9002 Hastings 4156</p> <p>Fax: 06 871 5101</p> <p>Attention: Tony Gray</p>
Masterton District Council	<p>Delivery Address: 64 Chapel Street Masterton 5840</p> <p>Postal Address: PO Box 444 Masterton 5840</p> <p>Fax: 06 378 8400</p> <p>Attention: David Paris</p>
New Plymouth District Council	<p>Delivery Address: Liardet St New Plymouth</p> <p>Postal Address: Private Bag 2025 New Plymouth 4342</p> <p>Fax: 06 759 6072</p> <p>Attention: Philip Armstrong</p>
Otorohanga District Council	<p>Delivery Address: 17 Maniapoto Street Otorohanga 3940</p> <p>Postal Address: PO Box 11 Otorohanga 3940</p> <p>Fax: 07 873 4300</p> <p>Attention: Graham Bunn</p>

PARTY	ADDRESS FOR NOTICES
Selwyn District Council	<p>Delivery Address: 2 Norman Kirk Drive Rolleston</p> <p>Postal Address: P O Box 90 Rolleston 7643 Fax: 03 347 2799</p> <p>Attention: Douglas Marshall</p>
South Taranaki District Council	<p>Delivery Address: 105-111 Albion Street Hawera 4610</p> <p>Postal Address: Private Bag 902 Hawera 4640</p> <p>Fax: 06 278 8757</p> <p>Attention: Vipul Mehta</p>
Tasman District Council	<p>Delivery Address: 189 Queen Street, Richmond, Nelson 7050</p> <p>Postal Address: Private Bag 4 Richmond, Nelson 7050</p> <p>Fax: 03 543 9524</p> <p>Attention: Murray Staite</p>
Taupo District Council	<p>Delivery Address: 72 Lake Terrace Taupo 3330</p> <p>Postal Address: Private Bag 2005 Taupo 3352</p> <p>Fax: 07 377 2985</p> <p>Attention: Rob Williams</p>
Tauranga City Council	<p>Delivery Address: 91 Willow Street Tauranga 3143</p> <p>Postal Address: Private Bag 12022 Tauranga 3143</p> <p>Fax: 07 577 7056</p>

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PARTY	ADDRESS FOR NOTICES
Waipa District Council	<p>Attention: Mohan De Mel</p> <p>Delivery Address: 101 Bank Street Te Awamutu</p> <p>Postal Address: Private Bag 2402 Te Awamutu 3800</p> <p>Fax: 07 872 0033</p>
Wellington City Council	<p>Attention: Ken Morris</p> <p>Delivery Address: 101 Wakefield Street Wellington</p> <p>Postal Address: PO Box 2199 Wellington 6140</p> <p>Fax: 04 801 3090</p>
Wellington Regional Council	<p>Attention: Danny McComb</p> <p>Delivery Address: 142 Wakefield Street Wellington</p> <p>Postal Address: P O Box 11646 Manners Street Wellington 6142</p> <p>Fax: 04 385 3973</p> <p>Attention: Mike Timmer</p>
Western Bay Of Plenty District Council	<p>Delivery Address: Barkes Corner Greerton Tauranga</p> <p>Postal Address: Private Bag 12803 Tauranga 3143</p> <p>Fax: 07 577 9280</p> <p>Attention: Matthew Potton</p>
Whangarei District Council	<p>Delivery Address: Forum North Rust Avenue</p>

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PARTY	ADDRESS FOR NOTICES
	Whangarei Postal Address: Private Bag 9023 Whangarei 0148 Fax: 09 438 7632 Attention: Alan Adcock
New Zealand Government	Delivery Address: Minister of Finance Parliament Buildings, Wellington And to: Minister of Local Government Parliament Buildings, Wellington With a copy to: William More, The Treasury, No 1 The Terrace Wellington 6011 Postal Address: The Treasury, No 1 The Terrace Wellington 6011 Attention: William More Fax: 04 472 3792

Foundation Policies

(Clause 5.1 of the Shareholders' Agreement)

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

Credit Risk

Lending Policy

All Local Authorities that borrow from the Company will:

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

Financial covenant	Lending policy covenants	Foundation policy covenants
Net Debt / Total Revenue	<175%	<250%
Net Interest / Total Revenue	<20%	<20%
Net Interest / Annual Rates Income	<25%	<30%
Liquidity	>110%	>110%

