

**WHENUA HAUMI ROROA O TĀMAKI MAKĀURAU
GENERAL PARTNER LIMITED**

General Partner

MARUTUAHU ROPU LIMITED PARTNERSHIP

NGATI WHATUA ROPU LIMITED PARTNERSHIP

WAIOHUA TAMAKI ROPU LIMITED PARTNERSHIP

Limited Partners

LIMITED PARTNERSHIP AGREEMENT

ESTABLISHING THE

WHENUA HAUMI ROROA O TĀMAKI MAKĀURAU LIMITED PARTNERSHIP

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PARTIES

WHENUA HAUMI ROROA O TĀMAKI MAKĀURAU GENERAL PARTNER LIMITED

("General Partner")

MARUTUAHU ROPU LIMITED PARTNERSHIP

NGATI WHATUA ROPU LIMITED PARTNERSHIP

WAIOHUA TAMAKI ROPU LIMITED PARTNERSHIP

("Limited Partners")

INTRODUCTION

- A. 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.
- B. The Limited Partnership is to receive from the Crown and administer the right of first refusal in relation to the Crown settlement of historical claims of various iwi and hapū over shared interests in the Auckland area to be conferred on or offered to the Limited Partnership under the [Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Bill ("**Bill**")].
- C. [The Tāmaki Collective and the Crown signed a Framework Agreement on 12 February 2010 and a Record of Agreement on 5 November 2011. On 7 June 2012 the Tāmaki Collective and the Crown initialled a Deed of Settlement based on these agreements ("**Deed of Settlement**").]
- D. [The Deed of Settlement is to be taken to the members of each signatory hapū and iwi for ratification, and will be given effect by the Bill.]

[Background to settlement and references to legislation will be updated over time.]

IT IS AGREED

1. PURPOSE OF LIMITED PARTNERSHIP

1.1 **Purposes:** The purposes of the Limited Partnership ("**Purposes**") are to:

- (a) exercise and administer the RFR Right in accordance with the provisions of Schedule 3 to this Agreement;
- (b) provide a mechanism for collective investment on a proportionate asset by asset basis;

- (c) provide a mechanism for collective investment on a differential asset by asset basis through the establishment of entities referred to as "**SPV Entities**";
- (d) enter into any agreements and/or support the introduction of relevant legislation;
- (e) 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; and
- (f) otherwise act for the benefit of the Limited Partners in respect of the RFR Right and the investments which flow from it.

1.2 **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. ESTABLISHMENT AND DURATION OF LIMITED PARTNERSHIP

2.1 **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.

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

2.3 **Name:** The name of the Limited Partnership is to be Whenua Haumi Roroa o Tāmaki Makaurau 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).

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

- (a) registered office of the Limited Partnership is to be at **[Insert registered office]** in **[Insert place]** (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 **[Insert address for service]** in **[Insert place]** (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).

2.5 **Duration:** The parties agree that:

- (a) prior to the Registration Date, this Agreement (other than this clause 2.5) is of no legal effect and there is no partnership between any of the Partners;
- (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) the Limited Partnership will terminate, and there will cease to be a partnership between the Partners, on and from the Deregistration Date.

2.6 **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.

3. CAPITAL CONTRIBUTIONS

3.1 **Each Partner to contribute Capital:** Each Partner will contribute its Capital Commitment to the Limited Partnership, at the times and in the manner specified by this Agreement.

3.2 **Nature of Capital Commitments:** Each Partner:

- (a) must contribute to, and pay, its equal one third share of all amounts required to meet its share of the Administration Expenses of the Limited Partnership; and
- (b) must contribute to, and pay, its agreed proportion of the Investment Expenses associated with any RFR Opportunity that is offered to the Limited Partners and which that Limited Partner elects to participate in.

3.3 **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.

3.4 **No interest payable:** No interest is payable to Partners on their Capital Contributions.

4. CALLS

4.1 **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 Affiliates) and in which no other person may hold shares. On the date of this Agreement the General Partner Shares will be held equally between each of the Limited Partners (or their nominated Affiliates).

4.2 **General Partner may call for Uncalled Capital:** The General Partner may, from time to time, require any Partner to make a payment to the Limited Partnership in partial or full payment of its Capital Commitment. The relevant Partner will pay each Call in accordance with the terms set out in the Call Notice.

4.3 **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.

- 4.4 **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.
- 4.5 **Register:** The General Partner will keep and maintain a register that records the Partnership Interests 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, Partnership Interests or Capital Contributions.
- 4.6 **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 Interest is prima facie evidence that legal title to the Limited Partnership Interest vests in that person.
- 4.7 **No new Limited Partners:** No other person may be admitted as a limited partner unless that person is party to the [Deed of Settlement] and the terms of their admission have been approved by the General Partner and each of the Limited Partners.
- 4.8 **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 10) until the termination of the Limited Partnership in accordance with clause 20 of this Agreement; or
 - (b) Transfer any of its Partnership Interest until that Partner carries out an assignment in accordance with clauses 11 or 12 of this Agreement.

5. RIGHT OF FIRST REFUSAL

- 5.1 **Right of First Refusal:** The General Partner will exercise and administer the RFR Right and manage any assets held by the Limited Partnership on behalf of the Limited Partners in accordance with the provisions of Schedule 3, which shall apply in respect of the RFR Right notwithstanding any other provision in this Agreement.

6. STRATEGIC PLANS

- 6.1 **General Partner to prepare Strategic Plans:** In accordance with this clause 6, the General Partner shall prepare no later than two years after the Registration Date and update not less than every three 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) the performance targets and measurements by which performance of the Limited Partnership may be judged;
 - (d) the manner in which it is proposed that projected income shall be dealt with;
 - (e) any proposals for the ongoing management of the Partnership's Assets having regard to the interests of all Limited Partners;

- (f) the policies that are to apply in respect of the preparation and adoption of Operating Budgets and Annual Plans; and
- (g) such other prudential requirements as the General Partner deems appropriate.

6.2 **Limited Partners to discuss Strategic Plans:** The General Partner shall arrange for Strategic Plans prepared in accordance with clause 6.1 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 6.1.

7. OPERATING BUDGETS AND ANNUAL PLAN

7.1 **First Operating Budget:** The Partners agree to adopt the First Operating Budget set out in Schedule 4, which shall apply in respect of the first and second Financial Periods following the Registration Date.

7.2 **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, without limitation:

- (a) a budget of Administration Expenses for the relevant Financial Periods;
- (b) the amount of the Capital Commitment that will be required from each Limited Partner in respect of the relevant Financial Periods (being one third of the aggregate amount of all Administration Expenses); and
- (c) 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.

7.3 **First Annual Plan:** The Partners agree to adopt the First Annual Plan set out in Schedule 5, which shall apply in respect of the first and second Financial Periods following the Registration Date.

7.4 **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, without limitation:

- (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;
- (c) the Limited Partnership's focus and objectives to execute the Strategic Plan for the relevant Financial Periods; and
- (d) any performance targets and/or measurements by which the performance of the Limited Partnership may be reviewed in respect of the relevant Financial Periods.

