

PARE HAURAKI RFR GENERAL PARTNER LIMITED

General Partner

HAKO TŪPUNA TRUST [or AHC]

NGĀI TAI KI TĀMAKI TRUST [or AHC]

NGATI HEI IWI TRUST [or AHC]

NGĀTI MARU RŪNANGA TRUST [or AHC]

NGĀTI PAOA TRUST [or AHC]

NGĀTI POROU KI HAURAKI SETTLEMENT TRUST [or AHC]

TE TĀWHARAU O NGĀTI PŪKENGA TRUST [or AHC]

NGĀTI RĀHIRI TUMUTUMU TRUST [or AHC]

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST [or AHC]

NGĀTI TARA TOKANUI TRUST [or AHC]

NGAATI WHANAUNGA RUUNANGA TRUST [or AHC]

TE PATUKIRIKIRI IWI TRUST [or AHC]

Limited Partners

LIMITED PARTNERSHIP AGREEMENT

ESTABLISHING THE

PARE HAURAKI RFR LIMITED PARTNERSHIP

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AGREEMENT dated [•] 2017

PARTIES

PARE HAURAKI RFR GENERAL PARTNER LIMITED

("General Partner")

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NGAATI WHANAUNGA RUUNANGA TRUST [or AHC]

TE PATUKIRIKIRI IWI TRUST [or AHC]

("Limited Partners")

INTRODUCTION

A. The Limited Partners each represent the 12 iwi of Hauraki, being:

- (i) Hako;
- (ii) Ngāi Tai Ki Tāmaki;
- (iii) Ngāti Hei;
- (iv) Ngāti Maru;
- (v) Ngāti Paoa;
- (vi) Ngāti Porou ki Hauraki;
- (vii) Ngāti Pūkenga;
- (viii) Ngāti Rāhiri Tumutumu;
- (ix) Ngāti Tamaterā;
- (x) Ngāti Tara Tokanui;
- (xi) Ngaati Whanaunga; and
- (xii) Te Patukirikiri.

B. The background to the Right of First Refusal and related redress includes the following:

- (i) The Iwi of Hauraki each have their own historical Treaty of Waitangi / Te Tiriti o Waitangi claims.
 - (ii) Negotiations between the Crown and the Iwi of Hauraki towards settlement of their historical Treaty claims began in 2009.
 - (iii) The Iwi of Hauraki will receive collective Treaty redress, including the Pare Hauraki Forest Properties.
 - (iv) The Iwi of Hauraki will also have their own iwi-specific Treaty settlements.
 - (v) The Pare Hauraki collective framework agreement was signed on 1 October 2010.
 - (vi) The agreement in principle equivalent agreements for each of the Iwi of Hauraki were signed on 22 July 2011.
 - (vii) The Pare Hauraki Collective Redress Deed was initialled on 22 December 2016.
 - (viii) The Pare Hauraki Collective Redress Deed was signed, following ratification, on [•] 2017.
 - (ix) To implement various elements of the Pare Hauraki Collective Redress Deed, legislation is required.
- C. The General Partner as general partner and the Limited Partners as limited partners wish to establish the Limited Partnership, to carry on the purposes of the Limited Partnership in accordance with this Agreement.
- D. The Limited Partnership wish to record in this Agreement certain agreed terms relating to the management of the Limited Partnership, the holding and/or administration of the RFR Opportunities and RFR Assets (or redress or other asset or assets).

IT IS AGREED

2. PURPOSE OF LIMITED PARTNERSHIP

- 2.1 **Purposes:** The purpose of the Limited Partnership ("**Purposes**") is to provide a mechanism for the Iwi of Hauraki to exercise and administer the collective commercial property redress conferred on or offered to the Limited Partnership under the Bill and via other shared RFR Opportunities. In conducting the purposes the Limited Partnership will only:
- (a) exercise and administer the RFR Right in accordance with the provisions of Schedule 3 to this Agreement;
 - (b) participate in, or facilitate, collective investment on a proportionate asset by asset basis;
 - (c) participate in, or facilitate, investment by Limited Partners either individually or with another Limited Partner(s) on a differential asset by asset basis; and
 - (d) have the rights of, and comply with all obligations on the part of, the General Partner and the Limited Partnership referred to in the Collective Redress Deed and the Bill.
- 2.2 **Settlement Purposes:** Other authorised purposes of the Limited Partnership are:
- (a) the exercise of deferred selection properties redress under the Bill; and

- (b) facilitating the transfer of land bank properties from the Crown to the limited partnership and then to the Iwi of Hauraki as set out in the Collective Deed.

2.3 **Other Purposes:** If all the Limited Partners agree, the Limited Partnership may also:

- (a) participate in, or facilitate, co-operative investment with other investors and/or collective groups;
- (b) be proactive in seeking to obtain the maximum benefit for the Limited Partners of RFR Opportunities;
- (c) enter into any agreements and/or support the introduction of relevant legislation;
- (d) perform all such functions as may be necessary or which the General Partner considers desirable to enable the Limited Partnership to exercise and administer the RFR Right;
- (e) investigate other opportunities for the Limited Partners to invest and/or pursue commercial opportunities (either individually or collectively) not otherwise captured by the RFR Right (including, but not limited to investment in other redress opportunities or assets);
- (f) provide or receive advisory and/or administrative services to individuals, groups or entities that have shared interests with the Iwi of Hauraki, as the Limited Partnership shall determine is appropriate; and
- (g) otherwise act for the benefit of the Limited Partners in respect of the redress and the investments which flow from it.

2.4 **No other activity:** Unless approved by a unanimous Resolution of the Limited Partnership, the Limited Partnership will not engage in any business or activity which is not anticipated by the Purposes, or reasonably incidental to, or gives effect to, the Purposes.

2.5 **RFR Assets:** RFR Opportunities must be realised through, and RFR Assets (or redress or other asset or assets) must be held in, SPV Entities, unless the specific RFR Opportunity (or redress or other asset or assets) is invested in by all Limited Partners on an equal basis, in which case the RFR Asset (or redress or other asset or assets) may, with the agreement of all Limited Partners, be held in the Limited Partnership.

3. ESTABLISHMENT AND DURATION OF LIMITED PARTNERSHIP

3.1 **Formation:** Subject to the terms of this Agreement, the General Partner, as general partner, and the Limited Partners, as limited partners, agree to establish the Limited Partnership in accordance with the terms and conditions of this Agreement.

3.2 **Commencement:** The Limited Partnership will commence on the Registration Date.

3.3 **Name:** The name of the Limited Partnership is to be Pare Hauraki RFR Limited Partnership (or such other name as the General Partner from time to time determines provided that the change of name is registered by the Registrar on the Register in accordance with section 35 of the Act).

3.4 **Registered office and address for service:** The:

- (a) registered office of the Limited Partnership is to be at [•] in [•] (or such other place as the General Partner from time to time determines, provided that any change in registered office is to take effect in accordance with section 68(3) of the Act); and
- (b) address for service of the Limited Partnership is to be [•] in [•] (or such other place as the General Partner from time to time determines, provided that any change in address for service is to take effect in accordance with section 71(3) of the Act).

3.5 **Duration:** The parties agree that:

- (a) prior to the Registration Date, this Agreement (other than this clause 3.5) is of no legal effect and there is no partnership between any of the Partners (either prior to or after that date);
- (b) from the Registration Date, the Limited Partnership will commence in accordance with the Act and this Agreement will have effect as a contract between the Partners and the Limited Partnership, and between the Partners themselves, in accordance with section 9(3) of the Act; and
- (c) on and from the Deregistration Date, the Limited Partnership will terminate, and there will cease to be a partnership between the Partners..

3.6 **No agency or authority:** Subject to the Act:

- (a) nothing contained in this Agreement constitutes:
 - (i) any Partner the agent or representative of any other Partner; or
 - (ii) any Limited Partner the agent or representative of the Limited Partnership;
- (b) a Limited Partner does not have authority to act for or assume any obligation on behalf of any other Partner or the Limited Partnership.

4. CAPITAL CONTRIBUTIONS

4.1 **Each Partner to contribute Capital:** Each Partner will contribute its Capital Contributions to the Limited Partnership, at the times and in the manner specified by this Agreement. The General Partner must not make any Capital Contribution to the Limited Partnership and will not hold any Limited Partnership Shares.

4.2 **Initial Capital Contributions:** Each Limited Partner will contribute its Initial Contribution on the First Commitment Date.

4.3 **Administration Expense Contributions:** Further contributions of Capital from each Limited Partner will be Called for in each Financial Period by the General Partner for the purposes of meeting Administration Expenses only ("**Administration Expense Contribution**").

4.4 **Pro Rata share of Administration Expenses:** Each Limited Partner must contribute to, and pay, its Pro Rata share of the Administration Expenses of the Limited Partnership as set out in the Operating Budget for the relevant Financial Period.

- 4.5 **Additional Contributions:** The General Partner may, at any time, Call for Additional Contributions from each Limited Partner by way of a contribution of Capital, provided that the Limited Partners have unanimously agreed on the amount of, and reasons for, that Additional Contribution. The Additional Contribution and the Administration Expense Contribution constitute Capital Contributions for the purposes of this Agreement.
- 4.6 **Payments:** Any amounts payable by a Limited Partner as Capital Contributions will be paid to the Limited Partnership in immediately available funds:
- (a) free of any restriction or condition; and
 - (b) without any deduction or withholding on account of any amount, whether by way of set-off, counterclaim or otherwise.
- 4.7 **Limited Partnership Shares:** On the date of this Agreement the General Partner will create and issue to each Limited Partner, in consideration for each Limited Partner making its Initial Contribution and agreeing to make Capital Contributions, one Limited Partnership Share such that each Limited Partner shall hold and, subject to the remainder of this clause, shall continue to hold, a one-twelfth share in the Limited Partnership. The General Partner may only issue additional Limited Partnership Shares with the prior consent of, and on terms approved unanimously by, all of the Limited Partners.
- 4.8 **No interest payable:** No interest is payable to Partners on their Capital Contributions.
- 5. CALLS**
- 5.1 **General Partner:** Notwithstanding any other provision of this Agreement, unless otherwise agreed in writing by all the Limited Partners, the General Partner must be an entity the shares of which are held solely by all of the Limited Partners (or their nominated Affiliate) and in which no other person may hold shares. Each Limited Partner (or their nominated Affiliate) will hold the same proportion of General Partner Shares as it holds Limited Partnership Shares. On the date of this Agreement the General Partner Shares will be held equally between each of the Limited Partners (or their nominated Affiliate).
- 5.2 **General Partner may call for Capital Contributions:** The General Partner may, from time to time, require any Limited Partner to make a payment to the Limited Partnership in partial or full payment of its Capital Contribution, including any Administration Expense Contribution or Additional Contribution required under clauses 4.3 and 3.5, respectively. The relevant Limited Partner will pay each Call in accordance with the terms set out in the Call Notice.
- 5.3 **Calls to be notified in writing:** A Call on a Partner must be notified to the Partners in writing, and the Call Notice must specify the amount of the Call, the time that payment is required (which must be at least 15 Business Days from the date of the Call), and directions as to how payment is required to be made.
- 5.4 **Revocation or postponement of Call:** The General Partner may, by written notice to all the Limited Partners, revoke all or any part of, or postpone the time for payment of, a Call.
- 5.5 **Register:** The General Partner will keep and maintain a register that records the Limited Partnership Shares held by the Partners and their respective Capital Contributions in the form set out in Schedule 1. The Partnership Register must be updated within 10 Business Days of the beginning of each Financial Period (or as soon

as reasonably practicable thereafter) and otherwise as soon as reasonably practicable following any other change in Limited Partners, Limited Partnership Shares or Capital Contributions.