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

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

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

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

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

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

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

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

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

- The CCO is a "council-controlled organisation" as defined in section 6 of the Local Government Act 2002, where the CCO is a company in which equity securities carrying at least 51% or more of the voting rights at a meeting of the shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities (respectively, a "CCO" and each such Local Authority being a "CCO Shareholder");
- Each CCO Shareholder provides a guarantee in respect of the CCO in favour of the Company and/or there is sufficient uncalled capital in respect of the CCO to meet the financial obligations of the CCO;
- Each CCO Shareholder provides equity commitment liabilities to the Company, guarantees liabilities to a security trustee approved for the Company's creditors, and provides debenture security for its equity commitments to the Company and guarantee liabilities to the security trustee;
- Each CCO Shareholder complies with Lending policy financial covenants, Foundation policy financial covenants or other financial covenants required by the Board (if any);
- The CCO complies with any covenants required by the Board; and
- If required by the Board, the CCO will grant security in favour of the Company (which may be subject to any intercreditor arrangements acceptable to the Board).

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

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

Cash and Liquid Investment Policy

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

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

Counterparty ¹	S & P Credit Rating or equivalent (Short-term / long-term) ²	Maximum % Limit (Total Cash + Liquid Assets)	Minimum % Limit (Total Cash + Liquid Assets)	Maximum New Zealand Dollar counterparty Limit (millions) ³	Maximum term (years) ⁴
Category 1: NZ Government or RBNZ ⁵	N/A	100%	20%	Unlimited	No longer than the longest dated LGFA maturity on issue
Category 2	A1+ / AAA	80%	N/A	300	3
Category 3	A1+: A1 / AA+	80%	N/A	200	3
	A1+: A1 / AA	80%	N/A	200	3
	A1+: A1 / AA-	80%	N/A	200	3
Category 4	A1: /A+, NZ Registered Bank	60%	N/A	200	3
Category 5	A1: /A+ Other Issuers	10%	N/A	50	1

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

Derivative Policy

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

Market Risk

The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$100,000⁶.

The Company's total portfolio Value at Risk (VaR) daily limit is \$1,000,000⁷.

Foreign exchange risk policy

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

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

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

⁴ Maximum term applies from the date of settlement.

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

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

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

The Company will take no foreign exchange risk.

Operational Risk

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

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

Dividend policy

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

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

Foundation Policies

(Clause [Error! Reference source not found.5.1 of the Shareholders' Agreement](#))

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

Credit Risk

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- Provide debenture security in relation to their borrowing from the Company and related obligations, and (if relevant), equity commitment liabilities to the Company and (if relevant) guarantee liabilities to a security trustee approved for the Company's creditors.
- Issue securities (bonds / FRNs / CP) to the Company ~~(i.e. not and/or~~ enter into facility arrangements [with the Company](#)).
- Comply with their own internal borrowing policies.
- Comply with the financial covenants outlined in the following table, provided that:
 - Unrated Local Authorities or Local Authorities with a long-term credit rating lower than 'A' equivalent can have bespoke financial covenants that exceed the:
 - Lending policy covenants outlined in the following table with the approval of the Board;
 - Foundation policy covenants outlined in the following table with the approval of an Ordinary Resolution.
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 - Any Board or Ordinary Resolution approval of bespoke financial covenants will only be provided after a robust credit analysis and any approval must also include bespoke reporting and monitoring arrangements.
- If the principal amount of a Local Authority's borrowings ~~, or the Company's commitment under a facility agreement with a Local Authority,~~ is at any time ~~equal to, or~~ greater than, NZD 20 million, be a party to a deed of guarantee and an equity commitment deed (in each case in a form set by the Company).

Financial covenant	Lending policy covenants	Foundation policy covenants
Net Debt / Total Revenue	<175%	<250%
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Total Revenue is defined as cash earnings from rates, grants and subsidies, user charges, interest, dividends, financial and other revenue and excludes non government capital contributions (e.g. developer contributions and vested assets).

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

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

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

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

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

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

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

- The CCO is a "council-controlled organisation" as defined in section 6 of the Local Government Act 2002, where the CCO is a company in which equity securities carrying at least 51% or more of the voting rights at a meeting of the shareholders of the CCO are held or controlled, directly or indirectly, by one or more Local Authorities (respectively, a "CCO" and each such Local Authority being a "CCO Shareholder");
- Each Local Authority that holds voting rights or rights of appointment in the CCO is a "CCO Shareholder";
- Each CCO Shareholder provides a guarantee in respect of the CCO in favour of the Company and/or there is sufficient uncalled capital within-in respect of the CCO to meet the financial obligations of the CCO;
- Each CCO Shareholder provides equity commitment liabilities to the Company, guarantees liabilities to a security trustee approved for the Company's creditors, and provides debenture security for its equity commitments to the Company and guarantee liabilities to the security trustee;
- Each CCO Shareholder complies with Lending policy financial covenants or, Foundation policy financial covenants or other financial covenants required by the Board (if any);
- The CCO complies with any covenants required by the Board; and
- If required by the Board, the CCO will grant security in favour of the Company (which may be subject to any intercreditor arrangements acceptable to the Board).