7.5 **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.

7.6 **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 7.2 and an Annual Plan prepared under clause 7.3 before the commencement of the relevant Financial Period, and thereafter must adopt and implement the relevant Operating Budget and Annual Plan.

7.7 **Peer review:**

(a) Where:

- (i) a Director is entitled to vote on the approval of an Operating Budget in accordance with clause 7.6; and
- (ii) the Board resolved by a simple majority to approve the relevant Operating Budget; and
- (iii) the Director cast the votes which are exercisable by that Director (under clause 14.11) against the resolution to approve the relevant Operating Budget,

the resolution to approve the Operating Budget shall be deemed not to have been passed and the proposed Operating Budget 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 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 review the proposed Operating Budget to determined whether it is reasonable having regard to the anticipated activities of the Limited Partnership during the period covered by the Operating Budget.
- (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 having regard to the independent accountant's report and shall endeavour to agree unanimously upon the Operating Budget (adjusted, where necessary, to take account of the independent accountant's report). If the Board is unable to reach such agreement the Operating Budget shall be adjusted to reflect the report and that adjusted Operating Budget shall be deemed to have been adopted.

7.8 **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 of the General Partner.

8. ALLOCATION OF EXPENSES, LIABILITIES, PROFITS AND LOSSES

8.1 **General Principle:**

- (a) As a general principle, the Partners agree that:
 - (i) Administration Expenses will be borne by the Limited Partnership; and
 - (ii) to the extent that Capital Commitments are Called to fund Administration Expenses, such Calls shall be levied on an equal basis as between the Limited Partners; and
 - (iii) Investment Expenses will be borne by the Participating Limited Partners in proportion to their relevant interest in the relevant RFR Asset (whether that interest is held through the Limited Partnership or through a SPV Entity).
- (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.

8.2 **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 operating the Limited Partnership, including reporting, regulatory, accounting and legal costs and the costs of the Limited Partnership's administration.
- (b) All day-to-day overheads and operating costs of the General Partner, including compensation for employees, directors' remuneration, rent, utilities, office expenses and any other incidental operating expenses.
- (c) The costs of the General Partner undertaking a preliminary assessment of each RFR Opportunity and the costs of operating the RFR mechanisms set out in Schedule 3.
- (d) 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 7.
- (e) All costs and expenses (including GST) incurred in relation to the production and distribution of the reports and accounts referred to in clause 9 and any valuations or certifications required pursuant to this Agreement, including the fees of the Auditors.
- (f) The General Partner's expenses associated with the formation and establishment of the Limited Partnership, including (but not limited to) the fees and expenses of the legal, taxation and accounting advisers engaged by the General Partner to assist with such formation and establishment and with the preparation of this Agreement.

8.3 **Investment Expenses:** The following categories of expenses shall be deemed to be "**Investment Expenses**":

- (a) All fees, costs and expenses incurred in evaluating and progressing a RFR Opportunity (including due diligence, reporting, regulatory, accounting and legal costs), following any preliminary assessment of a RFR Opportunity by the General Partner, whether or not that a transaction involving that RFR Opportunity is completed successfully.

(b) All fees, costs and expenses incurred in investigating a RFR Opportunity (including legal, accounting and other costs involved in completing a transaction that is the subject of a RFR Opportunity).

8.4 **Determination of Expenses:** The General Partner may determine which expenses are Administration Expenses and which expenses are Investment Expenses in accordance with clauses 8.2 and 8.3 and such determination will be final and binding.

8.5 **Payments to General Partner:** To the extent that any payment to the General Partner under this clause 8 constitutes a distribution for the purposes of the Act, that payment will be subject to clause 10.2.

8.6 **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 8.1 to 8.5 above, all Income and Capital arising and Losses accruing must be allocated to the Limited Partners who are not Defaulting Partners, on a pro rata basis (by reference to their respective Capital Contribution).

8.7 **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.

8.8 **Accounts:** Subject to the Act, and clause 9, 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 10.2.

9. ACCOUNTS, REPORTS AND AUDITORS

9.1 **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 principles. The General Partner shall cause such accounts to be audited by the Auditors.

9.2 **Annual Report:** The General Partner must prepare an Annual Report of the Limited Partnership in respect of each Financial Period which must include, without limitation:

(a) a set of the audited financial statements prepared in accordance with clause 9.1, 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.

9.3 **Reports:** In addition to clauses 9.1 and 9.2, 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.

9.4 **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 18 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, or by a Resolution of the Limited Partnership or a resolution at a Limited Partners' meeting in accordance with clause 18.

10. DISTRIBUTIONS

10.1 **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.

10.2 **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.

10.3 **Allocation:** Distributions made pursuant to this Agreement must be in accordance with the allocation of Income and Capital made to a Partner under clause 8.

- 10.4 **Interim Distributions:** The General Partner may 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 8, 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 10.4(a), that distributions made pursuant to clause 10 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.

11. NO ASSIGNMENT BY GENERAL PARTNER

- 11.1 **No assignment by General Partner:** The General Partner shall not (other than by way of an assignment of its rights or interests as general partner of the Limited Partnership to an Affiliate) voluntarily dissolve or withdraw as the General Partner without the approval of a Resolution of the Limited Partnership or a resolution at a Limited Partners' meeting in accordance with clause 18. No such dealing shall be valid or effective without such consent.

12. NO ASSIGNMENT BY LIMITED PARTNERS

- 12.1 **No assignment by Limited Partners:** No Limited Partner may directly or indirectly Transfer all or any part of its Limited Partnership Interest 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 the ultimate beneficial interest in respect of a Limited Partner, whether voluntary or involuntary.

13. DEFAULT BY PARTNER

- 13.1 **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 13.2 to 13.5 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.
- 13.2 **General Partner's rights:** In the circumstances referred to in clause 13.1, the Defaulting Partner will have no right, unless the General Partner otherwise determines, to vote at any meeting of the Limited Partnership. In addition, 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 as concerns the Defaulting Partner:

- (a) to suspend all or some of the Defaulting Partner's rights under this Agreement (including, without limitation, the right to vote at a meeting of the Limited Partnership and its right to participate in any Individual RFR Opportunity);
- (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, without limitation, any reimbursement due under clause 13.2(e), and any default interest due under clause 13.3);
- (c) to charge the Defaulting Partner default interest in accordance with clause 13.3;
- (d) to enforce, or take steps to enforce, the security interest in the property of the Defaulting Partner created under clause 17;
- (e) 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; and/or
- (f) to bring a claim against the Defaulting Partner pursuant to clause 13.5.

13.3 **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.

13.4 **No participation:** A Defaulting Partner may not participate in any RFR Opportunity and may not contribute any Capital Contribution to an RFR Opportunity (including, for the avoidance of doubt, both Individual RFR Opportunities and Collective RFR Opportunities) until the date of payment in full, but may never be removed from the Limited Partnership.

13.5 **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.