5.6 **Register as evidence of title:** Subject to section 22 of the Act, the entry of the name of a person in the Partnership Register as the holder of a Limited Partnership Share is prima facie evidence that legal title to the Limited Partnership Share vests in that person.

5.7 **Restriction on withdrawal of Capital Contributions and transfer of Partnership Interest:** A Partner is not entitled to:

- (a) withdraw any or all of its Capital Contribution from the Limited Partnership (except for a distribution pursuant to clause 11) until the dissolution of the Limited Partnership in accordance with clause 22 of this Agreement; or
- (a) Transfer any of its Partnership Interest or Limited Partnership Shares until that Partner carries out an assignment in accordance with clauses 12 or 13 of this Agreement.

6. RIGHT OF FIRST REFUSAL

6.1 **Right of First Refusal:** The General Partner will exercise and administer the RFR Right in accordance with the provisions of Schedule 3, which shall apply in respect of the RFR Right that is conferred on the Limited Partnership by:

- (a) the Crown via Iwi of Hauraki specific settlements; or
- (b) in co-operation with another collective limited partnership or investor via any agreement or arrangement identifying the Iwi of Hauraki as having such right, whether alone or in conjunction with others.

7. STRATEGIC PLANS

7.1 **General Partner to prepare Strategic Plans:** In accordance with this clause 7, the General Partner shall prepare, no later than two years after the Registration Date and update not less than every two years thereafter, a long-term planning document ("**Strategic Plan**") which specifies in respect of the Limited Partnership:

- (a) the strategic vision for the Limited Partnership over the next 20 year period;
- (b) the nature and scope of the activities proposed by the General Partner for the Limited Partnership in relation to the Purpose;
- (c) any proposals for the ongoing management of the Partnership Assets having regard to the interests of all Limited Partners;
- (d) the policies that are to apply in respect of the preparation and adoption of Operating Budgets and Annual Plans; and
- (e) such other prudential requirements as the General Partner deems appropriate.

7.2 **Limited Partners to discuss Strategic Plans:** The General Partner shall arrange for Strategic Plans prepared in accordance with clause 7.1 to be sent to each Limited Partner for review and will call a meeting of the Limited Partners to discuss the Strategic Plan (provided that the date of the meeting is not less than 60 days after the date that the proposed Strategic Plan is sent to the Limited Partners). Following discussion, the

General Partner must consider and, if thought fit approve (with or without amendments), the Strategic Plan prepared under clause 7.1.

8. OPERATING BUDGETS AND ANNUAL PLAN

8.1 **First Operating Budget:** The Partners agree to adopt a First Operating Budget which shall apply in respect of the first and second Financial Periods following the Registration Date.

8.2 **Preparation of Operating Budgets:** The General Partner shall, within 20 Business Days of the start of each Financial Period after the first Financial Period, prepare (or procure the preparation of) an Operating Budget in respect of the Limited Partnership, which must include:

- (a) a budget of Administration Expenses for the relevant Financial Periods;
- (b) the amount of the Administration Expense Contribution that will be required from each Limited Partner in respect of the relevant Financial Periods (being each Limited Partner's Pro Rata share of the aggregate amount of all Administration Expenses);
- (c) the amount of any Additional Contribution that may be required from each Limited Partner in respect of the relevant Financial Periods, as determined and agreed in accordance with clause 3.5;
- (d) any anticipated RFR Opportunities, the nature of such RFR Opportunities, and the likelihood of those RFR Opportunities being realised in accordance with this Agreement during the relevant Financial Periods; and
- (e) any other anticipated opportunities for the Limited Partners to invest and/or pursue commercial opportunities (either individually or collectively) not otherwise captured by the RFR Right, the nature of such opportunities, and the likelihood of those opportunities being realised in accordance with this Agreement during the relevant Financial Periods.

8.3 **First Annual Plan:** The Partners agree to adopt a First Annual Plan which shall apply in respect of the first and second Financial Periods following the Registration Date.

8.4 **Preparation of Annual Plans:** The General Partner shall, within 20 Business Days of the start of each Financial Period after the first Financial Period, prepare (or procure the preparation of) an Annual Plan in respect of the Limited Partnership, which must include:

- (a) the Operating Budget;
- (b) the nature and scope of the activities to be undertaken, or proposed to be undertaken, by the Limited Partnership in the relevant Financial Periods; and
- (c) the Limited Partnership's focus and objectives to execute the Strategic Plan for the relevant Financial Periods.

8.5 **Operating Budgets and Annual Plan consistent with Strategic Plan:** Each Operating Budget and Annual Plan prepared in respect of a Financial Period after the second anniversary of the Registration Date shall be consistent with the then current Strategic Plan for the Limited Partnership.

8.6 **General Partner to approve Operating Budgets and Annual Plan:** The General Partner must consider and, if thought fit approve] (with or without amendments), an

Operating Budget prepared under clause 8.2 and an Annual Plan prepared under clause 8.4 before the commencement of the relevant Financial Period, and thereafter must adopt and implement the relevant Operating Budget and Annual Plan.

8.7 Peer review:

- (a) Where:
- (i) the Board has resolved to approve the relevant Operating Budget and/or Annual Plan; and
 - (ii) any Limited Partner gives notice to the Board within 14 Business Days of its opposition to, or disagreement with, the relevant Operating Budget and/or Annual Plan,

the resolution to approve the Operating Budget and/or Annual Plan shall be deemed not to have been passed and the proposed Operating Budget and/or Annual Plan shall immediately be submitted for "peer review" by an independent accountant (who shall be a partner of one of the major accounting firms in New Zealand, who has experience in the review of operating budgets).

- (b) The independent accountant shall be agreed between the Directors (of if only one Director is appointed, the independent accountant shall be appointed by that Director) or, failing agreement on that issue within two Business Days, shall be determined by the Board by resolution passed by simple majority vote.
- (c) The independent accountant shall be instructed to:
 - (i) review the proposed Operating Budget and/or Annual Plan to determine whether it is reasonable having regard to the anticipated activities of the Limited Partnership during the period covered by the Operating Budget and/or Annual Plan; and
 - (ii) in conducting its review, take into account the Purposes of the Limited Partnership (as set out in clause 2.1), unless the Limited Partners have unanimously resolved that the Limited Partnership should undertake an additional purpose pursuant to clause 2.2, that purpose.
- (d) Where (a) applies, the meeting of the Board will be adjourned for a period of 15 Business Days to the same time and place (unless otherwise agreed by all Directors) and the independent accountant's review will be presented to the Board at that meeting.
- (e) The Board will re-assess the Operating Budget and/or Annual Plan having regard to the independent accountant's report and shall endeavour to agree unanimously upon the Operating Budget and/or Annual Plan (adjusted, where necessary, to take account of the independent accountant's report). If the Board is unable to reach such agreement the Operating Budget and/or Annual Plan shall be adjusted to reflect the report and that adjusted Operating Budget and/or Annual Plan shall be deemed to have been adopted.

8.8 Distribution of Annual Plan: The Annual Plan shall be furnished to each Limited Partner as soon as practicable (but in any event within 10 Business Days) following the date the Annual Plan is approved by the Board.

9. ALLOCATION OF EXPENSES, LIABILITIES, PROFITS AND LOSSES

9.1 General Principle:

- (a) As a general principle, the Partners agree that:
 - (i) Administration Expenses will be borne by the Limited Partnership;
 - (ii) Investment Expenses will be borne by:
 - (aa) the Limited Partnership in the case of an LP Investment;
 - (bb) the relevant SPV Entity in the case of an investment that is made through an SPV Entity; or
 - (cc) by the Participating Limited Partners in the case of a Failed Investment; and
 - (iii) to the extent that Capital Contributions or Additional Contributions are Called to fund Administration Expenses or Investment Expenses incurred in realising an LP Investment, such Calls shall be levied Pro Rata.
- (b) The General Partner may determine in its sole discretion whether particular costs and expenses are Administration Expenses or Investment Expenses, in accordance with the general principle in (a) above.

9.2 **Administration Expenses:** The following categories of expenses shall be deemed to be "**Administration Expenses**" of the Limited Partnership:

- (a) All fees, costs and expenses (including GST) associated with receiving and forwarding to each Limited Partner any Preliminary Notice or Disposal Offer (as these terms are defined in Schedule 3) or any other notices referred to in Schedule 3 of this Agreement.
- (b) All fees, costs and expenses associated with complying with any requirements of the Act, the Companies Act and any other relevant law applicable to the Limited Partnership.
- (c) All costs and expenses (including GST) incurred in relation to the production and distribution of the Operating Budgets and Annual Plan referred to in clause 8.
- (d) All costs and expenses (including GST) incurred in relation to the production and distribution of the reports and accounts referred to in clause 10 and any valuations or certifications required pursuant to this Agreement, including the fees of the Auditors.

9.3 **Investment Expenses:** "**Investment Expenses**" are all fees, costs and expenses incurred by the Limited Partnership that are not Administrative Expenses.

9.4 **Approval of expenses:** The General Partner must approve any expenses incurred by the Limited Partnership, including, but not limited to, Investment Expenses and due diligence costs associated with an RFR Opportunity or other commercial opportunity not otherwise captured by the RFR Right, prior to such expense being incurred. The General Partner must also approve any due diligence expense in relation to a commercial opportunity not otherwise captured by the RFR Right in accordance with clause 2.3(e), prior to such expense being incurred.

- 9.5 **Determination of Expenses:** The General Partner may determine which expenses are Administration Expenses and which expenses are Investment Expenses in accordance with clauses 9.2 and 9.3 and such determination will be final and binding. When determining whether an expense is an Investment Expense, the General Partner shall have regard to:
- (a) first, the Operating Budget; and
 - (b) second, when, and from whom, an Acceptance Notice or a Good Faith Decline (as those terms are defined in Schedule 3) is received for that relevant Disposal Offer.
- 9.6 **Payments to General Partner:** To the extent that any payment to the General Partner under this clause 9 constitutes a distribution for the purposes of the Act, that payment will be subject to clause 11.2.
- 9.7 **Determining Amounts of Income, Capital and Losses to be Allocated:** For the purposes of determining the amount of Income, Capital and Losses to be allocated among the Limited Partners after the payment of or provision for fees, costs and expenses referred to in clauses 9.1 to 9.6 above, all Income and Capital arising and Losses accruing must, unless otherwise agreed by all Limited Partners, be allocated to the Limited Partners Pro Rata.
- 9.8 **Allocation of Liabilities:**
- (a) The Limited Partners have no personal obligation for the debts, liabilities or obligations of the Limited Partnership, except to the extent provided in the Act, this Agreement or in other applicable laws, if any.
 - (b) The General Partner is responsible for all the debts, liabilities and obligations of the Limited Partnership to the extent set out in the Act.
- 9.9 **Accounts:** Subject to the Act, and clause 10, the Limited Partnership must establish and maintain such accounts and records for each of the Partners as the General Partner determines and amounts must be credited or debited to and from these accounts as appropriate to reflect the allocation of Income, Capital and Losses of the Limited Partnership amongst the Partners on the basis set out in clause 9.7.