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

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

Cash and Liquid Investment Policy

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

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

Counterparty ¹	S & P Credit Rating or equivalent (Short-term / long-term) ²	Maximum % Limit (Total Cash + Liquid Assets)	Minimum % Limit (Total Cash + Liquid Assets)	Maximum New Zealand Dollar counterparty Limit (millions) ³	Maximum term (years)	Formatted Table
Category 1: NZ Government or RBNZ ⁵	N/A	100%	20%	Unlimited	No longer than the longest dated LGFA maturity on issue	Formatted: Font: Bold
Category 2	A1+ / AAA	80%	N/A	200300	3	
	A1+ / A1 / AA+	80%	N/A	150200	3	
Category 3	A1+ / A1 / AA	80%	N/A	150200	3	
	A1+ / A1 / AA-	80%	N/A	125200	3	
Category 4	A1+ / A1 / A+, NZ Registered Bank	60%	N/A	200	3	
Category 5	NZ-Registered Bank A1+ / A+ Other Issuers	10%	N/A	12550	1	
	Other Issuers			30	1	

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

Derivative Policy

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

¹ Category 2, 3, and 4 counterparty do not include the RBNZ or the NZ Government.

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

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

⁴ Maximum term applies from the date of settlement.

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

Market Risk

The Company's total 12 month forecast portfolio PDH (Partial Differential Hedge) Limit is \$40100,000⁶.

The Company's total portfolio Value at Risk (VaR) daily limit is \$1,400000,000⁷.

Foreign exchange risk policy

The Company will take no foreign exchange risk.

Operational Risk

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

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

Dividend policy

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

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

⁶ PDH risk measures the sensitivity of a portfolio to a one basis point change in underlying interest rates. For example a PDH of \$40100,000 means that the portfolio value will fall by \$40100,000 for a one basis point fall in interest rates. The PDH limit will be set at 0.025% of the 12 month forecast portfolio amount until this forecast reaches \$1 billion, following which this \$40,000 limit applies.

⁷ VaR measures expected loss for a given period with a given confidence. For example, 95% confidence, daily VaR of \$2501,000,000 means that it is expected that the portfolio will lose \$2501,000,000 on 5% of days, i.e. 1 day in 20 the portfolio value will decrease by \$2501,000,000.

Council Report

Item 6

Committee: Council

Date: 15 November 2019

Author: Becca Brooke

Authoriser: Richard Briggs

Position: Governance Manager

Position: Chief Executive

Report Name: Governance Structure

Report Status	<i>Open</i>
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Committee Structure and Appointments