14. GENERAL PARTNER BOARD PROCEDURE

14.1 **Third schedule to Companies Act not to apply:** The provisions of the third schedule to the Companies Act (relating to proceedings of a board) do not apply to the Board of the General Partner, except to the extent expressly incorporated in this clause 14.

- 14.2 **Limited Partner not to take part in management:** No Limited Partner shall be entitled to participate in, purport to participate in, or interfere with, the management of the Limited Partnership, except as permitted by the Act or as expressly provided for in this Agreement. No business may be transacted at any meeting of the Board 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.
- 14.3 **Alternative forms of meeting:** A meeting of the Board may be held either:
- (a) by a number of the Directors 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 Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 14.4 **Procedure:** Except as provided in this clause 14, the Board may regulate its own procedure.
- 14.5 **Convening of meetings:** A Director, or an employee of the General Partner at the request of a Director, may convene a meeting of the Board by giving notice in accordance with clause 14.6.
- 14.6 **Notice of meeting:** The following provisions apply in relation to meetings of the Board except where otherwise agreed by all Directors in relation to any particular meeting or meetings:
- (a) Not less than five Business Days' notice of a meeting of the Board shall be given to each Director (other than a Director who has waived that right).
 - (b) Notice to a Director of a meeting of the Board may be:
 - (i) given to the Director in person by telephone or other oral communication;
 - (ii) delivered to the Director;
 - (iii) posted to the address given by the Director to the General Partner for such purpose;
 - (iv) sent by facsimile transmission to the facsimile telephone number given by the Director to the General Partner for such purpose; or
 - (v) sent by electronic means in accordance with any request made by the Director from time to time for such purpose.
 - (c) It is not necessary to give notices of meetings to an alternate Director, unless the Director who appointed that person has given written notice to the General Partner requiring that such notices be given.
 - (d) A notice of meeting shall:
 - (i) specify the date, time and place of the meeting; and
 - (ii) in the case of a meeting by means of audio, or audio and visual, communication, specify the manner in which each Director may participate in the proceedings of the meeting; and

- (iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all of the Directors or is impracticable in any particular circumstances.
- (e) A notice of meeting given to a Director pursuant to this clause is deemed to be given:
 - (i) in the case of oral communication, at the time of notification;
 - (ii) in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;
 - (iii) in the case of posting, three days after it is posted;
 - (iv) in the case of facsimile transmission, when the General Partner receives a transmission report by the sending machine which indicates that the facsimile was sent in its entirety to the facsimile telephone number given by the Director;
 - (v) in the case of electronic means, at the time of transmission.
- (f) If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with clause 14.6(d) but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.

14.7 **Waiver of notice irregularity:** An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during or after the meeting) to the waiver.

14.8 **Quorum:** A quorum for a meeting of the Board is four Directors, provided that there is at least one Director appointed by each Limited Partner present at the meeting. No business may be transacted at a meeting of Directors if a quorum is not present.

14.9 **Lack of quorum:** If within 30 minutes after the time appointed for a meeting of the Board a quorum is not present the meeting is adjourned for 10 Business Days to the same time and place unless otherwise agreed by all Directors. At least five Business Days' notice of the adjourned meeting must be given, and the notice must include a statement that it is given pursuant to this clause. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting the Director or Directors present are a quorum.

14.10 **Chairperson:** The Directors may elect one of their number as chairperson of the Board and determine the period for which he or she is to hold office. If no chairperson is elected or if, at a meeting of the Board, the chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting.

14.11 **Voting:** Each Director has the number of votes equivalent to the Capital Contributions of the Limited Partner which elected that Director in accordance with the constitution of the General Partner, as illustrated by the following formula:

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

"A" being the number of votes of each Director;

"B" being the total Capital Contributions of the Limited Partner that appointed the relevant Director at the time of the vote; and

"C" being the number of Directors appointed by the Limited Partner that are present at the meeting of the Board.

The chairperson does not have a casting vote. A resolution of the Board is passed if it is agreed to by a simple majority of the votes of those Directors entitled to vote and voting on the question. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from or votes against, or expressly abstains from voting on, the resolution at the meeting.

- 14.12 **Resolution in writing:** A resolution in writing signed or assented to by all the Directors is as valid and effective as if passed at a meeting of the Board 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 Directors. A copy of any such resolution shall be entered in the records of the General Partner.
- 14.13 **Committees:** A committee of Directors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this clause 14 relating to proceedings of Directors apply, with appropriate modification, to meetings of a committee of Directors.
- 14.14 **Validity of actions:** The acts of a person as a Director are valid even though the person's appointment was defective or the person is not qualified for appointment.
- 14.15 **Minutes:** The Board shall ensure that minutes are kept of all proceedings at meetings of the Board. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

15. PARTNERS' RIGHTS AND DUTIES

- 15.1 **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) has the power and authority to do all things necessary to carry out the Purposes of the Limited Partnership;
 - (b) must devote as much of its time and attention as is reasonably required for the management of the business of the Limited Partnership;
 - (c) 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;
 - (d) must ensure that all financial statements required by the Act are completed and signed; and
 - (e) must operate the Limited Partnership in accordance with this Agreement.
- 15.2 **Authority and Powers:** Without prejudice to the generality of clause 15.1, in respect of the Purpose, 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 including:

- (a) to open, maintain and close bank accounts and custodian accounts in the name of the Limited Partnership and to draw cheques and other orders for the payment of monies on behalf of the Limited Partnership;
- (b) to enter into, make and perform such contracts, agreements and other undertakings and to do all such other acts as it may deem necessary and advisable for or as may be incidental to the conduct of the business of the Limited Partnership;
- (c) to cause the Limited Partnership to borrow money in relation to a Collective RFR Opportunity, but only to the extent permitted by Rule 9 of Schedule 3 or as otherwise approved by a unanimous resolution of the Board of the General Partner. In connection with such borrowings, the General Partner may cause the Limited Partnership to make interest payments and may make, issue, accept, endorse and execute promissory notes, drafts, bills of exchange, guarantees and other instruments and evidences of indebtedness, and secure payment by mortgage, charge, pledge or assignment of any interest in the RFR Assets that is the subject of a Collective RFR Opportunity. Unless and until Partners are required pursuant to a Call Notice to contribute Committed Capital to the Limited Partnership to enable it to satisfy its obligations in respect of any such borrowing, no Committed Capital shall be regarded as having been drawn down by the Limited Partnership from Partners in relation to such borrowings for the purposes of this Agreement;
- (d) to cause the Limited Partnership to give guarantees, indemnities, covenants and undertakings in favour of third parties in connection with the Purposes, but only in relation to specific property acquired through an RFR Opportunity. Any such guarantees, indemnities, covenants or undertakings may be secured on any such specific property;
- (e) to cause the Limited Partnership to make loans;
- (f) to cause the Limited Partnership to meet payments of expenses payable by the Limited Partnership under clause 8 including the expenses of acquiring and disposing of any investments to the extent that such expenses have not or will not be paid by any other person;
- (g) to cause the Limited Partnership to commence or defend any litigation relating to the Limited Partnership or to any of the Property;
- (h) to cause the Limited Partnership to maintain the Limited Partnership's records and books of account at the Limited Partnership's principal place of business and to allow any Limited Partner or its representative access to them at any time during ordinary business hours for the purpose of inspecting or copying the same, provided that such Limited Partner shall reimburse to the Limited Partnership any expenses incurred by the Limited Partnership in connection with such inspection or copying;
- (i) to make payments and distributions to the Partners in accordance with the terms of this Agreement;
- (j) to carry out periodic valuations of the Property and to furnish such valuations to the Limited Partners;