10. ACCOUNTS, REPORTS AND AUDITORS

- 10.1 **Accounts:** The General Partner must prepare and approve financial statements of the Limited Partnership in respect of each Financial Period in accordance with the Act and generally accepted accounting practice (as defined in the Financial Reporting Act 1993). The General Partner shall cause such accounts to be audited by the Auditors.
- 10.2 **Annual Report:** The General Partner must prepare an Annual Report of the Limited Partnership in respect of each Financial Period which must include:
- (a) a set of the audited financial statements prepared in accordance with clause 10.1, together with any report of the Auditors and a statement of accounting policies;
 - (b) a summary of activities undertaken by the Limited Partnership in the relevant Financial Periods; and
 - (c) a comparison of the Limited Partnership's performance as against the Annual Plan; and

(d) any relevant tax information in connection with the Limited Partnership,

(the "**Annual Report**"). The Annual Report shall be furnished to each Limited Partner as soon as practicable (but in any event within 80 Business Days) following the end of each Financial Period.

10.3 **Reports:** In addition to clauses 10.1 and 10.2, the General Partner must ensure the following unaudited reports are provided:

(a) a report to all Limited Partners on the conduct of the Limited Partnership, such reports to be provided in respect of each Quarter; and

(b) a Partner tax statement setting out the Limited Partner's share of any reasonable income and deductions of the Limited Partnership for the preceding Financial Period, within 80 Business Days of the end of each Financial Period, and other information reasonably required by Limited Partners from time to time to complete any New Zealand taxation returns in respect of their income or loss from the Limited Partnership.

10.4 **Auditor:** The General Partner may appoint the Auditor. The Limited Partners may by Resolution of the Limited Partnership or by a resolution at a Limited Partners' meeting in accordance with clause 20 determine to remove an existing Auditor. Any replacement auditor to be appointed following a removal or resignation of the Auditor will be appointed by the General Partner, following approval of that Auditor by a Resolution of the Limited Partnership or a resolution at a Limited Partners' meeting in accordance with clause 20.

11. DISTRIBUTIONS

11.1 **Nature of Distributions:** For the purpose of this Agreement, distributions of Income and Capital include:

(a) all sums actually paid or distributed to the Partners from the Limited Partnership out of Capital or Income (without any deduction for any withholding tax payable by any person in respect of the amount paid, or distribution costs or expenses incurred by, or taxation payable by, any Limited Partner in relation to such payments or distributions) and such payments or distributions are deemed to be made on the date of payment or distribution;

(b) all distributions in kind to the Partners; and

(c) all distributions in cash or in kind to the Partners following termination of the Limited Partnership.

11.2 **Limitations on Distributions:** The General Partner is not obliged to cause the Limited Partnership to make any distribution and:

(a) the Limited Partnership and the General Partner will comply with the provisions of the Act relating to such distributions; and

(b) will not do so to the extent to which the General Partner has made a final determination to issue a Call in respect of an amount equal to or greater than the amount of such distribution (in which case the Call will be deemed to be reduced by the amount of such distribution) provided that the General Partner will nevertheless issue a Call Notice with respect to the amount but will advise the extent to which the Call is satisfied by a distribution in that Call Notice.

- 11.3 **Allocation:** Distributions made pursuant to this Agreement must be in accordance with the allocation of Income and Capital made to a Partner under clause 9.7.
- 11.4 **Interim Distributions:** The General Partner may, provided it has obtained sufficient tax and/or financial advice, allocate Income, Capital and Losses for a Financial Period (or any part thereof) prior to the completion of the financial statements for that Financial Period. If the General Partner does so, then upon completion of the financial statements for that Financial Period:
- (a) if it is determined that Income, Capital and Losses of the Limited Partnership for that Financial Period have not been correctly allocated pursuant to clause 9.7, the General Partner will amend the records of the Limited Partnership to record the correct allocation;
 - (b) if it is determined, following the correct allocation of Income, Capital and Losses under 11.4(a), that distributions made pursuant to clause 11 in that Financial Period were not made in accordance with the correct allocation of Income, Capital and Losses for that Financial Period, each Partner which received a greater distribution than the distribution to which the Partner was entitled will pay an amount to the General Partner equal to the excess and the General Partner will then make an additional payment to each Partner which received a lesser distribution than the distribution to which the Partner was entitled of an amount equal to the amount of the shortfall; and
 - (c) the accounts of all Partners will be amended to record the correct allocations of Income, Capital and Losses, and payment of distributions, in accordance with this clause.

12. NO ASSIGNMENT BY GENERAL PARTNER

- 12.1 **No assignment by General Partner:** The General Partner shall not Transfer its rights or interests as general partner of the Limited Partnership or voluntarily dissolve or withdraw as the General Partner without the approval of a unanimous Resolution of the Limited Partnership or a unanimous resolution at a Limited Partners' meeting in accordance with clause 20 and provided that a new general partner has been appointed in accordance with clause 12.3. No such dealing shall be valid or effective without such consent.
- 12.2 **Removal of the General Partner:** The General Partner may be removed for any reason by unanimous Resolution of the Limited Partnership, provided that a new general partner has been appointed in accordance with clause 12.3.
- 12.3 **Replacement General Partner:** Any replacement general partner must be appointed by unanimous Resolution of the Limited Partnership with such replacement having effect from registration of the appointment with the Registrar in accordance with the Act.

13. NO ASSIGNMENT BY LIMITED PARTNERS

- 13.1 **No assignment by Limited Partners:** No Limited Partner may directly or indirectly Transfer all or any part of its Limited Partnership Share or any of its other rights or interests as a Limited Partner (except by way of an assignment to an Affiliate), nor may there occur any change in control of the ultimate beneficial interest in respect of a Limited Partner, whether voluntary or involuntary.

14. DEFAULT BY PARTNER

14.1 **Failure to pay Call:** If any Partner ("**Defaulting Partner**") fails to pay a Call in full at the time set by the General Partner for payment of that Call, or otherwise acts in breach of this Agreement and fails to remedy that breach within five Business Days of receiving notice from the General Partner requiring it to be remedied, clauses 14.2 to 14.4 shall apply. This clause shall not limit any other rights any other Partner or the Limited Partnership has at law against the Defaulting Partner or any other person.

14.2 **Suspension of participation by Defaulting Partner:** In the circumstances referred to in clause 14.1, until the Defaulting Partner has remedied all defaults, the Defaulting Partner will have no right, unless the General Partner otherwise determines, to:

- (a) participate in, or vote on, any matter (including at any meeting of the Limited Partnership or by Resolution of the Limited Partnership); or
- (b) sign any document relating to any matter on behalf of the Defaulting Partner;

to the extent that matter relates to the default of that Defaulting Partner.

14.3 **General Partner's Right:** Subject to clause 14.4, but in addition to clause 14.2 and without limiting any other powers or remedies of the Limited Partnership or the General Partner, the General Partner will have the right (on behalf of the Limited Partnership) to exercise all or any of the following powers or remedies by Extraordinary Directors' Resolution as concerns the Defaulting Partner:

- (a) where the General Partner determines that the default is significant and/or material, to suspend, until the date of payment in full, the Defaulting Partner's right to participate in any RFR Opportunity or other commercial opportunity not otherwise captured by the RFR Right, provided that the Defaulting Limited Partner may never be removed from the Limited Partnership;
- (b) to apply all or any part of the distribution payable to the Defaulting Partner in satisfaction of moneys owed by the Defaulting Partner to the Limited Partnership (including any reimbursement due under clause 14.3(d), and any default interest due under clause 14.4);
- (c) to charge the Defaulting Partner default interest in accordance with clause 14.4; and/or
- (d) to do anything, including paying money, necessary to remedy the breach, and all money paid and expenses incurred in remedying, or attempting to remedy, the breach, or in the exercise or enforcement, or attempted exercise or enforcement, of any power, right or remedy of the General Partner or the Limited Partnership in respect of the breach (under this Agreement or otherwise) will be reimbursed by the Defaulting Partner, and will be a debt due from the Defaulting Partner to the Limited Partnership. Without limiting this clause, all interest paid, and other costs incurred, by the Limited Partnership with respect to borrowings of the Limited Partnership, where such borrowings arise as a result of the default of the Defaulting Partner, will be reimbursed to the Limited Partnership by the Defaulting Partner,

The General Partner's rights under this clause 14.3 will cease to apply if and when the Defaulting Partner has remedied all defaults which have caused that Partner to be a Defaulting Partner.

14.4 **Non-defaulting Partners' Rights:** Notwithstanding clauses 14.2 and 14.3, and without limiting any other powers or remedies of the Limited Partnership or the General Partner,

any Limited Partner that is not the Defaulting Partner ("**Lending Partner**") may, with the consent of, or at the request of, the Defaulting Partner, pay an unpaid Call ("**Default Amount**") on behalf of that Defaulting Partner and:

- (a) the Default Amount will be a debt due from the Defaulting Partner to the Lending Partner bearing default interest at the Default Rate (compounding at monthly intervals) calculated on a daily basis from the due date until the date of payment in full;
- (b) payment of the Default Amount by a Lending Partner will not increase the number of Limited Partnership Shares held by the Lending Partner, or decrease the number Limited Partnership Shares held by the Defaulting Partner; and
- (c) if the Lending Partner pays the Default Amount, the default will be deemed to be remedied and nothing in clause 14.3 shall apply.

14.5 **Default interest:** Where a Partner has failed to pay a Call, or other moneys due to the Limited Partnership, in full when due, these moneys will (unless otherwise determined by the General Partner) bear default interest at the Default Rate (compounding at monthly intervals) calculated on a daily basis from the due date until the date of payment in full.

14.6 **Indemnity:** Without limiting and notwithstanding any other provision of this Agreement, each Defaulting Partner will indemnify, and hold harmless, each other Limited Partner, the Limited Partnership and the General Partner from and against all costs, claims, losses or liabilities (including legal fees) arising from any failure of that Defaulting Partner to pay a Call in full at the time set by the General Partner for payment of that Call, or any other breach of this Agreement by that Defaulting Partner.

15. **ADVISORY COMMITTEE**

15.1 **Advisory Committee function:** The Limited Partnership will have an advisory committee. Subject to clause 15.2, the function of the Advisory Committee will be:

- (a) to be consulted by the General Partner from time to time on such matters as the General Partner determines, acting reasonably and having regard to the Strategic Plan and/or the Annual Plan, requires consultation; and
- (b) to meet regularly with the General Partner to be updated on the business affairs of the Limited Partnership.

