

The Securities Act 1978 and the Securities Regulations 1983 require the appointment of a trustee in respect of the Capital Notes and the execution by Hellaby Holdings Limited and the Trustee of a trust deed.

Hellaby Holdings Limited will issue the Capital Notes constituted under the Master Trust Deed dated 17 May 2006 and the Supplemental Trust Deed dated 17 May 2006 (together the "Trust Deed"), each between Hellaby Holdings Limited and its subsidiaries AB Equipment Limited, AB Rental Limited, BBQ Factory Limited, Brake & Transmission NZ Limited, Diesel Distributors Limited, Elldex Packaging Limited, Eurolift NZ Limited, Hellaby Properties Limited, Levana Textiles Limited, TRS Tyre & Wheel Limited (each of which companies comprise the Borrowing Group), and the Trustee, The New Zealand Guardian Trust Company Limited.

The Trustee has agreed to act as trustee on behalf of the Holders of the Capital Notes in accordance with the Trust Deed.

This section is a summary of the principal provisions of the Trust Deed. In this section, capitalised terms not otherwise defined in this Offer Document have the meanings ascribed to those terms in the Trust Deed.

1 Issue and Constitution of Capital Notes

1.1 Hellaby Holdings Limited may issue Capital Notes pursuant to the terms of the Trust Deed. The Face Value of, and Accrued Interest on, the Capital Notes, and any other amount owing in respect thereof, shall constitute unsecured subordinated obligations of Hellaby Holdings Limited. Capital Notes will rank *pari passu* and without preference or priority among themselves.

1.2 The obligations of Hellaby Holdings Limited to the Holders under, and the rights of the Holders (or the Trustee on behalf of the Holders) against Hellaby Holdings Limited in respect of the Face Value of, and Accrued Interest on, the Capital Notes are subordinated to the claims of Senior Creditors of Hellaby Holdings Limited in that in and upon the commencement of Liquidation of Hellaby Holdings Limited the claims of the Holders against Hellaby Holdings Limited and in respect of the Capital Notes in such Liquidation are:

- (a) subordinated in point of priority and right of payment to, and rank behind, the claims of the Senior Creditors of Hellaby Holdings Limited; and
- (b) limited to the Liquidation Amount in respect of all Capital Notes.

and prior to the Commencement of Liquidation of Hellaby Holdings Limited:

- (c) the obligation of Hellaby Holdings Limited to make any payment in respect of the Capital Notes is conditional upon Hellaby Holdings Limited being solvent at the time the relevant payment falls due and, in the event that Hellaby Holdings Limited is not solvent at that time, such obligation shall

remain conditional until such time as Hellaby Holdings Limited becomes solvent; and

- (d) no payment shall be made in respect of the Capital Notes except to the extent that Hellaby Holdings Limited may make such payment and still be solvent immediately thereafter.

For the purposes of paragraph 1.2, Hellaby Holdings Limited shall be considered to be solvent at any time if at that time it is able to meet the solvency test in section 4 of the Companies Act.

1.3 The Trustee agrees and, by purchasing a Capital Note each Holder will be deemed to agree, that:

- (a) in accordance with section 313(3) of the Companies Act, the Holder is accepting a lower priority in respect of the debt represented by such Capital Note than that which it would otherwise have under section 313 of the Companies Act; and
- (b) nothing in section 313 of the Companies Act will prevent the Trust Deed from having effect in accordance with its terms.

1.4 Each Holder will have the benefit of, and be bound by and will be deemed to have notice of all the provisions of, the Trust Deed and all those provisions shall be binding on Hellaby Holdings Limited, each Holder, and all persons claiming through them respectively. The Trustee is to hold the benefit of the covenants given to it by Hellaby Holdings Limited and the Guarantors under the Trust Deed (other than those covenants intended to be for the benefit of the Trustee on its own account), for the Holders generally.

1.5 Hellaby Holdings Limited shall issue, or shall cause to be issued, to each Holder a statement of holdings relating to that Holder's Capital Notes, in accordance with, and in the time required by, the Listing Rules and the Securities Act 1978.

1.6 Hellaby Holdings Limited shall establish and maintain, or cause to be established and maintained, a register of Capital Notes. The Register shall be kept by the Registrar at such place in New Zealand as Hellaby Holdings Limited may from time to time determine and notify the Trustee in writing.