- (k) to cause the Limited Partnership to engage employees, agents, lawyers, accountants, custodians, brokers, investment and financial advisers and consultants as it may deem necessary or advisable in relation to the affairs of the Limited Partnership;
- (l) to deposit funds of the Limited Partnership in an interest bearing bank account pending the making of distributions;
- (m) to communicate with the Limited Partners and to report to the Limited Partners at such times as it shall think fit and to represent the Limited Partnership in all things;
- (n) to cause the Limited Partnership to disclose to any tax or other regulatory authority having jurisdiction over the Limited Partnership and requesting such information identifying details regarding the holder of any direct or indirect beneficial interest in the Limited Partnership or any Partner;
- (o) to prepare and file any tax returns required to be filed by the Limited Partnership (the content of such returns to be determined by the General Partner in its absolute discretion) and take any action necessary or desirable for the purpose of complying with any tax law or regulation;
- (p) to require the prompt provision of information from the Partners as may reasonably be necessary for the operation of the Limited Partnership including any registration, regulatory and/or any taxation requirements; and
- (q) generally to do all other things on behalf of the Limited Partnership as may in the General Partner's opinion be reasonably required or advisable in connection with or ancillary to the purposes or objectives of the Limited Partnership set out in this Agreement.

15.3 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 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.

15.4 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.

15.5 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.

15.6 **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.

15.7 **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.

15.8 **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.

16. LIABILITY AND INDEMNIFICATION OF GENERAL PARTNER

16.1 **Liability generally:** Subject only to clause 16.2, 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 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.

16.2 **Exceptions:** Clause 16.1 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.

16.3 **Indemnity:** The Limited Partnership shall indemnify the General Partner and its directors, officers, agents, employees and Affiliates out of the Property 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.

16.4 **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.

17. SECURITY INTEREST

17.1 **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 General Partner (as agent for 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).

18. MEETINGS

18.1 **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, 33% of all Capital Contributions, summon a meeting for any purpose required by such Limited Partners.

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

19. AMENDMENT

- 19.1 **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 Commitments 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 Resolution of the Limited Partnership or a resolution at a Partners' meeting in accordance with clause 18;
 - (d) the amendment is required to comply with any law.
- 19.2 **Limited Partners:** This Agreement may be amended by the Limited Partners, without the consent of the General Partner by way of a unanimous Resolution of the Limited Partnership.
- 19.3 **Amendment deed:** Any amendment to this Agreement will be recorded in a deed of amendment.

20. DISSOLUTION OF THE PARTNERSHIP

- 20.1 **Termination:** Subject to clauses 20.2 and 20.3, 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; or
 - (b) any event otherwise specified as a terminating event in the Act, excluding section 86(1)(b) of the Act.
- 20.2 **Provisions Surviving Termination:** In the event that this Agreement is terminated pursuant to this clause 20 then, notwithstanding any other provisions of this Agreement, the provisions of clauses 2, 6, 9, 10, 16, 19, 20.3 and 21 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.
- 20.3 **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 Property amongst the Partners in accordance with clause 10.

21. GENERAL

- 21.1 **Private obligations:** Each Partner will at all times duly and punctually pay and discharge that Partner's personal obligations and liabilities, whether present or future, and indemnify the other Partners, the Limited Partnership and the General Partner from such obligations and liabilities and from all actions, proceedings, costs, 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.

21.2 **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.

21.3 **Notices:** Every notice to be given to a party under, or in connection with, this Agreement 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.

21.4 **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 deed between the parties.

21.5 **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.

- 21.6 **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.
- 21.7 **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.
- 21.8 **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.
- 21.9 **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.
- 21.10 **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.

22. DEFINITIONS AND INTERPRETATION

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

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

"**Administration Expenses**" has the meaning given in clause 8.2.

"**Affiliate**" means any entity which in relation to the person 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 or partnership (including a 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
- (c) any company, body corporate, trust, person or partnership (including a limited partnership) which, directly or indirectly, controls, is controlled by or is under effective control of or with the other person.

"**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 7.3.

"**Annual Report**" has the meaning given in clause 9.2.

"**Auditor**" means the auditor of the Limited Partnership from time to time as may be appointed pursuant to clause 9.4.

"**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 4 in fulfilment or partial fulfilment of a Capital Commitment.

"Call Notice" means a notice given in accordance with clause 4.

"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 Commitment" means, in respect of each Limited Partner, the amount it has contributed and is required to contribute to the Capital either:

- (a) as set out in Schedule 1; or
- (b) as specified in clause 3.2.

"Capital Contribution" means, at any time and in respect of a Partner, the amount of Capital which that Partner has contributed, 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.

"Deed of Settlement" has the meaning given in Recital C.

"Default Rate" means [Insert]% per annum.

"Defaulting Partner" has the meaning set out in clause 13.1.

"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.

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

"First Operating Budget" means the operating budget set out in Schedule 4 which the Partners agree shall, subject to clause 7.2, be the Operating Budget for the first two Financial Periods following the Registration Date.

"First Operating Plan" means the annual plan set out in Schedule 5 which the Partners agree shall, subject to clause 7.4, be the Annual Plan 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, Whenua Haumi Roroa o Tāmaki Makaurau 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.

"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 Capital Commitment as set out in Schedule 1.

"Investment Expenses" has the meaning given in clause 8.3.

"Limited Partner" means:

- (a) the Marutuahu Ropu Limited Partnership;
- (b) the Ngati Whatua Ropu Limited Partnership; and
- (c) the Waiohua Tamaki Ropu Limited Partnership.

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

"Limited Partnership Interest" means a Partnership Interest in the Limited Partnership and in respect of each Limited Partner, means the proportion that the Limited Partner's Capital Commitment represents of the aggregate Capital Commitments of all Limited Partners as at the relevant date, as determined by the General Partner acting reasonably. The Limited Partnership Interests of the Limited Partners at the date of this Agreement are set out in Schedule 1, but are subject to adjustment pursuant to the provisions of this Agreement.

"Losses" means a loss of Income or Capital.

"Marutuahu Ropu Limited Partnership" means the limited partnership established by the following member iwi of Marutuahu ropu:

- (a) Ngati Maru;
- (b) Ngati Paoa;

- (c) Ngati Tamatera;
- (d) Ngati Whanaunga; and
- (e) Te Patukirikiri.

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

"Ngati Whatua Ropu Limited Partnership" means the limited partnership established by the following member iwi of Ngati Whatua ropu:

- (a) Ngati Whatua o Kaipara;
- (b) Ngati Whatua Orakei; and
- (c) Te Runanga o Ngati Whatua.