15.2 **Limited Partner not to take part in management:** No member of the Advisory Committee (each a "**Member**") shall, in their capacity as a Limited Partner or as a representative of one or more Limited Partners, take part in the management of the Limited Partnership's business except as permitted by the Act and as expressly provided for in this Agreement. No business may be transacted at any meeting of the Advisory Committee which would result in a Limited Partner being treated as taking part in the management of the Limited Partnership's business except as permitted by the Act and as expressly provided for in this Agreement.

15.3 **Meetings:** Meetings of the Advisory Committee must be held at least once in each year or more frequently as the General Partner, or a Member, or Members may determine. Meetings may be by telephone, videoconference or any other reasonable means. Each meeting may be convened by any one Member or the General Partner giving to the Members not less than 10 Business Days' written notice (unless such period is waived in writing by all Members and the General Partner), such notice to contain reasonable

particulars of the matters to be discussed at the meeting. An irregularity in the notice of a meeting is waived if all Members entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Members entitled to receive notice of the meeting agree to the waiver.

- 15.4 **Quorum:** A quorum is seven Members. No business may be transacted at a meeting if a quorum is not present.
- 15.5 **General Partner to attend:** The General Partner is entitled to attend and to address any meeting of the Advisory Committee.
- 15.6 **Written resolution:** A resolution in writing signed or assented to by all the Members entitled to vote on that resolution is as valid and effective as if passed at a meeting of the Advisory Committee duly convened and held provided those Members would constitute a quorum for consideration of the resolution at a meeting of the Advisory Committee. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in similar form, each signed or assented to by one or more Members.
- 15.7 **Chairman:** If the chairman (if any) of the Advisory Committee is not present at any meeting of the Advisory Committee and no other Member is appointed by the Members present at that meeting to act as such, the chairman of that meeting will be a representative of the General Partner, who (unless that representative is also a Member) is not entitled to vote on any matter at that meeting. If no representative of the General Partner is present, the chairman will be any Member present willing to act. The chairman of the Advisory Committee does not have a casting vote.
- 15.8 **Proxy:** A Member may appoint any person (who need not be a Member) to be his alternate or proxy to attend any meeting of the Advisory Committee at which the Member appointing him is not personally present, and may revoke the appointment of any such person.
- 15.9 **Regulation of meetings:** Except as provided in this clause 15, the Advisory Committee may regulate its meetings as it considers fit, including as to the appointment of a chairman and the attendance at a meeting by an alternate or proxy of a Member who is not personally present.
- 15.10 **General Partner not required to follow recommendations:** The General Partner is not, in performing any of its duties or obligations or exercising any of its powers or discretions, required to follow, give effect to, or consider any resolution, advice or recommendation of the Advisory Committee.
- 15.11 **Resignations:** Any Member may resign upon written notice to the General Partner.
- 15.12 **No duties:** The Members do not owe any duties (fiduciary or otherwise) to any Partner in respect of the activities of the Advisory Committee.
- 15.13 **Number and appointment of Members:** There shall be twelve Members at all times. Each Limited Partner shall be represented by one Member. Each Limited Partner may appoint, remove and replace, by written notice to the General Partner, one Member.

16. GENERAL PARTNER BOARD PROCEDURE

- 16.1 **Matters requiring Extraordinary Directors' Resolution:** Decisions on the following matters will require the approval of the Board by Extraordinary Directors' Resolution:
- (a) adoption of the Operating Budget and any material deviation from that budget;

- (b) adoption of the Annual Plan and any material deviation from that plan;
- (c) approval of the Limited Partnerships' financial statements;
- (d) approval of the Strategic Plan and any material deviation from that Strategic Plan;
- (e) any alteration to the Purposes;
- (f) appointing the Auditor;
- (g) classification of expenses in accordance with clause 9.5;
- (h) approval of any due diligence expenses to be incurred by the Limited Partnership in relation to investments or potential investments in accordance with clause 9.4 (unless such expenses are expressly provided for in the Operating Budget);
- (i) any decision to exercise the rights and powers granted to the General Partner under clause 14.3;
- (j) any amendment to this Agreement under clause 21.1(a), 21.1(b) or 21.1(d);
- (k) any distribution in kind to be made by the Limited Partnership;
- (l) any matter where the Board undertakes in the General Partner's name or in the name of the Limited Partnership to:
 - (i) enter into any transaction or series of related transactions likely to exceed, or to involve liabilities (including contingent liabilities) in excess of \$100,000 (other than as approved in the relevant Operating Budget or Annual Plan);
 - (ii) enter into any contract or arrangement for capital expenditure or realisation of capital assets, whether comprising a single transaction or a series of related transactions, if the amount of such expenditure or realisation exceeds \$100,000 (other than as approved in the relevant Operating Budget or Annual Plan); or
 - (iii) enter into or terminate any acquisition, disposal, joint venture, association, partnership or other business combination with any party (other than in the ordinary course of business or as approved in the relevant Operating Budget or Annual Plan).

16.2 **Constitution:** The constitution of the General Partner shall govern the Board's procedure.

17. PARTNERS' RIGHTS AND DUTIES

17.1 **Management:** The General Partner has responsibility for the management and control of the business and affairs of the Limited Partnership and, subject to the terms of this Agreement:

- (a) must devote as much of its time and attention as is reasonably required for the efficient management of the business of the Limited Partnership, with a view to achieving the Purposes of the Limited Partnership (whilst recognising that the General Partner may, in accordance with clause 17.7, also act as a general

partner of other limited partnerships established by one or more of the Limited Partners);

- (b) must keep all records required by the Act to be kept by the Limited Partnership and must procure that all filings and registrations, including the annual return required in relation to the Limited Partnership pursuant to the Act, are promptly made;
- (c) must ensure that all financial statements required by the Act are completed and signed; and
- (d) must operate the Limited Partnership in accordance with this Agreement.

17.2 **Authority and Powers:** Without prejudice to the generality of clause 17.1, in respect of the Purposes, the General Partner and its agents and delegates and their respective delegates have the full powers and authority of the Limited Partnership and the power to bind the Limited Partnership without prior consultation with any of the Limited Partners provided that the Limited Partnership must not, unless approved by a unanimous resolution of the Board:

- (a) cause the Limited Partnership to borrow money; and
- (b) cause the Limited Partnership to give guarantees, indemnities, covenants and undertakings in favour of third parties.

17.3 **Limitations on Limited Partners:** No Limited Partner shall:

- (a) be entitled to participate in, purport to participate in, or interfere with, the management of the Limited Partnership or the Purpose;
- (b) have any authority to act for the Limited Partnership, or in any way to interfere with the conduct or management of the Limited Partnership;
- (c) purport to act in respect of, or on behalf of, the General Partner, any other Partner or the Limited Partnership; or
- (d) vote on matters relating to the Limited Partnership,

except as expressly provided for in this Agreement and/or where the same is not prohibited by the Act. The Limited Partners must on request promptly provide all information to the General Partner as may be reasonably necessary for the operation of the Limited Partnership including any registration, regulatory and taxation requirements.

17.4 **Continuing authority:** The rights, powers and discretions of the General Partner under this Agreement continue despite any change in the composition of the Limited Partnership.

17.5 **Delegation of General Partner's powers:** The General Partner may delegate its authority and powers to such person or persons (except a Limited Partner) as it may reasonably select and appoint. The General Partner remains liable for the acts and omissions of its delegates as if those acts or omissions were those of the General Partner. Without in any way affecting the generality of the foregoing, the General Partner may, for the purposes described in the foregoing sentences:

- (a) by power of attorney or other deed appoint any person (other than a Limited Partner) to be attorney or agent of the General Partner for such purposes and with such powers, authorities and discretions (not exceeding those vested in the General Partner) as it thinks fit;

- (b) appoint and engage by writing or otherwise any person (other than a Limited Partner) to be sub-agent of the General Partner as the General Partner may think necessary or proper for such purposes and with such powers, authorities, and discretions (not exceeding those vested in the General Partner) as it thinks fit.

17.6 **Best Interests:** The General Partner must act in the best interests of the Limited Partnership, in good faith, openly and honestly in conducting the Purposes.

17.7 **Exclusivity:** The functions and duties which the General Partner undertakes on behalf of the Limited Partnership are exclusive to the Limited Partnership and the General Partner may not perform similar functions and duties for itself and/or others except to the extent such functions and duties are provided pursuant to clause 2.3(f). The General Partner may not compete with the Purposes of the Limited Partnership. Notwithstanding the foregoing, the General Partner (or a subsidiary of the General Partner) may act as the general partner or manager of, an SPV Entity established by one or more Limited Partners to hold an RFR Asset (or redress or other asset or assets) in accordance with clause 2.5 and Schedule 3, provided that:

- (a) all Limited Partners have approved the General Partner acting as the general partner or manager of the SPV Entity; and
- (b) whilst acting as general partner of that SPV Entity, the General Partner shall act in the best interests of those Participating Limited Partners (as that term is defined in Schedule 3).

17.8 **Conflicts of Interest:** If a Partner or the Limited Partnership experiences a Conflict of Interest it shall be dealt with in accordance with the Limited Partnership's conflict of interest policy applicable from time to time.

18. LIABILITY AND INDEMNIFICATION OF GENERAL PARTNER

18.1 **Liability generally:** Subject only to clause 18.2, the General Partner and its directors, officers, agents, employees and Affiliates shall not be liable, for damages or otherwise, and whether pursuant to this Agreement, in contract, tort (including negligence) or otherwise at law, to the Limited Partnership or any other Partner for any matter relating to the Limited Partnership, or any other act or omission of the General Partner with respect to the Limited Partnership.

18.2 **Exceptions:** Clause 18.1 shall not limit or restrict any liability of the General Partner to the Limited Partnership or Partners for gross negligence, fraud, illegal act or material breach of this Agreement.

18.3 **Indemnity:** The Limited Partnership shall indemnify the General Partner and its directors, officers, agents, employees and Affiliates out of the Partnership Assets from and against all costs, claims, losses or liabilities (including legal fees) arising from any matter relating to the Limited Partnership, or any act or omission of the General Partner with respect to the Limited Partnership, except for any such cost, claim, loss or liability arising from the gross negligence, fraud, illegal act or material breach of this Agreement of or by the General Partner.

18.4 **Acknowledgments:** Each Partner acknowledges that, except for the obligations expressly provided in this Agreement:

- (a) it has made its own independent enquiry and investigations in relation to the Limited Partnership and the Purposes, and has entered into this Agreement in reliance solely on its own judgment, and not in reliance on any representations

from the General Partner or any other Partner or any of their respective affiliates, officers, directors, partners, employees or agents;

- (b) all express (to the extent permitted by law), implied, or other representations or warranties in relation to the Limited Partnership and the Purposes are expressly excluded; and
- (c) no Partner or any of its Affiliates, officers, directors, employees or agents have made or make any representation, or have given or give any warranty (express or implied), as to the accuracy, content, completeness, value or otherwise of, nor have or accept any liability in respect of, any information (written, oral or otherwise) directly or indirectly provided or made available to, or used by, a Partner in connection with the Limited Partnership and the Purposes, and each Partner unconditionally waives any claim (whether arising in tort, in contract, by operation of law or otherwise) it may have against any of them in respect of such information.