2 Interest and Suspension of Interest

2.1 Interest shall, subject to the conditions relating to the suspension of interest below, be payable in arrears on each Interest Date in respect of the Interest Period relating to that Interest Date. Interest in respect of each Capital Note during each Interest Period shall:

- (a) be calculated on the Face Value of that Capital Note at the interest rate;
- (b) be calculated from the date of allotment, on the Face Value of each Capital Note payable quarterly in arrears on each Interest Date, and thereafter on the basis determined by Hellaby Holdings Limited;
- (c) accrue daily on the basis of a 365 day year; and

- (d) cease to accrue from the earliest of:
- i. the Conversion Date of that Capital Note;
 - ii. the date of redemption in cash of that Capital Note; and
 - iii. the commencement of Liquidation of Hellaby Holdings Limited.

Payment

- 2.2 Hellaby Holdings Limited covenants with the Trustee that it will pay to the Trustee, at such place as the Trustee shall by notice in writing direct, interest on the Capital Notes in accordance with paragraph 2.1 above.
- 2.3 Notwithstanding the provisions of paragraphs 2.2 and 2.4 but subject to paragraphs 2.5 to 2.8, Hellaby Holdings Limited shall, unless and until otherwise requested by the Trustee or prevented by law, pay all interest on the Capital Notes to the Holders, and each such payment shall operate as a payment to the Trustee in satisfaction, to the extent of the payment, of the obligation to pay interest to the Trustee.
- 2.4 For the avoidance of doubt, neither the Trustee nor any Holder shall be entitled to require the early redemption of the any Capital Note as a result of non-payment of interest.

Suspension

- 2.5 If:
- (a) the directors, on reasonable grounds, believe that the payment (or the relevant part thereof) would, or would be likely to, result in any member of the Borrowing Group breaching the solvency test contained in section 4 of the Companies Act; or
 - (b) the payment (or the relevant part thereof) would, or would be likely to, result in any member of the Borrowing Group being in breach of any covenant, warranty or undertaking given by it to any of its Senior Creditors under the terms or conditions on which any financial indebtedness was advanced to or otherwise provided to it; or
 - (c) the payment (or the relevant part thereof) would, or would be likely to, result in any member of the Borrowing Group being in breach of any other legal obligation,

Hellaby Holdings Limited may, to the extent necessary, suspend the payment of interest (or the relevant part thereof) on the Capital Notes until such time as the circumstances provided for in paragraphs (a), (b), or (c) above no longer apply. Such suspension shall take effect from the date specified in the relevant suspension notice, which may be before the delivery to the Trustee of that suspension notice, but shall not be more than 14 days before the delivery to the Trustee of that suspension notice, provided that no suspension shall be effective after the date of commencement of Liquidation of

Hellaby Holdings Limited, the Call Date, the date of compulsory redemption (under paragraph 3.23 below) or the Maturity Date (whichever occurs first).

- 2.6 If Hellaby Holdings Limited determines to suspend the payment of interest in relation to the Capital Notes in accordance with 2.5 above, Hellaby Holdings Limited shall give to the Trustee written notice to that effect. That notice shall incorporate a certificate signed by not less than two directors on behalf of the directors stating that one or more of the circumstances specified in condition 2.5 exists, provided that if Hellaby Holdings Limited is in receivership, or otherwise under the control of a person other than the directors, then the certificate incorporated in the suspension notice may be given to the Trustee by the receiver, or by that other person. Hellaby Holdings Limited shall, forthwith after giving the suspension notice to the Trustee, give notice to Holders of Capital notes of the suspension of interest in accordance with that suspension notice.
- 2.7 The Trustee may without enquiry accept and rely on any suspension notice as conclusive evidence of the existence of the circumstances specified in that suspension notice, and the Trustee shall not be obliged to enquire further.
- 2.8 If payment of interest in relation to the Capital Notes is suspended pursuant to paragraph 2.5, the obligation to pay that interest shall not be extinguished, and interest shall continue to accrue on the Capital Notes (but such interest shall not be capitalised or compounded). The Interest accrued (whether before or after the date of suspension) shall be paid by Hellaby Holdings Limited:
- (a) when and if none of the circumstances specified in condition 2.5(a), (b), and (c) exists, and the payment will not cause any such circumstance to exist; or
 - (b) on the earlier of the Final Interest Date of that Capital Note or the date of renewal of that Capital Note pursuant to paragraph 3.7, when suspension becomes ineffective in accordance with paragraph 2.5, whichever occurs first.