"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 7.

"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.

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

"Partnership Register" means the register kept in accordance with clause 4.5.

"Person" includes a natural person, a company, a corporation, a corporation sole, a firm, a unit trust, a government or a body of persons (whether incorporate or unincorporated).

"PPSA" means the Personal Property Securities Act 1999.

"Property" means all of the assets of the Limited Partnership (including any Capital Commitment which is not yet contributed).

"Purposes" means the purposes of the Limited Partnership as set out in clause 1.

"Quarter" means:

- (a) the period from the Registration Date to **[Insert date]**;
- (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.

"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 have contributed at least 60% of the Capital Commitments (excluding the Capital Commitment of any Defaulting Partner).

"RFR Assets" means assets acquired by the Limited Partnership or a Limited Partner or Partners 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.

"RFR Right" means the right of first refusal in relation to a disposal of RFR Assets to be conferred on the Limited Partnership under the [Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Bill].

"SPV Entities" has the meaning given to it in clause 1.1(c).

"Strategic Plan" has the meaning given in clause 6.1.

"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 20.1.

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

"Uncalled Capital" means, for each Partner, the Capital Commitment of that Partner less the Capital Contributions of that Partner.

"Waiohua Tamaki Ropu Limited Partnership" means the limited partnership established by the following member iwi/hapu of Waiohua Tamaki ropu:

- (a) Ngai Tai ki Tamaki.
- (b) Ngati Tamaoho;
- (c) Ngati Te Ata;
- (d) Te Akitai Waiohua; and
- (e) Te Kawerau a Maki.

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

22.3 **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) 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.

EXECUTION AS A DEED

**WHENUA HAUMI ROROA O TĀMAKI
MAKAURAU GENERAL PARTNER
LIMITED** as General Partner by:

Signature of director

Signature of director

Name of director

Name of director

**MARUTUAHU ROPU GENERAL
PARTNER LIMITED** on behalf of
**MARUTUAHU ROPU LIMITED
PARTNERSHIP** as Limited Partner by:

Signature of director

Signature of director

Name of director

Name of director

**NGATI WHATUA GENERAL PARTNER
LIMITED** on behalf of **NGATI WHATUA
ROPU LIMITED PARTNERSHIP** as
Limited Partner by:

Signature of director

Signature of director

Name of director

Name of director

**WAIOHUA TAMAKI GENERAL
PARTNER LIMITED** on behalf of
**WAIOHUA TAMAKI ROPU LIMITED
PARTNERSHIP** as Limited Partner by:

Signature of director

Signature of director

Name of director

Name of director

SCHEDULE 1
PARTNER DETAILS

PART A - GENERAL PARTNER

Partner	Address for service of notices	Capital Commitment (NZ\$)	Shares	Initial Contribution (NZ\$)
Whenua Haumi Roroa o Tāmaki Makaurau General Partner Limited	[Insert address]	Not applicable	Not applicable	Not applicable

PART B - LIMITED PARTNERS

Partner	Address for service of notices	Capital Commitment (NZ\$)	Limited Partnership Interest	Initial Contribution (NZ\$)
Marutuahu Ropu Limited Partnership	[Insert address]	[Insert]	[Insert]	[Insert]
Ngati Whatua Ropu Limited Partnership	[Insert address]	[Insert]	[Insert]	[Insert]
Waiohua Tamaki Ropu Limited Partnership	[Insert address]	[Insert]	[Insert]	[Insert]
TOTAL		[Insert]	[Insert]	[Insert]

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.

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:

Whenua Haumi Roroa o Tāmaki Makaurau [RFR] Limited Partnership

{I}{We} of being a Limited Partner of Whenua Haumi Roroa o Tāmaki Makaurau 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 [2012] (or any adjournment thereof).

Signed this day of [2012]

- 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 Interest 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 paragraph 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 two Partners having the right to vote at the meeting and having aggregate Capital Contributions equal to or greater than 50% of all Capital Contributions (present in person or by proxy), excluding a Defaulting Partner.

- 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) 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) is to have a number of votes set by the General Partner proportionate to the Partner's Capital Contributions. 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/General Partners:* Motions to remove or approve the Auditor will bind the General Partner if they are determined by resolutions passed by Limited Partners (excluding any Defaulting Partner) representing over 60% of the total of the Capital Contributions (excluding the Capital Contributions of the Defaulting Partner).

9.6 *Powers of meetings:* A meeting will have the following powers by resolutions passed by Limited Partners (excluding any Defaulting Partner) representing 100% of the total of the Capital Contributions (excluding the Capital Contributions of any Defaulting Partner):

- (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
- (d) to approve an amendment to this Agreement under clause 19.1(c) 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 Directors. 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 MECHANISMS

[Note: this RFR carousel is a placeholder provision taken from the Tamaki Collective Trust Deed]

1. DEFINED TERMS AND INTERPRETATION

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

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

[References to sections and definitions in the Draft Bill are to the relevant sections and definitions (re-numbered and/or amended as applicable) as they appear in the Tamaki Makaurau Collective Legislation.] **[Note: To reflect final form.]**

"Acceptance Notice" means a notice of acceptance of a Disposal Offer by a Limited Partner issued in accordance with Rule 5.4.

"Benchmark Acquisition Period" means the period during which the Benchmark-Setting Limited Partner is prevented from assuming the Lead Carousel Position in accordance with Rule 8.2.

"Benchmark-Setting Limited Partner" means the first Limited Partner to achieve any given one million dollar (\$1,000,000) interval of Lead Acquisitions.

"Carousel" means the carousel established pursuant to Rule 4.1 for the purposes of determining which Limited Partner holds the Lead Carousel Position.

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

"Collective Funding Right" means the right of each Limited Partner to fund (either directly or indirectly) up to one third of the capital contributions required to realise a given Collective RFR Opportunity as described in Rule 9.3.

"Collective Pass" means the offer by the Lead Limited Partner of an Individual RFR Opportunity to the General Partner to consider as an option to action as if it were a Collective RFR Opportunity as described in Rule 6.3(b).

"Collective RFR Opportunity" means an RFR Opportunity where the initial asking price for the RFR Assets contained in the Disposal Offer is equal to or greater than the RFR Threshold.

"Deemed Benchmark Achievement" means the deemed achievement by a Limited Partner of the benchmark level of Lead Acquisitions set by the Benchmark-Setting Limited Partner in the circumstances described in Rule 8.3(c).

"Deemed Decline" means:

- (a) a Disposal Offer which is deemed to have been declined by a Limited Partner in the circumstances described in Rules 6.6 and 6.9; and
- (b) a Collective Pass.

"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 section 45 of the Draft Bill.

["Draft Bill" has the same meaning as in the Collective Deed.]

"First Alternate" means the Limited Partner which is for the time being in the First Alternate Carousel Position.

"First Alternate Carousel Position" means the position in the Carousel from which a Limited Partner is entitled to receive the second opportunity to consider an Individual RFR Opportunity following the declining of that offer (deemed or otherwise) by the Lead Limited Partner.