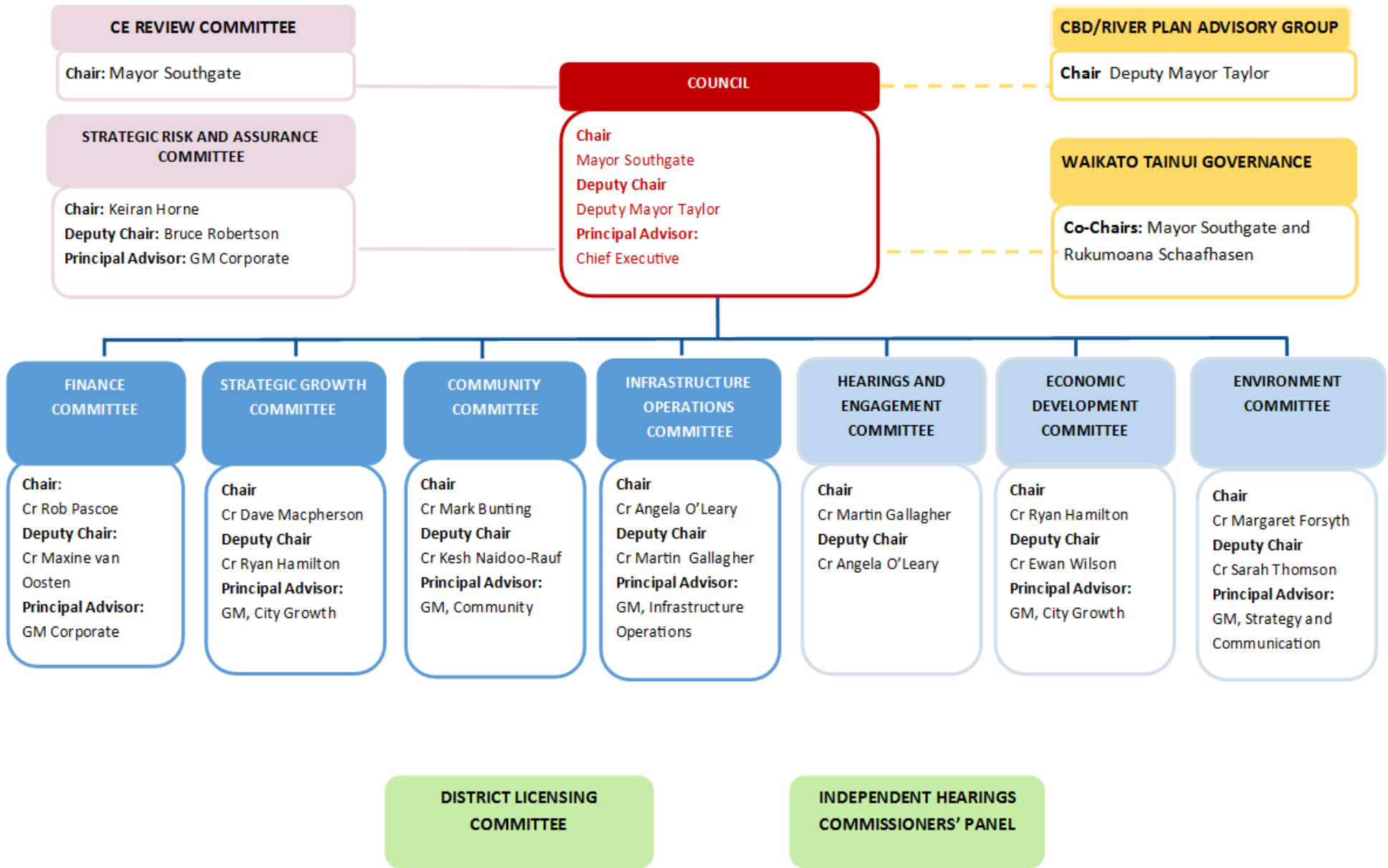
1. Section 41A of the Local Government Act 2002 (LGA) provides for the Mayor to appoint a Deputy Mayor, establish Committees of the Council, and appoint a Chairperson and Deputy Chairperson to each Committee established.
2. The Committee Structure and Chair/Deputy Chair Appointments for the 2019-2022 triennium as set out by Mayor Southgate, are attached to this report (attachment 1).
3. The Terms of Reference for the 2019-2022 Governance Structure are currently being drafted and will be discussed with Elected Members over the coming weeks. The final 2019-2022 Governance Structure Terms of Reference will be presented at the 28 November 2019 Council Meeting.

Recommendation

4. That the Council receives the Committee Structure and Chair/Deputy Chair Appointments for the 2019-2022 triennium as set out in attachment 1 of this report.

Attachments

Attachment 1 - Committee Structure and Chair/Deputy Chair Appointments for the 2019-2022 Triennium



Council Report

Item 7

Committee: Council

Date: 15 November 2019

Author: Becca Brooke

Authoriser: Richard Briggs

Position: Governance Manager

Position: Chief Executive

Report Name: Elected Member Remuneration

Report Status	<i>Open</i>
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Purpose

1. To seek approval from the Council for the allocation of the available remuneration funds to positions for Elected Members, based on the proposed 2019-22 Governance Structure.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves the remuneration allocation set out in attachment 2 of this report be submitted to the Remuneration Authority for determination before 20 November 2019.

Executive Summary

3. The Remuneration Authority (the Authority) is the independent body set up by Central Government to set out a process and approve the remuneration of key office holders, including local government representatives.
4. In 2019, the Authority completed a major review of the remuneration of Elected Members of local government. As a result, each council has been resized and remuneration adjustments have been made accordingly.
5. The Authority also determined through their review, to move from a partial pool approach to a full pool approach where each council is allocated a pool of funding based on the ranking of the council by 'size index'.
6. Councils are legally required to make decisions regarding allocation of remuneration for Elected Members relating to positions of responsibility.
7. Mayors are excluded from this approach. Each Mayor continues to have his or her pay set independently by the Remuneration Authority. The amount set by the Authority for the Mayor of Hamilton is \$174,500pa.
8. The Determination includes a minimum allowable councillor remuneration for each council. The minimum amount for Hamilton is set at \$74,552pa. Elected Members started on this rate the day after the official results were announced (21 October 2019).
9. The full amount of the pool for Hamilton is set at \$1,194.394pa. By law, this pool must be fully distributed.