Default Interest

- 2.9 If Hellaby Holdings Limited fails to pay all interest which is due and payable on an Interest Date and such default continues for more than 5 Business Days (including where such payment is suspended under paragraph 2.6) then interest at the Default Interest Rate will accrue on a daily basis on the Capital Notes from (and including) the date on which such interest was due, to (but excluding) the date on which such interest is paid in full.
- 2.10 Interest payable under paragraph 2.9 which is not paid when due for payment will (subject to paragraph 2.8) be compounded on the first Business Day of each calendar month.

3 Renewal, Conversion, Redemption, New Issues of Securities, and Transfer

Renewal, Conversion or Redemption

3.1 Hellaby Holdings Limited shall elect, by giving notice ("Election Notice") to each Holder of Capital Notes not later than 33 Business Days prior to the Maturity Date:

- (a) to redeem all Capital Notes for cash on that Maturity Date; or
- (b) to give the Holder the option to renew all of their Capital Notes as at the Maturity Date on the new terms and conditions advised by Hellaby Holdings Limited; or
- (c) to convert all Capital Notes at the relevant Conversion Rate on that Maturity Date.

If Hellaby Holdings Limited fails to give notice as required by this paragraph, it shall be deemed to have given notice under condition 3.1(a).

3.2 If Hellaby Holdings Limited elects to give a Holder the option to renew all of the Capital Notes under condition 3.1(b), Hellaby Holdings Limited shall ensure that the Election Notice contains or refers to:

- (a) the term of the renewed Capital Notes;
- (b) the interest rate payable on, and the other terms and conditions of, the Capital Notes for the further term ("New Terms");
- (c) the address to which notice of the exercise of the option to renew may be sent by that Holder;
- (d) advice that if no notice of the exercise of the option by the Holder is received by Hellaby Holdings Limited on or before the date which is 10 Business Days after the date of the Election Notice ("Notification Date") or if such notice of exercise is incomplete or otherwise invalid, all of the Capital Notes held by that Holder shall be deemed to be renewed on the New Terms;
- (e) the option of Hellaby Holdings Limited, should the Holder elect to decline the exercise of the option to renew all of the Capital Notes held by that Holder as at the Maturity Date, either to:
 - i. redeem all Capital Notes held by that Holder for cash on that Maturity Date; or
 - ii. convert all Capital Notes held by that Holder on that Maturity Date; and
- (f) any other matter Hellaby Holdings Limited considers relevant.

3.3 A copy of each Election Notice must be sent to the Trustee at the same time as it is sent to the Holders. If required by the Securities Act 1978 or any other applicable law, a prospectus and/or investment statement must also be sent to the Holders (in each case, in a form previously approved by the Trustee).

3.4 If in an Election Notice Hellaby Holdings Limited has elected to give a Holder the option to renew Capital Notes under paragraph 3.1(b), the Holder shall notify Hellaby Holdings Limited not later than the Notification Date relating to that Election Notice whether it elects to exercise that option.

3.5 If:

- (a) Hellaby Holdings Limited does not receive a notice under paragraph 3.4 in accordance with that paragraph; or
- (b) the notice given under paragraph 3.4 is incomplete or otherwise invalid for any reason, the Holder shall be deemed to have elected to renew all of the Capital Notes held by it as at the Maturity Date on the New Terms.

3.6 If the Holder notifies Hellaby Holdings Limited not later than the Notification Date that it elects not to exercise its option to renew all of the Capital Notes held by it as at the Maturity Date, Hellaby Holdings Limited shall elect, by giving a further notice to the Holder not later than 15 Business Days prior to that Maturity Date, to either:

- (a) redeem all Capital Notes held by that Holder for cash on that Maturity Date; or
- (b) convert all Capital Notes held by that Holder at the relevant Conversion Rate on that Maturity Date.

If Hellaby Holdings Limited fails to give notice as required, or the contents of such notice do not substantially meet the requirements of this paragraph, Hellaby Holdings Limited shall be deemed to have given notice under paragraph 3.6(a).

3.7 The New Terms shall apply as from the Maturity Date of the Capital Notes which the Holder has (or is deemed to have) renewed.