"Good Faith Decline" means notice received from any Limited Partner during a Preliminary Notice Period in accordance with Rule 4.3.

"Individual RFR Opportunity" means an RFR Opportunity where the initial asking price for the RFR Assets contained in the Disposal Offer is less than the RFR Threshold.

"Lead Acquisitions" means acquisitions achieved by a Limited Partner in accordance with the RFR Mechanisms whilst that Limited Partner holds the Lead Carousel Position.

"Lead Carousel Position" means the position in the Carousel from which a Limited Partner is entitled to receive the first opportunity to consider an Individual RFR Opportunity.

"Lead Limited Partner" means the Limited Partner which is for the time being in the Lead Carousel Position.

"Limited Partner Nominee" means a Person other than a Limited Partner itself which that Limited Partner wishes to nominate as the party ultimately to acquire the RFR Assets the subject of an Individual RFR Opportunity which may include a special purpose entity established by the Limited Partner to hold the RFR Assets or groupings of similar assets.

"Offer Consideration Period" means (as appropriate):

- (a) the period of time between receipt by the General Partner of a Disposal Offer in respect of a Collective RFR Opportunity and the expiry date of that Disposal Offer; and
- (b) the period of time afforded to the Lead Limited Partner and (where applicable) the First Alternate and the Second Alternate to consider an Individual RFR Opportunity calculated in accordance with the formulae set out in Rule 7.1.

"Participating Limited Partners" means the Limited Partners that provide notice to the General Partner and the remaining Limited Partners under Rule 9.3 of their intention to exercise (either directly or indirectly) their respective Collective Funding Rights in whole or in part.

"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 section 44A of 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.

"Re-Setting Rotation" means rotation of the Benchmark-Setting Limited Partner back into the Lead Carousel Position in the circumstances described in Rule 8.4.

"RFR [Assets] Owner" [has the same meaning as in the Draft Bill] [means the vendor of the RFR Assets].

"RFR Threshold" means NZ\$5,000,000 adjusted annually for inflation by the percentage movement of the New Zealand Consumer Price Index (CPI) published by Statistics New Zealand.

"Second Alternate" means the Limited Partner which is for the time being in the Second Alternate Carousel Position.

"Second Alternate Carousel Position" means the position in the Carousel from which a Limited Partner is entitled to receive the final opportunity to consider an Individual RFR Opportunity following the declining of that offer (deemed or otherwise) by both the Lead Limited Partner and the First Alternate.

"SPV Entity" means a special purpose entity that is established to hold a particular RFR Asset or group of RFR Assets.

"SPV Partnership" means an SPV Entity that is a limited partnership formed under the Act, having the characteristics set out in Rule 8.4, and having the General Partner as its general partner and such Limited Partners as limited partners who are funding the acquisition of the relevant RFR Asset.

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

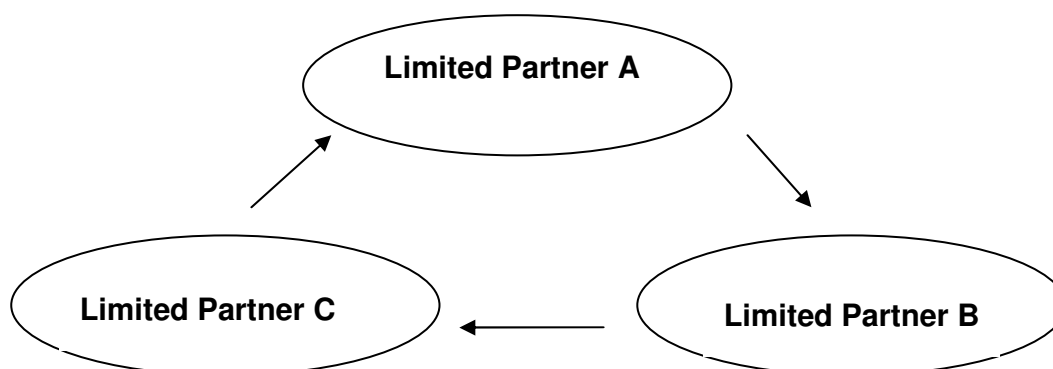
2. NOTICES

- 2.1 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.
- 2.2 All notices must be in writing and must be served by personal delivery or by facsimile or by email.
- 2.3 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.
- 2.4 A notice shall be valid if given by any director or other authorised representative of the party giving the notice.

3. ESTABLISHMENT OF CAROUSEL

- 3.1 A carousel for the purposes of determining which Limited Partner holds the Lead Carousel Position shall be established in the following format:

LEAD CAROUSEL POSITION



3.2 Subject as provided in Rule 7.2 the Carousel shall rotate in a clock-wise direction upon the occurrence of the earliest of the events described in Rule 7.1. The Limited Partners shall draw lots to determine the initial starting positions of each Limited Partner on the Carousel.

3.3 The Limited Partners which are not in the Lead Carousel Position shall take it in turn about to be First Alternate and Second Alternate (starting with the Limited Partner which is next in line for the Lead Carousel Position).

4. PRELIMINARY NOTICES

4.1 The General Partner shall provide each Limited Partner with a copy of any Preliminary Notice received by the General Partner together with:

- (a) the General Partner's assessment of the likely asking price for the relevant RFR Assets;
- (b) notice, on the basis of the assessment provided pursuant to Rule 5.1(a) of whether any subsequent RFR Opportunity arising in respect of the relevant RFR Assets would be an Individual RFR Opportunity or a Collective RFR Opportunity;
- (c) advice of the current Lead Limited Partner, First Alternate and Second Alternate.

4.2 Where the General Partner's notice pursuant to Rule 5.1 indicates that any subsequent RFR Opportunity arising in respect of the relevant RFR Assets would be a Collective RFR Opportunity the General Partner shall as soon as is reasonably practicable following delivery of the General Partner's notice provide each Limited Partner with the General Partner's preliminary assessment of the likely funding needs for the Collective to realise that opportunity and (at the discretion of the General Partner) any preliminary proposal which the General Partner wishes to table for structuring of the requisite SPV Entity.

4.3 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 5.1(a) and information contained in the Preliminary Notice may differ significantly from the offer terms and other information contained in any subsequent Disposal Offer.

5. DISPOSAL OFFER

5.1 The General Partner shall provide each Limited Partner with a copy of any Disposal Offer received by the General Partner together with:

- (a) notice, on the basis of the asking price for the relevant RFR Assets, of whether the relevant RFR Opportunity is an Individual RFR Opportunity or a Collective RFR Opportunity;
- (b) in the case of an Individual RFR Opportunity, advice of the current Lead Limited Partner, First Alternate and Second Alternate and confirmation of the Offer Consideration Period afforded to the Lead Limited Partner on the basis of the expiry date of the Disposal Offer and the timing of delivery of the General Partner's notice to that entity; and
- (c) notice of any Good Faith Decline received in respect of that RFR Opportunity.