19. SECURITY INTEREST

19.1 **Grant of security interest:** Each Partner grants a security interest in all of that Partner's present and after-acquired personal property arising under this Agreement, and all of that Partner's present and future rights in relation to such personal property, to the Limited Partnership as security for:

- (a) the payment and delivery of all amounts of any nature which that Partner (whether alone, or jointly or jointly and severally with any other person) is, or may at any time become, liable (whether actually or contingently) to pay or deliver to the Limited Partnership (whether alone, or jointly or jointly and severally with any other person) under, pursuant to, or arising out of, this Agreement; and
- (b) the performance by that Partner of all that Partner's other obligations to the Limited Partnership at any time.

So far as it concerns each security interest over or in respect of any present or future account receivable and present and future rights in relation to any account receivable, the security interest granted by each Partner will take effect as a transfer (as "transfer" is used in the context of and for the purposes of the PPSA).

19.2 **Enforcement of security interest:** The decision whether to enforce the security interest granted in clause 19.1 above shall be determined by unanimous agreement of the Partners, excluding those Partners who are Defaulting Partners or who are the subject of the decision to exercise the security interest.

19.3 **No disposal of Limited Partnership Shares:** Notwithstanding anything to the contrary in this Agreement, the security interest granted in clause 19.1 may not be enforced if the effect of that enforcement would be to sell, transfer or dispose of the Limited Partnership Shares held by the Defaulting Limited Partner, or otherwise remove the Defaulting Limited Partner from the Limited Partnership.

20. MEETINGS

20.1 **Meeting of Partners:** The General Partner may call meetings of the Partners for the purposes of discussing the affairs of the Limited Partnership from time to time as it sees fit, provided that it will:

- (a) on an annual basis call a meeting of the Partners for the purpose of considering the Financial Statements for its last preceding Financial Period, which meeting will be held not later than five months after the end of the Financial Period; and
- (b) at the written request of Limited Partners whose aggregate Capital Contributions are equal to, or greater than, 50% of all Limited Partnership Shares, summon a meeting for any purpose required by such Limited Partners.

20.2 **Rules for convening and conducting meetings:** Every meeting of the Partnership will be convened and conducted in accordance with the Meeting Rules.

21. AMENDMENT

21.1 **Amendments:** The General Partner may amend this Agreement at any time, if:

- (a) the amendment is to vary Schedule 1 so as to record an adjustment to Capital Contributions in accordance with this Agreement;
- (b) the amendment is made to correct a manifest error, inconsistency or is necessary to comply with any law, or is of a formal or technical nature and the General Partner has notified the Limited Partners of the change at least 10 Business Days in advance and no Limited Partner has objected to such change;
- (c) the amendment is approved by a unanimous Resolution of the Limited Partnership or a unanimous resolution at a Partners' meeting in accordance with clause 20;
- (d) the amendment is required to comply with any law.

21.2 **Limited Partners:** This Agreement (other than amendments made under clauses 21.1(a), 21.1(b) or 21.1(d)) may be amended by the Limited Partners by way of a unanimous Resolution of the Limited Partnership.

21.3 **RFR Mechanisms amendment:** Notwithstanding clause 21.2, no amendment shall be made to the RFR Mechanisms unless such amendment is approved by a unanimous Resolution of the Limited Partnership (including any Defaulting Partners).

21.4 **Amendment deed:** Any amendment to this Agreement will be recorded in a deed of amendment.

22. DISSOLUTION OF THE PARTNERSHIP

22.1 **Termination:** Subject to clauses 22.2 and 22.3, the Limited Partnership and this Agreement will terminate on the occurrence of any of the following events:

- (a) a unanimous Resolution of the Limited Partnership is passed authorising the termination of the Limited Partnership, provided the RFR Right has been transferred or assigned to another Person (to the extent permitted by law) or has otherwise terminated or expired; or
- (b) any event otherwise specified as a terminating event in the Act, excluding section 86(1)(b) of the Act.

22.2 **Provisions Surviving Termination:** In the event that this Agreement is terminated pursuant to this clause 22 then, notwithstanding any other provisions of this Agreement,

the provisions of clauses 3, 7, 10, 11, 18, 21, 22.3 and 23 and any other provisions of this Agreement which shall be necessary for the performance of obligations set out under those clauses, are to survive such termination.

22.3 **Liquidation of Interests of Partners:** On the occurrence of a Terminating Event, no further business activities are to be conducted except for such action as necessary for completing a transaction unfinished at the time of termination, winding-up of the affairs of the Limited Partnership and the distribution of the Partnership Assets amongst the Partners in accordance with clause 11.

23. GENERAL

23.1 **Private obligations:** Each Partner will at all times duly and punctually pay and discharge that Partner's personal obligations and liabilities under this Agreement, whether present or future, and indemnify the Limited Partnership from all reasonable losses, costs, actions, proceedings, claims and demands arising out of that Partner's personal obligations and liabilities, and provided the Limited Partnership has taken reasonable steps to mitigate such losses.

23.2 **Confidentiality:** Each Partner will keep confidential, treat as privileged, and not directly or indirectly make or allow to be made any disclosure or use of any information directly or indirectly obtained from any other Partner, or developed or held for the purposes of the Limited Partnership, except to the extent:

- (a) required by law; or
- (b) necessary to satisfy the requirements of any recognised stock exchange; or
- (c) that all Partners otherwise agree in writing; or
- (d) reasonably required by any Partner to enable it to report to its custodian, trustee, manager, beneficiaries (including ultimate beneficiaries and ropu members), limited partners, investors, potential investors or similar; or
- (e) necessary to obtain the benefit of, or to carry out obligations under, this Agreement; or
- (f) that the information is or becomes available in the public domain without breach by a Partner of its confidentiality obligations under this clause or at law.

23.3 **Notices:** Every notice to be given to a party under, or in connection with, this Agreement (other than those given in accordance with Schedule 3 which, in the event of any inconsistency between that Schedule and this clause 23.3, will be given in accordance with the terms of that Schedule) will be given in writing to the address of that party set out in Schedule 1 or to any other address notified by that party for such purpose from time to time, by:

- (a) personal delivery; or
- (b) mailing by pre-paid post, and will be deemed to be given two Business Days after (but exclusive of) the date of mailing; or
- (c) facsimile transmission, and will be deemed to be given at the time specified in the facsimile transmission report of the facsimile from which the transmission was made which evidences full transmission, free of errors, to the facsimile number of the party given notice, unless that party proves that, contrary to the

transmission report, it was not transmitted, or it was not transmitted in a complete and legible state, to that party's facsimile; or

- (d) email, and will be deemed to be given on the day on which it was despatched provided in each case the computer system used to transmit the communication:
- (i) has received an acknowledgement of receipt to the email address of the person transmitting the communication; or
 - (ii) has not generated a record that the communication has failed to be transmitted.

Notwithstanding any other provision contained in this clause, any notice given after 5pm, or on a day which is not a Business Day, will be deemed to be given at 9am on the next Business Day.

23.4 **Counterparts:** This Agreement may be executed in any number of counterparts (including facsimile or email copies) and provided that every party has executed a counterpart, the counterparts together will constitute a binding and enforceable agreement between the parties.

23.5 **Entire agreement:** This Agreement constitutes the entire agreement, understanding and arrangement (express and implied) between the parties relating to the subject matter of this Agreement and supersedes and cancels any previous agreement, understanding and arrangement relating thereto whether written or oral.

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

23.7 **Further assurance:** Each Partner will make all applications, execute all documents, and do all acts and things necessary to implement and to carry out its obligations under this Agreement.

23.8 **Agreement binding upon successors and assigns:** Except as otherwise specified in this Agreement, this Agreement is binding upon the heirs, executors, administrators or other representatives, successors and assigns of the parties to it.

23.9 **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.

23.10 **Application of the Act:** Where this Agreement is inconsistent with the Act and such inconsistency is not permitted or contemplated by the Act, the terms of the Act apply.

24. DEFINITIONS AND INTERPRETATION

24.1 **Definitions:** In this Agreement, unless the context otherwise requires:

"**Acceding Iwi of Hauraki Member**" means an Iwi of Hauraki Member who has signed or acceded to the:

- (a) Pare Hauraki Collective Redress Deed; and
- (b) relevant Representative Entity documentation.

"**Act**" means the Limited Partnerships Act 2008.

"**Administration Expenses**" has the meaning given in clause 9.2.

"**Administration Expense Contribution**" has the meaning given in clause 4.3.

"**Advisory Committee**" means the advisory committee appointed under clause 15.

"**Additional Contribution**" means an additional contribution of Capital paid to the Limited Partnership by a Limited Partner in addition to the Initial Contribution and any Administration Expense Contribution.

"**Affiliate**" means any entity which in relation to the person or persons concerned is:

- (a) a holding company or a subsidiary of that company or another subsidiary of that holding company; or
- (b) any company, body corporate, trust, person, partnership or limited partnership where 50% or more of the votes exercisable, directly or indirectly, at a meeting or partners meeting, or more than 50% of the profits of which, are controlled by, received by or attributed to, directly or indirectly, such person or persons; or
- (c) any company, body corporate, trust, person, partnership or limited partnership which, directly or indirectly, controls, is controlled by or is under effective control of or with the other person or persons,

and "**Affiliated Limited Partner**" shall be construed accordingly.

"**Agreement**" means this Limited Partnership Agreement together with its Schedules, as amended from time to time.

"**Annual Plan**" means the annual plan of the Limited Partnership in respect of two consecutive Financial Periods set by the General Partner in accordance with clause 8.4.

"**Annual Report**" has the meaning given in clause 10.2.

"**Auditor**" means the auditor of the Limited Partnership from time to time as may be appointed pursuant to clause 10.4.

"**Bill**" has the meaning given in recital B.

"**Board**" means the Directors who number not less than the required quorum, acting together as a board of Directors.

"**Business Day**" means any day of the week other than Saturday, Sunday or a public holiday in Auckland.

"**Call**" means a requirement to pay an amount to the General Partner pursuant to clause 5 in fulfilment or partial fulfilment of a Capital Contribution.

"**Call Notice**" means a notice given in accordance with clause 5.

"**Capital**" means the amounts properly determined by the General Partner with appropriate reference to the Auditors to be in the nature of capital (including capital gains) and available for distribution by the Limited Partnership or already distributed by the Limited Partnership, including the value (calculated in accordance with this Agreement) of any assets of the Limited Partnership distributed in kind.

"Capital Contribution" means, at any time and in respect of a Partner, the amount of Capital which that Partner has contributed or agreed to contribute, as at the relevant date.

"Companies Act" means the Companies Act 1993.

"Conflict of Interest" means an actual or potential conflict of interest between:

- (a) the General Partner, a Limited Partner or any of their respective Affiliates; and
- (b) the Limited Partnership.