3.8 If paragraph 3.1(c) or 3.6(b) applies and:

- (a) the existing Ordinary Shares are not quoted on a registered exchange; or
- (b) the conversion of any Capital Notes into, and the issue of, Ordinary Shares has not been approved by an ordinary resolution of shareholders in Hellaby Holdings Limited on or before the earlier of the date of the Election Notice and 33 Business Days prior to the Maturity Date, unless Hellaby Holdings Limited is exempted from obtaining such approval under the NZX Listing Rules; or
- (c) Hellaby Holdings Limited is unable for any reason whatsoever to issue Ordinary Shares in relation to the Capital Notes,

then Hellaby Holdings Limited shall be deemed to have given notice under condition 3.1(a) or 3.6(a) (as applicable).

3.9 On the Maturity Date, Hellaby Holdings Limited shall:

- (a) if condition 3.1(a) or 3.6(a) applies, redeem each relevant Capital Note for cash at its Face Value together with all Accrued Interest in respect of that Capital Note; or
- (b) if condition 3.1(c) or 3.6(b) applies, convert each relevant Capital Note at its Conversion Rate.

3.10 If the conversion of a Holder's Capital Notes would result in a fraction of an Ordinary Share being issued, the number of Ordinary Shares to be issued to that Holder shall be rounded down to the nearest whole number of Ordinary Shares.

3.11 Each Capital Note which is to be redeemed for cash, whether as a consequence of Hellaby Holdings Limited being deemed to have given notice under 3.1(a) or 3.6(a) or otherwise, shall be redeemed at an amount equal to its Face Value together with all Accrued Interest in respect of that Capital Note less all withholding tax and other withholdings or deductions required to be made.

3.12 Ordinary Shares resulting from each conversion shall rank *pari passu* in all respects with all other Ordinary Shares then on issue, except that such Ordinary Shares will not carry any rights to any dividend or other distribution declared or paid or made on such Ordinary Shares by reference to a Date of Record prior to the Maturity Date. Neither Hellaby Holdings nor the Trustee shall have any further liabilities or obligations in respect of a Capital Note which is redeemed by the issue of an Ordinary Share or otherwise redeemed in accordance with the Trust Deed or the Holder.

3.13 If required by the Listing Rules, Hellaby Holdings Limited shall issue, or shall cause to be issued, to a Holder whose Capital Notes have converted in accordance with this section 3, a Statement relating to the Ordinary Shares into which the Capital Notes have converted, in accordance with, and in the time required by, the Listing Rules.

3.14 Each Capital Note shall be redeemed on conversion.

3.15 Hellaby Holdings Limited shall not pay the Holder Accrued Interest on any Capital Note which is to be converted on the Conversion Date, but the Accrued Interest as at that date shall form part of the Accrued Interest for the purposes of calculating the Conversion Rate.

New Issues and Transfers

3.16 Subject to compliance by Hellaby Holdings Limited with its constitution, the Listing Rules (if applicable), all applicable law and the provisions of the Trust Deed, Hellaby Holdings Limited shall be entitled from time to time to issue further securities (including Ordinary Shares and convertible securities (whether or not such convertible securities rank in right of repayment prior to or equally with the Capital Notes)).

3.17 Hellaby Holdings Limited may, subject to compliance with its constitution and the Listing Rules and all applicable law, purchase, or cause any subsidiary to purchase, any Capital Note from any Holder. Any Capital Note purchased by Hellaby Holdings Limited or any subsidiary may, at the option of Hellaby Holdings Limited, be cancelled forthwith upon registration of the transfer in favour of Hellaby Holdings Limited or the subsidiary. Any such Capital Note which is not cancelled may be subsequently transferred in accordance with the terms of the Trust Deed. Paragraphs 3.1 to 3.16 will not apply to any Capital Note already held by Hellaby Holdings Limited or any subsidiary of Hellaby Holdings Limited.

3.18 Hellaby Holdings Limited may, subject to compliance with its constitution, the Listing Rules and the Companies Act, give financial assistance for the purpose of, or in connection with, the acquisition of Capital Notes.