5.2 Individual RFR Opportunities shall be actioned in accordance with Part A.

5.3 Collective RFR Opportunities shall be actioned in accordance with Part B.

5.4 Any Acceptance Notice in relation to a Disposal Offer shall include notice of whether the Limited Partner itself wishes to acquire the RFR Assets or whether the relevant Limited Partner wishes to nominate a Limited Partner Nominee. 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.

5.5 Where Rule 5.4 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 take title to that land as tenants in common in equal shares (or otherwise as may be agreed between them).

PART A - INDIVIDUAL RFR OPPORTUNITIES

6. OFFER CONSIDERATION PERIOD

6.1 The time afforded for consideration of an Individual RFR Opportunity shall be apportioned between the Lead Limited Partner and (where applicable) the First Alternate and the Second Alternate on the basis of the following formulae:

Lead Limited Partner Offer
Consideration Period = $A \times 0.5$

First Alternate Offer
Consideration Period = $A \times 0.6$

Second Alternate Offer
Consideration Period = $A \times 1$

Where, in each case, "A" is the number of Business Days left remaining until the expiry date of the Disposal Offer on the date the relevant Limited Partner receives notice from the General Partner that the offer is open to that Limited Partner for acceptance. All periods shall be rounded up to the nearest whole day if the above formulae produce a fraction.

By way of illustration:

Assuming:

- *An initial period of 40 Business Days from the date that a Disposal Offer is received by the General Partner until the expiry date under that Disposal Offer.*
- *That one Business Day is lost providing notice of the Disposal Offer to the Lead Limited Partner and subsequently advising the First Alternate and then the Second Alternates that the Disposal Offer is open to acceptance by them.*
- *That the Lead Limited Partner and First Alternate exhaust their Offer Consideration Periods in full prior to notifying the General Partner that they decline the offer.*

Lead Limited Partner Offer

Consideration Period = 39 Business Days [being the initial 40 Business Day period less one Business Day lost in communications] x 0.5

= 19.5 Business Days (rounded to 20)

First Alternate Offer

Consideration Period = 18 Business Days [being 39 Business Days less 20 Business Days used by the Lead Limited Partner less one Business Day lost in communications] x 0.6

= 10.8 Business Days (rounded to 11)

Second Alternate Offer

Consideration Period = 6 Business Days [being 18 Business Days less 11 Business Days used by the First Alternate less one Business Day lost in communications).

- 6.2 Where a Good Faith Decline has been received by the General Partner during the Preliminary Notice Period then, regardless of the current Carousel position of the Limited Partner which issued the Good Faith Decline, the Offer Consideration Periods available to the Limited Partners who remain interested in the relevant Disposal Offer shall be determined as if those entities stand as First Alternate and Second Alternate respectively. In the event that two Limited Partners issue a Good Faith Decline the Offer Consideration Period available to the remaining Limited Partner shall be "A" in accordance with the above formula.
- 6.3 Within the Offer Consideration Period provided to the Lead Limited Partner the Lead Limited Partner may:
- (a) provide the General Partner with an Acceptance Notice; or
 - (b) provide notice to the General Partner that the Lead Limited Partner waives its rights to accept the Disposal Offer in favour of the General Partner being afforded the opportunity to action the Disposal Offer as if it were a Collective RFR Opportunity Offer; or
 - (c) provide notice to the General Partner that the Lead Limited Partner declines the Disposal Offer.
- 6.4 In the event that the Lead Limited Partner provides the General Partner with notice pursuant to Rule 6.3(b) the General Partner shall notify each Limited Partner prior to expiry of the Lead Limited Partner's Offer Consideration Period whether the General Partner wishes to pursue the option of actioning the Disposal Offer as if it were a Collective RFR Opportunity Offer or whether it declines that offer. If the General Partner does wish to pursue the option of actioning the Disposal Offer as if it were a Collective RFR Opportunity the General Partner shall (subject as provided in Rule 6.5) be afforded the balance of the time period left remaining until the expiry date of the Disposal Offer to consider the Disposal Offer under the procedures set out in Part B.
- 6.5 If either the Lead Limited Partner or the General Partner (where applicable) declines the Disposal Offer that offer shall then be made available for acceptance by the First Alternate.
- 6.6 In the event that the Lead Limited Partner fails to provide notice to the General Partner under any of Rules 6.3(a) to 6.3(c) during the Lead Limited Partner's Offer Consideration Period the Lead Limited Partner shall be deemed to have declined that offer and the General Partner shall notify the First Alternate that the Disposal Offer is available for acceptance by the First Alternate.
- 6.7 Within the Offer Consideration Period provided to the First Alternate the First Alternate may either:
- (a) provide the General Partner with an Acceptance Notice; or
 - (b) provide notice to the General Partner that the First Alternate declines the Disposal Offer.
- 6.8 If the First Alternate declines the Disposal Offer that offer shall then be made available for acceptance by the Second Alternate.

- 6.9 In the event that the First Alternate fails to provide notice to the General Partner under either Rule 6.7(a) or 6.7(b) during the First Alternate's Offer Consideration Period the First Alternate shall be deemed to have declined that offer and the General Partner shall notify the Second Alternate that the Disposal Offer is available for acceptance by the Second Alternate.
- 6.10 Within the Offer Consideration Period provided to the Second Alternate the Second Alternate may either:
- (a) provide the General Partner with an Acceptance Notice; or
 - (b) provide notice to the General Partner that the First Alternate declines the Disposal Offer.
- 6.11 Subject to Rule 6.12 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 an Acceptance Notice from a Limited Partner the General Partner shall forthwith give notice to the RFR Assets Owner accepting the Disposal Offer and (where applicable) nominating the Limited Partner Nominee to receive the transfer of the RFR Assets in accordance with [section 49(4) of the Draft Bill].
- 6.12 The General Partner shall not be obliged to give notice to the RFR Assets Owner accepting the Disposal Offer under Rule 6.11 unless and until:
- (a) Where the RFR Asset is to be acquired by the Limited Partner itself, the notice is signed on behalf of that Limited Partner in accordance with [section 48(4) of the Draft Bill].
 - (b) Where the RFR Asset is to be acquired by a Limited Partner Nominee that Limited Partner Nominee (or the relevant Limited Partner where the Limited Partner Nominee has yet to be formed) has 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 Limited Partner Nominee (or Limited Partner, where appropriate) in respect of the ongoing liability of the General Partner under the contract to be formed in accordance with [section 49(1) of the Draft Bill] as made express in [section 49(6) of that Bill].

7. CAROUSEL ROTATION

- 7.1 The Lead Carousel Position shall be rotated upon the occurrence of the earliest of the following:
- (a) the current Lead Limited Partner has declined three (3) successive Individual RFR Opportunities. This includes a Deemed Decline on the part of the Lead Limited Partner but does not include an actual declined Disposal Offer where that offer is not subsequently accepted by either the First Alternate or the Second Alternate; and
 - (b) the current Lead Limited Partner achieves Lead Acquisitions which take it past a threshold of Lead Acquisitions in multiples of one million dollars (\$1,000,000).
- 7.2 Where a Limited Partner is the first to break through any threshold of Lead Acquisitions in multiples of one million dollars (\$1,000,000), the Lead Carousel Position is rotated in accordance with Rule 7.1 and the Benchmark-Setting Limited Partner does not assume

the Lead Carousel Position again until the other two Limited Partners have also reached the applicable \$m interval of Lead Acquisitions.