"Collective Redress Deed" has the meaning given in Recital **Error! Reference source not found.** and includes any amendments validly made to that deed.

"Default Rate" means 10% per annum.

"Defaulting Partner" has the meaning set out in clause 14.1.

"Deregistration Date" means the date the Limited Partnership is deregistered in accordance with section 97 of the Act.

"Director" means a person appointed as a director of the General Partner in accordance with the constitution of the General Partner.

"Extraordinary Directors' Resolution" means a resolution approved by not less than 75% of Directors present and voting on that resolution.

"Failed Investment" means an investment which does not proceed to conclusion following the investigation of the particular RFR Opportunity or other commercial opportunity not otherwise captured by the RFR Right.

"Financial Period" means:

- (a) the period from the Registration Date to 31 March immediately following the Registration Date; and
- (b) each period thereafter commencing on 1 April and ending on the next 31 March; and
- (c) the period from 1 April immediately preceding the Deregistration Date to the Deregistration Date.

"First Annual Plan" means the annual plan which the Partners agree shall, subject to clause 8.4, prepare as the Annual Plan for the first two Financial Periods following the Registration Date.

"First Commitment Date" means the date for contribution of the Initial Contribution, being [•].

"First Operating Budget" means the operating budget which the Partners agree shall, subject to clause 8.2, prepare as the Operating Budget for the first two Financial Periods following the Registration Date.

"General Partner" means the general partner of the Limited Partnership, being on the date of this Agreement, Pare Hauraki RFR General Partner Limited.

"General Partner Shares" means the shares in the General Partner.

"**GST**" means goods and services tax as defined by the Goods and Services Tax Act 1985.

"**Iwi of Hauraki**" means the collective group comprising the following iwi:

- (i) Hako;
- (ii) Ngāi Tai ki Tamaki;
- (iii) Ngāti Hei;
- (iv) Ngāti Maru;
- (v) Ngāti Paoa;
- (vi) Ngāti Porou ki Hauraki;
- (vii) Ngāti Pūkenga;
- (viii) Ngāti Rāhiri Tumutumu;
- (ix) Ngāti Tamaterā;
- (x) Ngāti Tara Tokanui;
- (xi) Ngaati Whanaunga; and
- (xii) Te Patukirikiri

"**Holding company**" has the meaning given to it in section 5 of the Companies Act.

"**Income**" means all profits, interests, dividends and other benefits of the Limited Partnership properly determined by the General Partner to be in the nature of income (but excluding Capital).

"**Initial Contribution**" means that part of a Limited Partner's initial Capital Contribution as set out in Schedule 1.

"**Investment Expenses**" has the meaning given in clause 9.3

"**Limited Partner**" means any person admitted to the Limited Partnership in accordance with this Agreement and registered as a limited partner for so long as they remain a limited partner, being on the date of this Agreement:

- (a) Hako Tūpuna Trust;
- (b) Ngāi Tai Ki Tāmaki Trust;
- (c) Ngati Hei Iwi Trust;
- (d) Ngāti Maru Rūnanga Trust;
- (e) Ngāti Paoa Trust;
- (f) Ngāti Porou Ki Hauraki Settlement Trust;
- (g) Te Tāwharau o Ngāti Pūkenga Trust;
- (h) Ngāti Rāhiri Tumutumu Trust;
- (i) Ngāti Tamaterā Treaty Settlement Trust;
- (j) Ngāti Tara Tokanui Trust;
- (k) Ngaati Whanaunga Ruunanga Trust; and
- (l) Te Patukirikiri Iwi Trust.

"**Limited Partnership**" means the limited partnership registered pursuant to, and governed by, the Act and this Agreement.

"**Limited Partnership Shares**" means each Limited Partner's respective Partnership Interest expressed as a number of shares calculated pursuant to clause 4.7 and as specified from time to time in the Partnership Register during the term of this Agreement.

"**Losses**" means a loss of Income or Capital.

"**LP Investment**" means an investment made by the Limited Partnership where the RFR Assets are held by the Limited Partnership itself, and all 12 Limited Partners make an

equal Capital Contribution and contribute equally to the Investment Expenses in respect of the particular investment.

"Meeting Rules" means the meeting rules attached as Schedule 2.

"Operating Budget" means the operating budget of the Limited Partnership in respect of two consecutive Financial Periods set by the General Partner in accordance with clause 8.

"Partner" or **"Partners"** means any one or more of the General Partners and the Limited Partners, as the context requires.

"Partnership Assets" means all of the assets of the Limited Partnership including Capital Contributions Called but not yet paid.

"Partnership Interest" has the meaning given to it in the Act.

"Partnership Register" means the register kept in accordance with clause 5.5.

"Person" includes an individual, partnership, limited partnership, firm, company, body corporate, corporation, association, organisation, trust, a state or government or any agency thereof, a municipal, local or regional authority, and any other entity, body of persons or organisation, whether incorporated or not (in each case whether or not having a separate legal personality).

"PPSA" means the Personal Property Securities Act 1999.

"PSGE Trust" means a post settlement governance entity trust established by each iwi.

"Purposes" means the purposes of the Limited Partnership as set out in clause 2.

"Pro Rata" means on a pro rata basis between the Limited Partners, in proportion to their respective Limited Partnership Shares.

"Quarter" means:

- (a) the period from the Registration Date to [•];
- (b) each three-month period thereafter ending on 30 September, 31 December, 31 March or 30 June; and
- (c) the period from the expiry of the immediately preceding Quarter to the Deregistration Date.

"Register" means the register of limited partnerships maintained by the Registrar under section 54(1)(a) of the Act.

"Registrar" means the Registrar of Companies in New Zealand.

"Registration Date" means the date on which the Limited Partnership is registered with the Registrar in accordance with section 51 of the Act.

"Representative Entity" means the post settlement governance entity and/or PSGE Trust for the relevant Iwi of Hauraki Member or, if there is no such Person, the Person for the time being mandated by the Crown to negotiate with the Crown on behalf of that Iwi of Hauraki Member in respect of historical Treaty of Waitangi claims and who is currently conducting such negotiations.

"Resolution of the Limited Partnership" means a resolution of the Limited Partnership consisting of one or more documents in similar form which, unless stated to require unanimous approval of the Limited Partners, is signed by one or more of the Limited Partners who together hold at least 75% of the Limited Partnership Shares (excluding the Limited Partnership Shares of any Defaulting Partner, where that Defaulting Partner is suspended in accordance with clause 14).

"RFR Assets" means assets acquired by the Limited Partnership, or an SPV Entity or a Limited Partner or Partners (including any Related Entity of any of them) pursuant to the RFR Mechanisms.

"RFR Mechanisms" means the mechanisms in respect of the exercise and administration of RFR Opportunities prescribed in Schedule 3.

"RFR Opportunities" means the offer of RFR Assets to the Limited Partnership for acquisition pursuant to the RFR Right and which may include offers of RFR Assets via shared opportunities with other collective groups or investors under an agreement or arrangement identifying Iwi of Hauraki as having such right, whether alone or in conjunction with others.

"RFR Right" means:

- (a) the right of refusal in relation to a disposal of RFR Assets to be conferred directly on the Limited Partnership by the Crown under the Bill; or
- (b) the right of first refusal in relation to a disposal of RFR Assets to be conferred on the Limited Partnership via shared opportunities with other collective groups or investors under an agreement or arrangement identifying the Iwi of Hauraki as having such right, whether alone or in conjunction with others,

as the case may be.

"SPV Entity" has the meaning given to it in Schedule 3, and **"SPV Entities"** shall be construed accordingly.

"Strategic Plan" has the meaning given in clause 7.1.

"Subsidiary" has the meaning given to it in section 5 of the Companies Act.

"Tax" means:

- (a) all forms of taxation, withholding, duties, charges, dues, imposts, levies, rates or other statutory, governmental or local governmental impositions of whatever nature, imposed in New Zealand or elsewhere, including income tax, withholding tax, approved issuer levy, fringe benefit tax, stamp duty, GST, gift duty, customs or excise duties, regional or local taxes, municipal taxes and accident compensation levies; and
- (b) all interest, penalties or fines relating to, or arising in connection with, the imposition of, the non-payment of, or late or under-payment of, any such Tax.

"Terminating Event" means any of the events set out in clause 22.1.

"Transfer" means to assign, transfer, charge, exchange, pledge, encumber, grant security over or otherwise dispose of or grant any participation in.

24.2 **Defined terms relating to RFR Opportunities:** Certain defined terms relating to RFR Opportunities are defined in Rule 1 of Schedule 3.

24.3 **Interpretation:** Unless the context otherwise requires, in this Agreement:

- (a) headings are inserted for convenience only and will be ignored in construing this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) one gender includes the other gender;
- (d) a reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision;
- (e) 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;
- (f) reference to a party, person or entity includes:
 - (i) an individual, partnership, firm, company, corporation, association, trust, estate, state or agency of a state, government or government department or agency, municipal or local authority and any other entity, whether or not incorporated and 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;
- (g) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (h) reference to monetary amounts, money or money's worth are to New Zealand dollars unless in each case specifically stated otherwise;
- (i) references to times of day are to New Zealand times unless in each case specifically stated otherwise;
- (j) the Schedules to this Agreement form part of this Agreement;
- (k) where any word or expression is defined in this Agreement, any other grammatical form of that word or expression has a corresponding meaning;
- (l) reference to a section, clause, subclause, rule, part, schedule or a party is a reference to that section, clause, subclause, rule, part, schedule or party in this Agreement;
- (m) reference to anything of a particular nature following upon a general statement will not in any way derogate from, or limit the application of, the general statement, unless the particular context requires such derogation or limitation;
- (n) any reference to "month" or "monthly" will mean, respectively, calendar month or calendar monthly;
- (o) examples are used by way of illustration for clarification and interpretative purposes only;

- (p) a reference to one person "controlling" another includes where the first person directly or indirectly, whether by the legal or beneficial ownership of share capital, securities or other equity, the possession of voting power, by contract, trust, or otherwise:
- (i) has, or may have, the power to appoint or remove the majority of the members of the governing body of the other person;
 - (ii) controls or has the power, or may have the power, to control the affairs or policies of the other person; or
 - (iii) is in a position to derive more than 50% of the benefit of the existence or activities of the other person;
- (q) including, and similar words, do not imply any limitation.