10. The latest Local Government determination which effects these changes was issued on 20 June 2019 and can be found [here](#).
11. Following the elections in October 2019, a new Governance Structure was proposed by Mayor Southgate (shown in attachment 1 of this report). Based on this proposed structure, it is proposed that the remuneration allocation for Elected Members be distributed per attachment 2 of this report.
12. The Council's recommendations, regarding allocation of the pool, must be submitted to the Authority by 20 November 2019 for approval. The Authority will then make its decisions which will be included in the next determination due to be gazetted in early 2020. Regardless of the determination date, all remuneration rates for positions will be back-dated to the commencement date of the respective roles.
13. The extra costs associated with these increases have already been factored into the 10-Year Plan/Annual Plan for Year 2.
14. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Background

15. Earlier this year, the Authority provided information concerning the potential remuneration pool for implementation after the 2019 Local Government elections.
16. That information identified that there would be a move to resize each Council and adjust remuneration accordingly. It was also identified that there would be a move from a "partial pool" approach to a "full pool" approach.
17. A partial pool approach is where the Remuneration Authority determines base Councillor pay but each Council has a pool to 'top up' remuneration for Councillors holding positions of responsibility.
18. A full pool approach means each Council is allocated a pool related to the ranking of the Council by size index, and then the Council proposes to the Remuneration Authority the Councillor base pay and the additional pay for positions of responsibility. This will exclude the Mayor who will continue to have his or her pay set directly by the Remuneration Authority.
19. Further information in relation to this change can be found in Remuneration Authority letter to Mayor and Chief Executive (attachment 3 of this report) and an explanatory notes are outlined in the latest local government determination [here](#).
20. Council has previously recognised the additional work undertaken by Deputy Mayors, Chairs, and Deputy Chairs of Committees, and has proposed an increased percentage to the relevant Elected Members' remuneration for these roles.
21. It should be noted that each elected member will only be entitled to one payment for additional responsibilities. Consequently, if a Councillor is undertaking two roles, they will get paid the additional remuneration for the higher paying role only.

Discussion

22. The proposed Governance Structure for the new triennium has changed the number of committees and members undertaking additional responsibilities as outlined in attachment 1 of the staff report.

23. The proposed Elected Member remuneration allocation (outlined in attachment 2 of this report) reflects the intent of the 'flatter structure' and the more even distribution of roles and responsibilities. It is proposed that there be a 10% (approx.) differential between the three positions proposed for the 2019-2022 Governance Structure. All Elected Members for the 2019-2022 triennium have been assigned a role as either Deputy Mayor, Chair or Deputy Chair of a Committee.
24. The Authority has requested the following standard supporting information for each position with additional responsibilities, together with the Council resolution:
 - Position description outlining the additional responsibilities, delegations and reporting obligations
 - Estimated additional hours;
 - Benefit to the ratepayer; and
 - The extent to which the duties can vary.
25. It is proposed that information provided previously to the Authority in support of the Governance Structure be reviewed, updated where appropriate and submitted by the Governance Manager.

Wellbeing Considerations

26. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
27. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
28. There are no known social, economic, environmental or cultural considerations associated with this matter.