Call Option

3.19 Hellaby Holdings Limited may at any time, and from time to time, on or after the Call Option Date (being 16 June 2008) upon giving Holders written notice ("**Call Option Notice**"), require redemption of all or any portion of the Capital Notes on the date specified in the Call Option Notice ("**Call Date**") being a date not less than 45 days after the date on which that Call Option Notice is given. If Hellaby Holdings Limited proposes to redeem any portion of the Capital Notes, such redemption must be made on a pro rata basis across all Holders. Hellaby Holdings Limited further agrees that if a pro-rata redemption would result in a Holder holding:

- (a) less than a Minimum Number of Capital Notes, then Hellaby Holdings Limited will redeem all Capital Notes held by that Holder; or
- (b) Capital Notes having an aggregate Face Value other than an integral multiple of \$1,000, Hellaby Holdings Limited shall redeem such number of Capital Notes which will result in the Holder's holding being reduced to an aggregate Face Value of the nearest integral multiple of \$1,000 (subject always to the Minimum Number requirement).

In each case such redemptions shall be made at the same time, and at the same price, at which Hellaby Holdings Limited exercises its rights under this call option.

3.20 If Hellaby Holdings Limited exercises its right to redeem all or any portion of the Capital Notes pursuant to clause 3.20, the redemption price paid to Holders for each Capital Note ("**Call Exercise Price**") will be equal to:

- (a) the Premium Price in respect of that Capital Note; and
- (b) plus all Accrued Interest in respect of that Capital Note up to the Call Date.

3.21 The Call Option Notice issued by Hellaby Holdings Limited shall stipulate:

- (a) the Call Exercise Price;
- (b) the number of Capital Notes that Hellaby Holdings Limited proposes to redeem pursuant to the call option;
- (c) the record date by reference to which Hellaby Holdings Limited will exercise the call option;
- (d) the Call Date; and
- (e) the Premium Factor and the Premium Price Payable in respect of each Capital Note to be acquired.

3.22 In paragraphs 3.20 to 3.23 (inclusive):

“Premium Factor” means in relation to the calculation of the Premium Price, the number set out in the following table as applicable:

Period in which the Call Date falls	Premium Factor
Period commencing on 16 June 2008 and ending on 15 June 2009	1.03
Period commencing on 16 June 2009 and ending on 15 June 2010	1.02
On or after 16 June 2010	1.00

“Premium Price” means, in relation to a Capital Note, the amount calculated pursuant to the following formula:

Premium Price = Premium Factor x Face Value.

3.23 If as a result of a general offer to purchase made to some or all holders of Ordinary Shares, or as a result of an amalgamation any person, whether acting alone or in connection with any other person:

- (a) is, or is entitled to become, the holder (absolutely or beneficially and whether directly or indirectly) of all Ordinary Shares; or
- (b) has or will have the right to cast all votes on a poll at a general meeting of Hellaby Holdings Limited on a matter on which holders of Ordinary Shares are entitled to vote,

(each a “Relevant Interest”) but no offer is made to Holders to purchase all of the Capital Notes, then Hellaby Holdings Limited will, at any time prior to the next Interest Date that falls not less than 30 Business Days after the occurrence of the such Relevant Event, redeem or repurchase all of the Capital Notes at the price equal to the aggregate of the Face Value of, and all Accrued Interest and accrued and suspended interest on, those Capital Notes.

4 Subordination

4.1 In the Liquidation of Hellaby Holdings Limited, neither the Trustee nor any Holder is entitled to prove for the Face Value of, or Accrued Interest on, any Capital Note except as a debt which is subject

to, and contingent upon, prior payment of the Senior Creditors of Hellaby Holdings Limited in full.