EXECUTION AS A DEED

**PAE HAURAKI RFR GENERAL
PARTNER LIMITED** as General Partner
by:

Signature of director

Signature of director

Name of director

Name of director

[Iwi of Hauraki PSGEs]

SCHEDULE 1

PARTNER DETAILS

PART A - GENERAL PARTNER

Partner	Address for service of notices	Capital Commitment (NZ\$)	Shares	Initial Contribution (NZ\$)
Pare Hauraki RFR General Partner Limited	[Insert address]	Not applicable	Not applicable	Not applicable

PART B - LIMITED PARTNERS

Partner	Address for service of notices	Total Capital Contribution to date (NZ\$)	Limited Partnership Shares	Initial Contribution (NZ\$)	General Partner Shares
Hako Tūpuna Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāi Tai Ki Tāmaki Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngati Hei Iwi Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Maru Rūnanga Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Paoa Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Porou Ki Hauraki Settlement Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Te Tāwharau o Ngāti Pūkenga Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Rāhiri Tumutumu Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Tamaterā Treaty Settlement Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngāti Tara Tokanui Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Ngaati Whanaunga Ruunanga Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
Te Patukirikiri Iwi Trust	[Insert address]	[Insert]	[1]	[Insert]	[1]
TOTAL		[Insert]	[12]	[Insert]	[12]

SCHEDULE 2

PARTNER'S MEETING RULES

1. Time and Place

All meetings of the Limited Partnership will be held at such time and place as the General Partner may determine.

2. Notice of meetings

2.1 *Period of notice:* At least 10 Business Days' notice must be given for calling a meeting. The calculation of the period of the notice is to be exclusive of the day on which it is deemed to be served, and of the day for which it is given.

2.2 *Notice to Partners:* Notice of every meeting must be given to all Partners. The accidental or inadvertent failure to give notice of a meeting to any Partner does not invalidate the meeting or anything done at the meeting.

2.3 *Content:* A notice must specify the place and appointed time of the meeting, and the general nature of the business to be transacted. It is not necessary to specify the terms of a resolution to be proposed in the notice unless it is proposed that the resolution be passed pursuant to clause 8.4 of this Schedule 2.

2.4 *Waiver of irregularities:* An irregularity in a notice of a meeting is deemed to be waived if all Partners entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Partners agree to the waiver.

2.5 *Proxies:* Each notice must state that a Partner may appoint a proxy to attend the meeting, and to vote in the place of the Partner.

2.6 *Notice of adjourned meeting:* If a meeting of Partners is adjourned for less than 20 Business Days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clauses 2.1 to 2.5 of this Schedule.

3. Proxies

3.1 *Appointment of proxy:* Any Partner may appoint a proxy to attend and vote for the Partner at any meeting, or at any meetings held during any period, if the meeting or the period are specified in the instrument of appointment. A proxy need not be a Partner. Every proxy must be appointed in writing under the hand of the appointor. The instrument appointing the proxy must be deposited at the office of the General Partner (or such other place as may be specified for that purpose in the notice convening the meeting) at least 48 hours before the time for convening the meeting.

3.2 *Rights of proxy:* Every proxy is to have the same rights as the Partner by which the proxy is appointed:

(a) to attend and speak at the meeting; and

(d) to vote, whether on a show of hands or on a poll.

3.3 *Form of proxy:* An instrument appointing a proxy must be in substantially the following form, or such other form as the General Partner will from time to time specify:

Pare Hauraki RFR Limited Partnership

{I}{We} of being a Limited Partner of Pare Hauraki RFR Limited Partnership hereby appoint of or failing {him}{her} of as {my}{our} proxy to vote for {me}{us} on {my}{our} behalf at the meeting of the limited partnership to be held on the day of 2013 (or any adjournment thereof).

Signed this day of 2013

- 3.4 *Exercise of proxy:* A vote given in accordance with the terms of an instrument of proxy is valid despite the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Limited Partnership Share in respect of which the proxy is given, if no written notification of such is received at the office of the General Partner prior to the commencement of the meeting.

4 Method of holding meetings

- 4.1 A meeting of Partners may be held either:

- (a) by a number of Partners, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, communication by which all Partners participating and constituting a quorum can simultaneously hear each other throughout the meeting.

5. Quorum

- 5.1 *Number constituting quorum:* Subject to clause 5.2 of this Schedule, no business is to be transacted at any meeting unless a quorum is present when the meeting proceeds to business. A quorum is a representative of not less than seven Limited Partners having the right to vote at the meeting (present in person or by proxy), excluding a Defaulting Partner, where that Defaulting Partner is suspended in accordance with clause 14.

- 5.2 *Adjournment:* If, within 20 minutes from the time appointed for the meeting, a quorum is not present, the meeting must stand adjourned to the same day of the following week, at the same time and place. If, at the adjourned meeting, a quorum is not present within 20 minutes from the time appointed for the meeting, then the Partners present in person or by proxy will form a quorum.

6. Corporations acting by representative

Any corporation which is a Partner may authorise any person as it thinks fit to act as its representative at any meeting by resolution of its directors or other governing body. Any representative so authorised is to be entitled to exercise the same powers on behalf of that corporation which the representative could exercise if it were an individual Partner. References in these rules to a Partner being present in person is to mean and include a representative appointed by a corporation according to this clause.

7. Chairperson

The Partners present at a meeting must elect one of their number to chair the meeting.

8. Right to attend and speak

The General Partner, the Limited Partners, and the Auditor (or any representative of any of them, provided that the General Partner, each Limited Partner and the Auditor may

each only appoint one representative to attend a meeting of the Partnership) may attend and speak at any meeting of the Partnership on any part of the business of the meeting which concerns them.

9. **Votes**

9.1 *Manner of voting:* In the case of a meeting held in accordance with clause 4.1(a) of this Schedule, a resolution put to the vote of the meeting is to be decided on a show of hands, unless a poll is demanded by the chairperson or by any Partner present in person or by proxy. If a poll is demanded or required, it is to be taken in the manner as the chairperson directs.

9.2 In the case of a meeting held in accordance with clause 4.1(b) of this Schedule, unless a poll is demanded, voting shall be by the Partners signifying individually their assent or dissent by voice.

9.3 *Rights on voting:* Each Partner (other than a Defaulting Partner, where that Defaulting Partner is suspended in accordance with clause 14) is to have one vote for each of its Limited Partnership Shares. A Partner need not cast all the votes of that Partner, and may cast individual votes in different ways as concerns any proposed resolution.

9.4 *No casting vote:* In the case of an equality of votes on any question, the question must be deemed not to have been carried and the chairperson is not to have a second or casting vote.

9.5 *Removal or approval of Auditors:* Motions to remove or approve the Auditor will bind the General Partner if they are determined by resolutions passed by Limited Partners representing over 75% of the total of the Limited Partnership Shares.

9.6 *Powers of meetings:* A meeting will have the following powers by resolutions passed by Limited Partners (excluding any Defaulting Partner where that Defaulting Partner is suspended in accordance with clause 14 of the Agreement) representing 100% of the total of the Limited Partnership Shares (excluding the Limited Partnership Shares of any Defaulting Partner where that Defaulting Partner is suspended in accordance with clause 14 of the Agreement):

- (a) power to waive any breach of this Agreement by the General Partner or any Limited Partner;
- (b) power to sanction and cause any alteration, release, modification, waiver, variation, compromise or arrangement in respect of the rights of Partners; and
- (c) to approve an amendment to this Agreement under clause 21.1(c) of the Agreement.

Subject to clause 17.3 of the Agreement, a resolution passed at a meeting of Partners will be binding on all Partners, whether present or not, and all Partners will be bound to give effect to it. Any decision that requires a Resolution of the Limited Partnership may alternatively be decided at a Partners' meeting in accordance with this Schedule 2.

9.7 **Written resolution:** A resolution in writing signed or assented to by all Partners is as valid and effective as if passed at a meeting of the Limited Partnership duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in similar form, each signed or assented to by one or more Partners. A copy of the resolution must be entered into the minute book of the Partnership.

10. **Minutes**

The General Partner will cause minutes of all proceedings of meetings to be entered into books kept for that purpose at the office of the General Partner. The books must be open at all reasonable times for inspection by any Partner. The minutes of any meeting must be confirmed either at the meeting to which they relate, or at a subsequent meeting, and must be signed by the chairperson of the meeting at which the minutes are confirmed. On production, the signed minute book is to be conclusive evidence of the proceedings recorded in it, and of their regularity, in the absence of manifest error.

SCHEDULE 3

RFR MECHANISM

25. DEFINED TERMS AND INTERPRETATION

25.1 In this Schedule 3, unless the context otherwise requires:

References to Rules are to the Rules of this Schedule 3.

References to sections and definitions in the Bill are to the relevant sections and definitions (re-numbered and/or amended as applicable) as they appear in the Pare Hauraki Collective Redress Act 2017.

"**Acceptance Notice**" means a notice of acceptance of a Disposal Offer by a Limited Partner issued in accordance with Rule 28.2.

"**Collective Funding Requirement**" means the total capital contributions required to realise a given RFR Opportunity.

"**Collective Funding Right**" means the right of each Limited Partner to fund (either directly or indirectly) up to one twelfth of the capital contributions required to realise a given RFR Opportunity as described in Rule 30.1.

"**Disposal Offer**" means an offer by an RFR Assets Owner to dispose of RFR Assets required to be provided to the General Partner pursuant to the Draft Bill.

"**Bill**" has the same meaning as in the Collective Deed.

"**Good Faith Decline**" means notice received from any Limited Partner during a Preliminary Notice Period in accordance with Rule 27.2.

"**Offer Consideration Period**" means the period of time between receipt by the General Partner of a Disposal Offer in respect of a RFR Opportunity and the expiry date of that Disposal Offer.

"**Participating Limited Partners**" means the Limited Partners that provide notice to the General Partner and the remaining Limited Partners under Rule 30.1 of their intention to exercise (either directly through that Limited Partner, or indirectly through a Related Entity nominated by the Limited Partner) their respective Collective Funding Rights in whole or in part, and includes any nominated Related Entity of that Limited Partner.

"**Preliminary Notice**" means notice of the potential disposal of RFR Assets required to be provided to the General Partner by an RFR Assets Owner pursuant to the Draft Bill.

"**Preliminary Notice Period**" means the period of time between receipt by the General Partner of the Preliminary Notice and the Disposal Offer respectively.

"**Related Entities**" means any Limited Partner, any limited partner of a Limited Partner and an Affiliate of any of them.

"**RFR Assets Owner**" has the same meaning as in the Bill.

"**SPV Entity**" means a special purpose entity that is established by such Limited Partners (or their Related Entities) who are funding the acquisition of the relevant RFR Asset to hold or participate in a particular RFR Asset or group of RFR Assets and, for

the avoidance of doubt, may include a subsidiary of the Limited Partnership, where agreed by all Limited Partners and where all Limited Partners are participating equally in the relevant investment.

"SPV Partnership" means an SPV Entity that is a limited partnership formed under the Act, having the characteristics set out in Rules 29.7 and 29.9, and having the General Partner as its general partner (or, if agreed by the Participating Limited Partners, a special purpose general partner) and such Limited Partners (or their Related Entities) as limited partners who are funding the acquisition of, or participation in, the relevant RFR Asset.

"Third Party Funder" means any party other than a Limited Partner (directly or indirectly) that directly contributes to a Collective Funding Requirement.

26. NOTICES

- 26.1 In recognition of the strict statutory timeframes provided for the consideration of RFR Opportunities, the General Partner and the Limited Partners shall act in good faith to ensure that all notices to be provided under this Schedule 3 are given as soon as is reasonably practicable in the circumstances.
- 26.2 All notices must be in writing and must be served by personal delivery or by facsimile or by email.
- 26.3 A notice is deemed to have been served:
- (a) in the case of personal delivery, when received by the addressee;
 - (b) in the case of facsimile transmission, when sent to the addressee's facsimile number; or
 - (c) in the case of email, when acknowledged by the addressee by return email or otherwise in writing.
- 26.4 A notice shall be valid if given by any director or other authorised representative of the party giving the notice.