Risks

29. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy

Significance

30. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Engagement

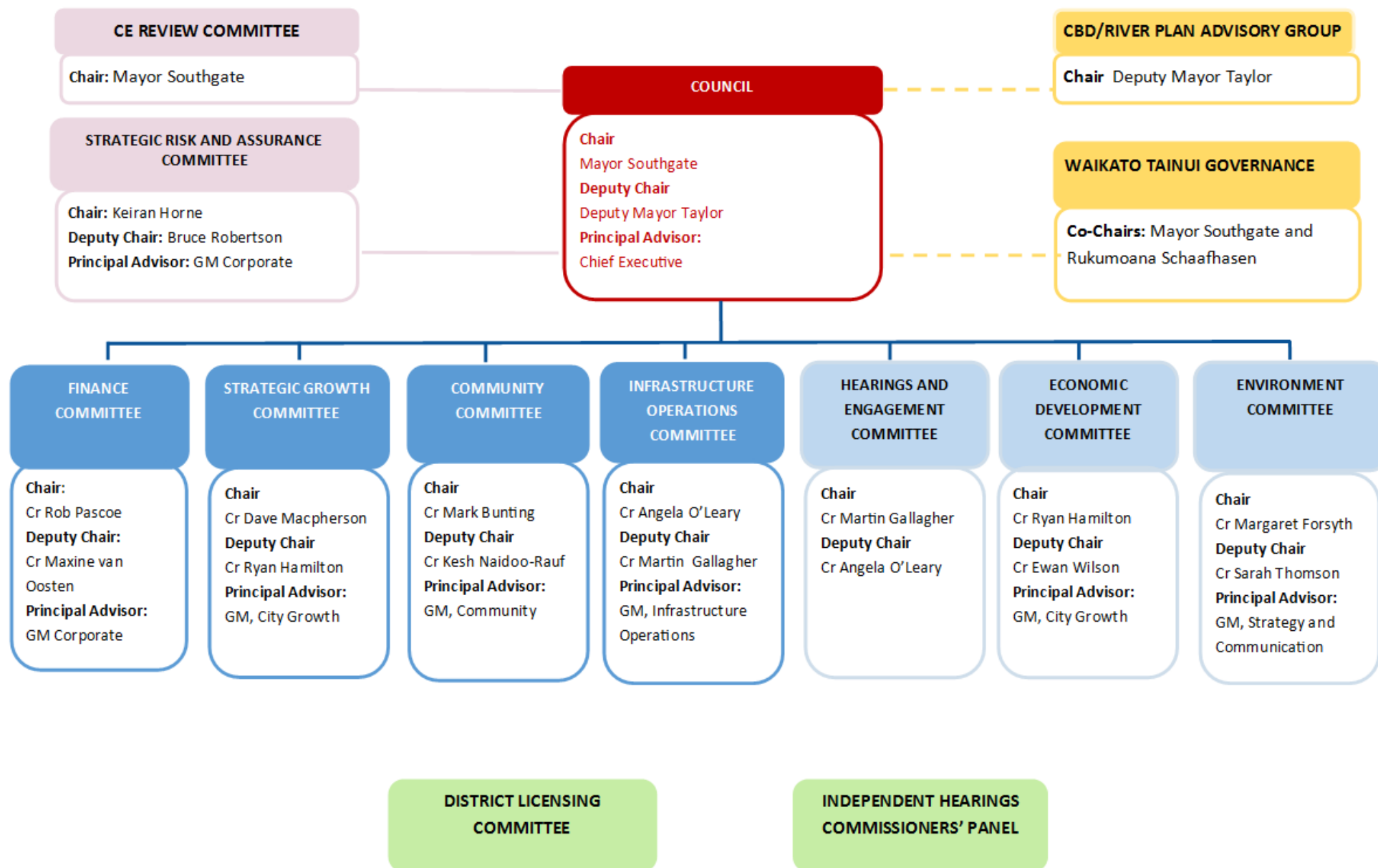
31. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 - Draft Governance Structure 2019-22

Attachment 2 - Proposed Elected Member Remuneration - 2019

Attachment 3 - Letter from Remuneration Authority to Chief Executive and Mayor



2019/20 Elected Member Salary Proposal

			Salaries of EMs last triennium
Total Salary Pool (excluding Mayor)		1,194,394	
Mayor (not included in pool - set by rem authority)		174,500	
Deputy Mayor	Geoff Taylor	112,500	102,020
Amount to allocate to Councillors		1,081,894	
Chair of Finance	Rob Pascoe	101,700	90,069
Chair of Strategic Growth	Dave Macpherson	101,700	
Chair of Community	Mark Bunting	101,700	
Chair of Infrastructure Operations	Angela O'Leary	101,700	
Chair of Hearings and Engagment	Martin Gallagher	101,700	
Chair of Environment Response	Margaret Forsyth	101,700	
Chair of Economic Development	Ryan Hamilton	101,700	
Deputy of Committees	Keish Naidoo-Rauf	92,500	82,563
Deputy of Committees	Ewan Wilson	92,500	
Deputy of Committees	Sarah Thomson	92,500	
Deputy of Committees	Maxine van Oosten	92,500	
Left over		(6)	
differential		9.95%	75,057
Min ammount for Councillors - 74,552 (set by rem authority)			

Item 7

Attachment 2



1 March 2019

Dear Mayor and Chief Executive

NOTIFICATION FOR POTENTIAL COUNCILLOR REMUNERATION POOL FOR IMPLEMENTATION AFTER 2019 LOCAL GOVERNMENT ELECTIONS

As you will be aware, last year the Remuneration Authority completed a major review of the remuneration of elected members of local government. As a result, we resized each council and began the first stage of adjusting remuneration. The next stage will be in the Determination that takes effect on July 1 this year and the third stage will take effect following this year's local government elections. (For further information on this, here is a link to our information paper published in June 2019: <https://www.remauthority.govt.nz/assets/Uploads/REM/Determining-the-Remuneration-of-Local-Government-Elected-Members-Information-Paper.pdf>).