7.3 During the Benchmark Acquisition Period:

- (a) the Limited Partners other than the Benchmark-Setting Limited Partner shall pass the Lead Carousel Position between themselves in accordance with Rule 7.1;
- (b) the Benchmark-Setting Limited Partner takes turn about as First Alternate and Second Alternate for the purposes of the Individual RFR Opportunity process.
- (c) where a Limited Partner is the last Limited Partner to achieve the applicable \$m interval of Lead Acquisitions and that Limited Partner declines three (3) successive Individual RFR Opportunities from the Lead Carousel Position (as described in Rule 7.1(a)), that Limited Partner shall be deemed for the purposes of Rule 7.2 to have achieved the applicable \$m interval of Lead Acquisitions.

7.4 Following expiry of the Benchmark Acquisition Period, the Benchmark-Setting Limited Partner shall rotate back into the Lead Carousel Position and the Carousel is set to rotate next in favour of the Limited Partner which was not in the Lead Carousel Position immediately prior to the Re-Setting Rotation.

7.5 A record of accumulated Lead Acquisitions made by each Limited Partner shall be maintained by the General Partner. The value of any offer the subject of a Deemed Decline shall be included for this purpose. The accumulated total shall also be adjusted to reflect any Deemed Benchmark Achievement.

PART B - COLLECTIVE RFR OPPORTUNITIES

8. STRUCTURE OF COLLECTIVE RFR OPPORTUNITIES

- 8.1 Collective RFR Opportunities may be realised by two or more Limited Partners acting collectively either through the Limited Partnership itself, or through a SPV Entity that is established to hold the assets that are the subject of particular Collective RFR Opportunities. Realisation of Collective 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.
- 8.2 The parties recognise that, as core principles of the Limited Partnership ("**Core Principles**"):
- (a) not all Limited Partners are required to participate in each Collective 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 Collective RFR Opportunity, and the Tax treatment of Limited Partners with respect to that Collective RFR Opportunity, are aligned.
- 8.3 To give effect to the Core Principles, on each occasion that a Collective RFR Opportunity arises and the General Partner determines that using a SPV Entity in respect of that Collective RFR Opportunity:
- (a) will avoid an inequitable misalignment of:
 - (i) the economic rights and obligations of Limited Partners with respect to that Collective RFR Opportunity; and/or
 - (ii) the Tax treatment of the Limited Partners [(or their relevant flow-through entities)] with respect to that Collective RFR Opportunity (other than a situation involving default by a Limited Partner); or
 - (b) is the preferable structure for any other reason,
- the Collective RFR Opportunity shall be realised through a SPV Entity that is established for that purpose.
- 8.4 On each occasion when Rule 8.3 applies and the preferred structure is a SPV Partnership, the General Partner shall prepare all appropriate documentation to establish and manage 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, or when combined with this Agreement and/or the documentation of any previously established SPV Partnership has substantially the same overall economic and legal effect as this Agreement, subject to such amendments as may be reasonably required in the circumstances (and subject always to the Core Principles).
- 8.5 If, in relation to any proposed Collective RFR Opportunity, the use of a previously established SPV Entity will, in the General Partner's reasonable opinion resolve any issues referred to in Rule 8.3, the proposed Collective RFR Opportunity may be realised through the previously established SPV Entity if it is economical to do so in the circumstances and will give effect to the Core Principles.

- 8.6 Unless otherwise agreed by the Participating Limited Partners, the General Partner shall provide management services to a SPV Entity in respect of RFR Assets acquired by that SPV Entity and otherwise in respect of that SPV Entity's broader operations.
- 8.7 Nothing in this Agreement shall be deemed to create a partnership between:
- (a) the Limited Partnership or any Partners; and
 - (b) any SPV Entity.

9. FUNDING FOR COLLECTIVE RFR OPPORTUNITIES

- 9.1 Each Limited Partner shall have a primary right to fund up to one third 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 10.1 as to what portion (if any) of the Collective Funding Right the relevant Limited Partner wishes to exercise in respect of the Collective RFR Opportunity under consideration. Any balance Collective Funding Right not taken up by a Limited Partner shall be offered as a secondary right on a pro rata basis to the other Limited Partners, in the proportions which they have elected to participate in the relevant Collective RFR Opportunity, with the General Partner and the Participating Limited Partners endeavouring to secure funding from a Third Party Funder in respect of any shortfall in the total Collective Funding Requirement.
- 9.2 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 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 5.4.

10. PROCESS FOR COLLECTIVE RFR OPPORTUNITIES

- 10.1 As soon as is reasonably practicable following:
- (a) circulation of notice by the General Partner in respect of a Disposal Offer relating to a Collective RFR Opportunity pursuant to Rule 5.1; or
 - (b) the General Partner giving notice to the Limited Partners pursuant to Rule 6.4 that it wishes to action a Disposal Offer the subject of a Collective Pass as if it were a Collective RFR Opportunity (referred to hereinafter as a Collective RFR Opportunity for the purposes of this Part B),

the General Partner shall consult with the Limited Partners regarding the funding that will be required to realise the relevant Collective RFR Opportunity and whether it is proposed that a SPV Entity is established in relation to the particular Collective RFR Opportunity (in which case the General Partner shall provide the Limited Partners with a copy of the documentation required to establish the SPV Entity).

- 10.2 The consultation process described in the preceding Rules of this Part B shall be carried out by all parties with due consideration at all times to the time frames governing the relevant Offer Consideration Period.
- 10.3 Subject to Rule 10.4 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 and (where formed) nominating the SPV Entity to receive the transfer accepting the Disposal Offer of the relevant RFR Assets in accordance with section 49(4) of the Draft Bill.

10.4 The General Partner shall not be obliged to give notice to the RFR Assets Owner accepting the Disposal Offer under Rule 10.3 unless and until:

- (a) where the RFR Assets are to be acquired by an individual Limited Partner, notice is signed on behalf of the relevant Limited Partner in accordance with section 48(4) of the Draft Bill.
- (b) Where the RFR Assets are to be acquired by a SPV Entity (or, where the relevant Collective RFR Partnership 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 section 49(1) of the Draft Bill as made express in section 49(6) of that Bill.

10.5 The General Partner shall (for itself and on behalf of each Limited Partner who is to participate in the Collective RFR Opportunity shall, within 5 Business Days of demand by the General Partner, execute all documents referred to in Rule 8.4 where the preferred structure is a Collective RFR Partnership, and take all steps and do all things to constitute that Collective RFR Partnership or other special purpose entity.

SCHEDULE 4
FIRST OPERATING BUDGET

[To be agreed and inserted]

SCHEDULE 5
FIRST ANNUAL PLAN

[To be agreed and inserted]