27. PRELIMINARY NOTICES

- 27.1 The General Partner shall provide each Limited Partner with a copy of any Preliminary Notice received by the General Partner.
- 27.2 If during a Preliminary Notice Period any Limited Partner decides that it would not in any event wish to be provided with the opportunity to consider any subsequent RFR Opportunity arising in respect of the relevant RFR Assets then that party may give notice to that effect to the General Partner. Any such notice shall be binding on the relevant Limited Partner notwithstanding that the General Partner's assessment of the likely asking price for the relevant RFR Assets provided pursuant to Rule 27.1 and information contained in the Preliminary Notice may differ significantly from the offer terms and other information contained in any subsequent Disposal Offer.
- 14.2 When providing a Disposal Offer to the Limited Partners, the General Partner shall advise the Limited Partners of the date by which the Limited Partners must have notified the General Partner of its decision to participate in the RFR Opportunity.

28. DISPOSAL OFFER

- 28.1 The General Partner shall provide each Limited Partner with a copy of any Disposal Offer received by the General Partner together with notice of any Good Faith Decline received in respect of that RFR Opportunity.
- 28.2 Where a Limited Partner wishes to accept a Disposal Offer, it shall issue an Acceptance Notice to the General Partner as soon as possible and no later than 5 Business Days' after receiving a copy of the Disposal Offer from the General Partner ("**Acceptance Period**"). Any Acceptance Notice in relation to a Disposal Offer shall include notice of whether the Limited Partner itself wishes to participate in the acquisition of RFR Assets or whether the relevant Limited Partner wishes to nominate a Related Entity.
- 28.3 If a Limited Partner fails to issue an Acceptance Notice to the General Partner within the Acceptance Period, that Limited Partner will be deemed to have declined the Disposal Offer.
- 28.4 Where the Disposal Offer permits acceptance of less than all of the RFR Assets offered the notice of acceptance must also provide sufficient details as to what portion of the RFR Assets the Limited Partner wishes to acquire.
- 28.5 Where Rule 28.2 applies, if more than one Limited Partner issues an Acceptance Notice in respect of such Disposal Offer within the period provided such Limited Partners shall be required to agree between themselves as to the shares of each Limited Partner in the RFR Assets, but if no agreement can be reached the Limited Partners must contribute equally to the acquisition of the relevant RFR Assets and (where the RFR Assets consist of land) shall hold such RFR Assets in an SPV Entity unless agreed otherwise by all of the Limited Partners.

29. STRUCTURE OF RFR OPPORTUNITIES

- 29.1 RFR Opportunities may be realised by one or more Limited Partners through an SPV Entity that is established by them (or their Related Entities) to hold the assets that are the subject of particular RFR Opportunities. Realisation of RFR Opportunities will be on a per Disposal Offer basis or, at the discretion of the General Partner, on the basis of groupings of RFR Assets. RFR Opportunities may be made (directly or indirectly) by and through the Limited Partnership and/or the General Partner if all Limited Partners agree pursuant to clause 2.5 of the Agreement.
- 29.2 The parties recognise that, as core principles of the Limited Partnership ("**Core Principles**"):
- (a) not all Limited Partners are required to participate in each RFR Opportunity that is the subject of a Disposal Offer; and
 - (b) the Limited Partners wish to ensure that the economic rights and obligations of each Limited Partner with respect to any RFR Opportunity, and the Tax treatment of Limited Partners with respect to that RFR Opportunity, are aligned.
- 29.3 To give effect to the Core Principles, and unless all Limited Partners agree otherwise, on each occasion that a RFR Opportunity arises an SPV Entity will be established in respect of that RFR Opportunity.
- 29.4 Where all Limited Partners agree pursuant to clause 1.3 of the Agreement, and the specific RFR Opportunity is invested in by all Limited Partners on an equal one twelfth basis, the RFR Opportunity may be realised through the Limited Partnership itself and/or the General Partner.

- 29.5 Third Party Funders may participate in an SPV Entity with the prior written agreement of, and on terms agreed by, all the Participating Limited Partners. The identity and details of any Third Party Funder must be disclosed to all the Participating Limited Partners.
- 29.6 Nothing in this Schedule is intended to create a partnership at law or any agency or similar relationship between:
- (a) the Limited Partnership;
 - (b) any Partners;
 - (c) any SPV Entity; and/or
 - (d) any Related Entity of any of them,

and no party will do anything to create such a partnership or relationship.

SPV Entities

- 29.7 On each occasion that the preferred SPV Entity structure is a SPV Partnership, the General Partner shall, subject to the direction of the Participating Limited Partners, prepare all appropriate documentation to establish the SPV Partnership. Each SPV Partnership shall be constituted by a limited partnership agreement which contains substantially the same terms and conditions as this Agreement, subject to such amendments as may be reasonably required in the circumstances (and subject always to the Core Principles).
- 29.8 If, in relation to any proposed RFR Opportunity the proposed RFR Opportunity may be realised through a previously established SPV Entity if it is economical to do so in the circumstances and will give effect to the Core Principles and provided that the previously established SPV Entity is held by the same Participating Limited Partners, in the same proportions, as they will hold the proposed RFR Opportunity.
- 29.9 Each SPV Partnership will be managed by the General Partner or a special purpose general partner company, established by the Participating Limited Partners (or their Related Entities), and, in the case of a special purpose general partner company, generally owned by them in the same proportions as the SPV Entity.

Majority Holdings

- 29.10 For the purposes of this Schedule 3, unless otherwise agreed in writing by all the Limited Partners, where an entity (either a Limited Partner or its Related Entity) will, as a result of its proposed investment:
- (a) control a limited partner and/or investor in the SPV Entity, that entity will be entitled to make decisions as a Participating Limited Partner in respect of that investment (in proportion to its investment in that SPV Entity); and
 - (b) control an SPV Entity, that entity will, in consultation with the other Participating Limited Partners, prepare all appropriate documentation to establish the relevant SPV Entity provided that all Participating Limited Partner's must agree to the terms of such documentation prior to the establishment of the SPV Entity.

30. FUNDING FOR RFR OPPORTUNITIES

30.1 Each Limited Partner shall have a primary right to fund up to one twelfth of a Collective Funding Requirement. Each Limited Partner shall in good faith provide notice to the General Partner and the remaining Limited Partners as soon as is reasonably practicable following the commencement of the consultation process pursuant to Rule 31.1. Such notice must:

- (a) detail what portion (if any) of the Collective Funding Requirement the relevant Limited Partner wishes to exercise;
- (b) specify whether that investment will be made through a Related Entity in respect of the RFR Opportunity under consideration; and
- (c) specify the following details:
 - (i) the identity of any Related Entity (including any Affiliates comprising that Related Entity) specified in (b) above, that the investment will be made through;
 - (ii) details of any debt or equity funding arrangements entered into (or to be entered into) by that Limited Partner or any Related Entity in order to provide funding to participate in that RFR Opportunity; and
 - (iii) any other details which the other Participating Limited Partners or the General Partner may reasonably require.

30.2 Any balance of the Collective Funding Requirement not taken up by a Limited Partner shall be offered as a secondary right on a pro rata basis to the other Participating Limited Partners, in the proportions which they have elected to participate in the relevant RFR Opportunity, with the General Partner and the Participating Limited Partners endeavouring to secure funding from a Third Party Funder (to be secured only against any SPV Entity and not the Limited Partnership) in respect of any shortfall in the total Collective Funding Requirement.

30.3 If the General Partner and the Limited Partners are unable to secure sufficient commitments to meet the relevant Collective Funding Requirement on or before the date being ten (10) Business Days prior to expiry of the Disposal Offer then the General Partner shall provide the Limited Partners with notice that, for the balance of the period which the Disposal Offer has to run, the Disposal Offer shall be open for acceptance by each individual Limited Partner in accordance with Rule 28.2.

30.4 Except for those costs arising in connection with receiving, and forwarding, of RFR notices to each Limited Partner, and providing notices of acceptance or decline to the RFR Assets Owners, the General Partner shall not be required to pay any fees, costs or expenses associated with evaluating, investigating and progressing an RFR Opportunity or otherwise facilitating the RFR Mechanism ("**RFR Costs**"). RFR Costs are to be Investment Expenses for the purposes of clause 9.3 and will be paid by each participating Limited Partner in proportion to their investment in the relevant RFR Asset.

31. PROCESS FOR RFR OPPORTUNITIES

31.1 As soon as is reasonably practicable following circulation of notice by the General Partner in respect of a Disposal Offer relating to a RFR Opportunity pursuant to Rule 28.1, the General Partner shall consult with the Limited Partners regarding the funding that will be required to realise the relevant RFR Opportunity (having regard to the ability of the Limited Partners to make the required contribution while balancing this

consideration against prudent levels of debt funding) and the nature of any SPV Entity proposed to be established in relation to the particular RFR Opportunity (and the General Partner shall, subject to the direction of the Participating Limited Partners, prepare and provide those Limited Partners with a copy of the documentation required to establish any SPV Entity).

- 31.2 The consultation process described in the preceding Rules shall be carried out by all parties with due consideration at all times to the time frames governing the relevant Offer Consideration Period.
- 31.3 Subject to Rule 31.4 and provided that the Disposal Offer has not been earlier withdrawn by the RFR Assets Owner and that the expiry date under the Disposal Offer has not passed, upon receipt of sufficient commitments to meet the relevant Collective Funding Requirement to the satisfaction of the General Partner and Participating Limited Partners (as confirmed to the General Partner in writing) the General Partner shall forthwith give notice to the RFR Assets Owner:
- (a) accepting the Disposal Offer and (if applicable) specifying the purchase price to be paid for the RFR Assets; and
 - (b) (where formed) nominating the SPV Entity (if any) to receive the transfer of the relevant RFR Assets in accordance with [•] of the Bill.
- 31.4 The General Partner shall not be obliged to give notice to the RFR Assets Owner accepting the Disposal Offer under Rule 31.3 unless and until, where the RFR Assets are to be acquired by an SPV Entity (or, where the relevant SPV Entity has yet to be formed), the Participating Limited Partners and any Third Party Funders have provided the General Partner with sufficient assurances in a form satisfactory to the General Partner at the General Partner's absolute discretion with regards an indemnity on the part of the SPV Entity (or Participating Limited Partners and any Third Party Funders, where appropriate) in respect of the ongoing liability of the General Partner under the contract to be formed in accordance with [•] of the Bill as made express in [•] of that Bill.
- 31.5 The Participating Limited Partners and the relevant general partner shall, within five (5) Business Days of demand by the General Partner, use all reasonable endeavours to execute all documents required to establish an SPV Entity and take all reasonable steps and do all reasonable things to constitute an SPV Entity or other special purpose entity.