In addition to the remuneration adjustments, we also signalled last year that we would be moving from a "partial pool" approach (whereby the Authority determines base councillor pay but each council has a pool to "top up" remuneration for councillors holding positions of responsibility) to a full pool approach. This new approach, which takes effect following this year's election, means that each council is allocated a pool related to the ranking of the council on our size index, and then the council proposes to the Authority the councillor base pay and the additional pay for positions of responsibility.

Please note that the pool will not apply to the remuneration of mayors, regional council chairs, community board members or Auckland local board members, all of whom will continue to have their pay set directly by the Remuneration Authority.

Last year we said we would let councils know early this year what their pool was likely to be following the election, so the purpose of this letter is to give you that information and some other parameters around the change. I would be grateful if you could share it with your elected members and with the appropriate staff responsible for this area so that everyone involved is aware of the change.

Timetable/Process

Attached to this letter as is a PDF document showing the remuneration that will be in the Determination effective on 1 July 2019 for all elected members on your council. Please note this does not cover community board members. The PDF also includes our current proposals for your remuneration and for the councillor pool that we are considering for the part of the Determination that comes into effect following the local government election in October 2019. More details about this are below.

We are providing this information now so that councils can consider how it could be allocated in future, and so that you and your management know the budgetary implications of the change. We are aware that many councils do not fully utilise the current "partial pool". In future you will need to

use the full pool, so if you are one of those “underspending” councils the actual payroll increase will be bigger than the amount we have allocated for the post-election pool.

We are aiming to publish the July 1 Determination late in June. This Determination will be in two parts:

- Part One will contain the remuneration changes for all elected members (including local boards and community boards) and any changes to allowances that will take effect on 1 July this year. This will be based on the current approach.
- Part Two (which will take effect only on and from the day after the date on which the official result of the 2019 election of members of each council is declared by public notice) will contain the Authority’s decisions on remuneration for mayors, regional council chairs, community board members and Auckland Council local board members. It will also contain for each council a minimum base rate of councillor remuneration.

Following the election, each incoming council will decide how it would like to allocate its total pool, including both base councillor remuneration and extra remuneration for positions of responsibility. These proposals will be forwarded by councils to the Remuneration Authority for consideration and, assuming they are acceptable, will be included in an amending Determination. A table at the end of this letter outlines due dates and target dates for the Determinations and amending Determinations and a timeline of decision-making by councils. Please note that we are dependent on other parties in processing our determinations but we will endeavour to stick to the dates provided.

Amending Determinations will be backdated so that

- the new base councillor remuneration proposed by the council and agreed by the Authority will take effect from the day after the date on which the official result of 2019 election of members for the council is declared; and
- accepted proposals for remuneration for positions of responsibility will take effect from the day after the council formally votes on those positions.

Background

In our communications to you last year around the new approach to the pool, we suggested that we would ask each outgoing council to consider the quantum of the pool allocated and let us know prior to July this year how they proposed that the pool be distributed following the election. One reason for this was to ensure that candidates for office had some idea of the base councillor remuneration prior to the election. We acknowledged that incoming councils might need to change those proposals and said that provision could be made for that. However, on further reflection and after some feedback, we have decided not to ask outgoing councils to make a proposal to us. Nevertheless, we strongly suggest that the outgoing council takes time to informally consider how the pool might operate after the election so that those who are re-elected will be familiar with the process and the issues, as will the staff who provide the information and advice.

Having decided against this requirement, we therefore have been obliged to determine a minimum level of base councillor remuneration for each council. We note that this was also requested by a number of councils in our consultation. It is important to stress that this will be a minimum (in most cases below what councillors are currently receiving) and that it is highly likely the base pay will be increased by councils - though there will certainly be variations depending on how councils approach the allocation of their pool.

How the pool will work

As noted above, the pool approach will start after the 2019 local government election and, following that, each council will be allocated a pool at the beginning of each triennium. The dollar amount of the annual pool being considered for your council is in the attached PDF. This pool will cover remuneration for councillors only. Mayor and regional council chair remuneration will continue to be set by the Authority, as will remuneration for community boards and Auckland Council local boards for the time being.

In the remaining two years of the triennium the Authority will make Determinations that may include adjustments based on a narrower set of indicators relevant at the time, but will not resize the councils.

