

**INFRATIL LIMITED  
TRUSTEES EXECUTORS LIMITED**

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**SECOND AMENDING DEED (relating to a  
programme trust deed dated 11 November 1999)**

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**RUSSELL McVEAGH**

DEED dated 15 November

2006

## PARTIES

INFRATIL LIMITED ("Issuer")

TRUSTEES EXECUTORS LIMITED ("Trustee")

## INTRODUCTION

- A. The Issuer and the Trustee have executed a programme trust deed relating to the constitution and terms of convertible infrastructure bonds dated 11 November 1999, as amended on 14 August 2003 ("**Original Deed**").
- B. The Issuer and the Trustee wish to amend the Original Deed on the terms set out in this deed.
- C. For the purposes of clause 13.1 of the Original Deed, the Issuer and the Trustee are of the opinion that the amendments contained in this deed are either necessary or desirable to comply with the requirements of the Listing Rules or are not, and are not likely to become, prejudicial to the general interests of Holders.

## COVENANTS

### 1. INTERPRETATION

- 1.1 **Definitions:** Words and expressions that are defined in the Original Deed have the same meanings when used in this deed, unless the context otherwise requires.
- 1.2 **Interpretation:**
  - (a) Headings are inserted for convenience only and do not affect the interpretation of this deed.
  - (b) Unless the context otherwise requires the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.
  - (c) A reference to any document includes reference to that document as modified, novated, supplemented, varied or replaced from time to time.
  - (d) A reference to any party to a document includes its successors and permitted assigns.

### 2. AMENDMENTS TO THE ORIGINAL DEED

- 2.1 **Relating to the Listing Rules:** The Original Deed is amended as follows:
  - (a) Clause 2.3 is deleted and replaced with the following:

2.3 If the NZSE has given a Ruling that applies to the Issuer authorising any act or omission which, in the absence of that Ruling, would be in contravention of the Listing Rules, this deed or the Constitution, that act or omission shall, unless a contrary intention appears in the

Constitution or this deed, be deemed to be authorised by the Listing Rules, this deed, and the Constitution.

(b) The following new clause is inserted after clause 2.6:

2.7 If any provision in this deed or the Constitution is inconsistent with the Listing Rules, the Listing Rules shall prevail.

2.2 **Relating to future Bond issues:** The Original Deed shall be amended as follows:

(a) The definition of "**Date of Acceleration**" in clause 1.1 is amended by adding "or clause 8.3" to the end of that clause.

(b) The definition of "**Maturity Date**" in clause 1.1 is amended by adding "(if any)" after "Maturity Date".

(c) Clause 6.1 is amended by the addition of the following new sub-clauses (k), (l) and (m):

(k) **Early redemption notice for Bonds issued after 1 November 2006:** If, in relation to a Series of Bonds issued after 1 November 2006, a Date of Acceleration has not occurred prior to the Maturity Date for the Series of Bonds, the Issuer may, at any time prior to the day falling 25 Business Days before the Maturity Date for the Series of Bonds, elect to redeem for cash all or some of the Bonds in the Series by giving no less than five Business Days' notice ("**early redemption notice**") to the Holders of the Series of Bonds.

(l) **Early redemption for Bonds issued after 1 November 2006:** If an early redemption notice is given under sub-clause (k) then, on the date specified in the early redemption notice on which redemption is to occur ("**early redemption date**"), the Issuer shall redeem for cash each Bond which the Issuer has elected to redeem in the early redemption notice for an amount which is equal to the greater of:

(i) the Face Value of the Bonds plus accrued but unpaid interest on each such Bond as at, but excluding, the early redemption date; and

(ii) the volume weighted average of the prices at which Bonds were sold through the order matching system of the NZSE during the period of 10 consecutive Business Days immediately preceding the fifth Business Day prior to the early redemption date, provided that if the Bonds have not been sold through the order matching system of the NZSE on at least 5 of those 10 consecutive Business Days, the average price of the Bonds for the purposes of this sub-clause 6.1(l)(ii) will be determined by an Independent Adviser,

in each case less all withholdings or deductions required to be made (whether pursuant to section 10 of this Deed or otherwise).

(m) **Part early redemption for Bonds issued after 1 November 2006:** If the Issuer gives an early redemption notice under sub-clause (k) electing to redeem only some of a Series of Bonds, that election must be made to all Holders of that Series of Bonds electing to redeem an equal proportion of that Series of Bonds held by each such Holder.

- (d) Clause 7.1 is amended by:
- (i) adding "for the benefit only of Holders of Bonds issued prior to 1 November 2006 and, until such time as all of those Bonds have been either redeemed or Converted in accordance with this deed, the Trustee" after "covenants" in line 1 of that clause; and
  - (ii) adding "issued prior to 1 November 2006" after "Bonds" in line 6 of that clause .
- (e) Clause 8.1 is amended by deleting "clause 10.4" and replacing it with "clause 12.4" in line 1 of that clause.
- (f) Clause 8.2 is amended by:
- (i) adding "(other than following a breach of clause 7.1)" after "Trustee" in the heading of that clause;
  - (ii) adding "(other than an event specified in clause 8.1(g) which is a breach of the covenant in clause 7.1)" after "clause 8.1" in line 2 of that clause.
- (g) The following is added as a new clause 8.3:

**8.3 Declaration by Trustee (following a breach of clause 7.1):** At any time after the occurrence of an event specified in clause 8.1(g) which is a breach of the covenant in clause 7.1 and which occurs prior to the time that all Bonds issued prior to 1 November 2006 ("**relevant Bonds**") have been either redeemed or Converted in accordance with this deed, and while that event is continuing, the Trustee may in its discretion and shall forthwith upon being directed to do so by an Extraordinary Resolution of Holders of relevant Bonds, by notice to the Issuer declare the Face Value of all relevant Bonds together with accrued interest thereon (including any interest the payment of which has been suspended pursuant to clause 5.3) to be immediately due and payable. Upon the Trustee making that declaration, each Holder of relevant Bonds may, by written notice to the Issuer, require the relevant Bonds held by that Holder to be:

- (a) redeemed in cash; or
- (b) Converted at the Conversion Rate on the date specified in the notice,

whereupon the Issuer shall immediately:

- (c) pay to the Holders the Face Value of the relevant Bonds; or
- (d) cause the relevant Bonds to be Converted at the Conversion Rate,

(in either case in accordance with the respective elections of the Holders) and in all cases pay to the Holders accrued interest at the applicable Interest Rate(s) on the relevant Bonds to the date of redemption or Conversion (as the case may be).

2.3 **Saving:** For the avoidance of doubt:

- (a) clause 7.1 of the Original Deed shall cease to apply once all of the Bonds issued prior to 1 November 2006 have been either Converted or redeemed in accordance with the Original Deed;
- (b) clause 8.3 of the Original Deed (as amended by this deed) shall cease to apply once all of the Bonds issued prior to 1 November 2006 have been either Converted or redeemed in accordance with the Original Deed (as amended by this deed); and
- (c) neither Holders of Bonds issued after 1 November 2006 nor the Trustee to the extent it represents those Holders have the benefit of clause 7.1.

2.4 **Confirmation:** Except to the extent amended by this deed, the Original Deed continues in full force and effect.

### 3. COUNTERPARTS

3.1 This deed may be signed in counterpart copies, both of which will together constitute one and the same instrument, and either of the parties may execute this deed by signing any such counterpart.

### 4. GOVERNING LAW

4.1 This deed shall be governed by, and construed in accordance with, the laws of New Zealand.

**SIGNED AS A DEED**

**INFRATIL LIMITED** by:

*[Handwritten Signature]*  
 \_\_\_\_\_  
 Signature of director

*David Coggill*  
 \_\_\_\_\_  
 Name of director

*[Handwritten Signature]*  
 \_\_\_\_\_  
 Signature of director

*Wayd MORRISON*  
 \_\_\_\_\_  
 Name of director

**SIGNED by TRUSTEES EXECUTORS LIMITED** under its common seal:

*[Handwritten Signature]*  
 \_\_\_\_\_  
 Authorised signatory

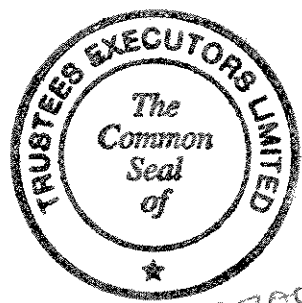
*[Handwritten Signature]* **Yogesh Mody**  
 \_\_\_\_\_  
 Authorised signatory

In the presence of:

*[Handwritten Signature]*  
 \_\_\_\_\_  
 Name of witness

**Lynette Rona Garmonsway**  
 \_\_\_\_\_  
 Occupation **Office Manager**  
**Wellington**

\_\_\_\_\_  
 City/town of residence



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