Important aspects of the pool system are:

- By July 1 your Council will be advised of the exact dollar figure of the full councillor pool to apply from the day after the election result is declared.
- The July 1 Determination will include the minimum base councillor remuneration for your council following the election. It will also include the revised remuneration for the mayor, regional council chairs, Auckland council local boards and for community boards to take effect from the day after the date on which the official result is declared.
- Incoming councils will decide on the distribution of the pool after the election (see timetable at the end of this letter) and will send their proposals to the Authority. Base councillor remuneration must **NOT** be set below the minimum prescribed in Part 2 of the July 1 2019 Determination, but can certainly be higher if it fits within the pool.
- Positions that a council decides to remunerate may include those on outside groups to which a councillor has been **formally** appointed by a councils - i.e. the remuneration is not necessarily solely attached to official council committees. Councillors are expected to be involved in a variety of community and cross-council groups as part of their basic role but, in some cases, if the extra work involved is extraordinary it can be recognised in remuneration.
- Any remuneration for councillors serving as directors on CCOs should be paid directly by the company and will not fall within the ambit of the councillor pool.
- Councils **MUST** spend the whole of the pool allocated. The quantum for each council has been set by the Authority following a comprehensive review of the relative size of workloads of all councils and it would be unfair to elected members to withhold any of the available remuneration. As noted earlier in this letter, many councils currently do not allocate all (or in some cases any) of the discretionary pool.
- One other issue that has been raised with the Authority is whether or not the pool applies to non-elected people who are appointed to be members or chairs of council committees. The answer is no. The Authority cannot legally prescribe remuneration of payments for non-elected people.

Calculating Distribution of the Pool

It has been suggested that some councils may prefer to approach the distribution of the pool through the use of "ratios" rather than dollar figures. For example, they may decide that a committee chair should be paid 1.5 times that of a councillor without additional responsibilities. In

order to facilitate either approach, the Authority has developed a calculation tool which is attached to this letter.

Auditing

During our previous consultation some councils raised the issue of auditing the council decisions. It is the view of the Authority members that we should not be acting as auditors. Council auditors need to check that councils are following the rules prescribed by the Authority in its determinations. This applies across the board, including to expenses policies. Having said that, we will look at all the proposals that we receive for the distribution of the councillor remuneration pool. If a recommendation appears to be unbalanced or if we receive a direct request from an elected member, we will take a closer look, if necessary discussing the recommendations with the council concerned.

Other Issues

1. In addition to the introduction of the new pay scale and the pool system, the Authority has also been looking at the issue of a potential childcare subsidy for elected members. We will shortly be sending you a consultation paper on this and would appreciate feedback from all councils. If any individual members wish to comment their feedback will also be welcome. A timeframe will be in the paper we send out. We would also welcome any comments on the current suite of allowances.
2. We are still completing the work on community boards. I particularly want to thank all those councils who have boards and who have sent us detailed information. This has been most helpful in giving us a picture of the diversity of board activities and responsibilities. We hope to get you more information about our decisions on boards shortly.

Thanks again for your cooperation on all these issues. We will be working with LGNZ and SOLGM to ensure that the change in our approach to remuneration is as seamless as possible for councils. Meanwhile, if you have any further queries please do not hesitate to get in touch.

Yours sincerely



Hon Dame Fran Wilde

Chair

Attachments:

1. **PDF** showing your council's information which will be included in part 1 and part 2 of the 1 July 2019 Determination and shows the proposed full pool to be allocated effective from the day after the date on which the official result of the 2019 election of members for the council is declared.
2. **Excel workbook**: councillor remuneration allocation tool

Appendix – Timetable for Amending Determinations

In order to expedite the issuing of the amending Determinations, the Authority will need to receive information from councils by specific dates. We need to check each council's proposals and then send the assembled list to the Parliamentary Council Office for inclusion into a formal Determination. If the information is not submitted on time it will not be included in the amending Determination and will have to wait for a further amendment which we anticipate will be in late January at the earliest. Any recommendations after that will be included in amending Determinations when we have a sufficient number in hand, but we cannot guarantee a date.

Our aim is to have the first amending Determination published by mid-December so councils can incorporate the new figures into their pre-Christmas payroll runs.

It is important to note that all amending Determinations related to the councillor pool will be backdated (as outlined above) so that the confirmed final level of base remuneration will take effect from the day after the date on which the official result of the 2019 election was declared by public notice and remuneration for positions of responsibility from the day after the council formally votes to confirm the recommendation.

Timeframe for decisions on distribution of the pool for councillors

Action	By Whom	Date Due
Informal notification to councils of potential pool for implementation following 2019 election	Remuneration Authority	This letter
Informal discussion to familiarise elected members and staff with new regime	Councils	Up till October election
Incoming Councils formally decide remuneration attached to different roles within allocated pool and forward proposals to Remuneration Authority	Councils	Wednesday 20 November 2019 for first amending Determination and Wednesday 18 December 2019 for second amending Determination.
Second amending determination is published	Remuneration Authority	Early February