4.2 Enforcement

- (a) Subject to condition 4.12, the Trustee shall not be entitled to claim, demand, sue, prove for, compel or enforce payment or repayment from Hellaby Holdings Limited of the Face Value of, or Accrued Interest on, the Capital Notes or other sum due or payable in respect of the Capital Notes except following the commencement of Liquidation of Hellaby Holdings Limited, and then, only by way of a claim, demand, suit or proof as may be necessary to preserve the claim thereto of any Holder(s) in the Liquidation of Hellaby Holdings Limited;
- (b) except as permitted by condition 4.8, the Trustee shall not be entitled to take or receive directly or indirectly (including by way of netting, set-off, merger, lien or counterclaim or in any other manner) from Hellaby Holdings Limited the Face Value of, or Accrued Interest on, the Capital Notes or any other sum due or payable in respect of the Capital Notes, and the Trustee shall not be entitled to pay, or procure the payment, to or to the order of or for the benefit of, any Holder, or any other person on behalf of any Holder, any sums for the time being held by or under the control of the Trustee being by way of the Face Value of, or Accrued Interest on, the Capital Notes or other sum due or payable in respect of the Capital Notes;
- (c) no Holder shall be entitled to take or receive, directly or indirectly (including by way of netting, a set off, merger, lien or counterclaim or in any other manner) from Hellaby Holdings Limited the Face Value of, or Accrued Interest on, the Capital Notes or any other sum due or payable in respect of the Capital Notes, except a payment received as permitted by condition 4.8, or be entitled to claim, demand, sue, prove for, compel or enforce payment or repayment from Hellaby Holdings Limited or the Trustee or any other person of the Face Value of, or Accrued Interest on, the Capital Notes or other sum due or payable in respect of the Capital Notes (except in the circumstances provided for in condition 4.3, but subject always to the restrictions as would have been applicable to the Trustee in respect thereof); and
- (d) except for payments permitted by condition 4.8, Hellaby Holdings Limited shall not make to, or to any person on behalf of, any Holder any payment or repayment in respect of the Face Value of, or Accrued Interest on, any Capital Note, or of any other sum in respect of any Capital Note, unless and until all amounts owing to Senior Creditors of Hellaby Holdings Limited have been fully paid or repaid.

- 4.3 Subject to the provisions in this section 4, only the Trustee may enforce the provisions of the Capital Notes and no Holder is entitled to proceed directly against Hellaby Holdings Limited unless Hellaby Holdings Limited is in breach of the Trust Deed and the Trustee fails to act (to the extent that it is able under the Trust Deed) with respect to that breach in a reasonable time.
- 4.4 No Holder may claim or prove in the Liquidation of Hellaby Holdings Limited for any amount owing to that Holder under any Capital Note or the Trust Deed to the extent that the Trustee has claimed or proved for, or has determined to claim or prove for, such amount in such Liquidation on behalf of such Holder, and any claim or proof made contrary to this condition must be withdrawn by such Holder.
- 4.5 No Holder may proceed against Hellaby Holdings Limited or the Trustee for the enforcement or performance of any provision of the Trust Deed or any condition of issue of the Capital Notes that is solely for the benefit of the Trustee.
- 4.6 Any amount received by the Trustee under or in respect of the Trust Deed or the Capital Notes in or upon the commencement of Liquidation and not paid to the liquidator, must be applied, subject to any direction made by any court and except as required by law:
- (a) first, in payment or retention of all costs, charges, expenses and liabilities incurred and payment made on behalf of the Trustee (or any officer, employee or agent of the Trustee) and of all remuneration, indemnified amounts and other moneys payable to the Trustee (or any officer, employee or agent of the Trustee) as provided for or referred to in the Trust Deed;
 - (b) secondly, in payment to Hellaby Holdings Limited to be held by it upon trust to apply the same in or towards the discharge of the indebtedness of Hellaby Holdings Limited to its Senior Creditors according to their respective rights and interests;
 - (c) thirdly, subject to the indebtedness of Hellaby Holdings Limited to its Senior Creditors having been paid or satisfied or provided for in full, in or towards payment to each Holder, *pari passu* in proportion to the Face Value of the Capital Notes held by him or her, of the aggregate Liquidation Amount in respect of the Capital Notes held by the Holder, and
 - (d) fourthly, in payment of the surplus (if any) of such moneys to Hellaby Holdings Limited, or to such other person as may otherwise be lawfully entitled to those moneys.
- 4.7 Following the commencement of Liquidation of Hellaby Holdings Limited, the Trustee will be entitled and is authorised to call for and to accept as conclusive evidence a certificate from the liquidator for the time being regarding the amount of indebtedness to Senior Creditors of Hellaby Holdings Limited which has not been satisfied or otherwise provided for and the Trustee shall be entitled to rely upon a statement in writing from the liquidator to the effect that all such indebtedness has been satisfied or discharged.
- 4.8 Until the commencement of Liquidation of Hellaby Holdings Limited, Hellaby Holdings Limited is entitled to pay, and a Holder or the Trustee or any other person on behalf of a Holder is entitled to receive payment from or on behalf of Hellaby Holdings Limited of, any amount payable in respect of Accrued Interest on the Capital Notes or other amount payable in respect of the Capital Notes and the Trustee is entitled to pay any amounts to or for the benefit of the Holders or any other person on behalf of any Holders except to the extent provided for in paragraph 1.2.
- 4.9 Upon the commencement of Liquidation of Hellaby Holdings Limited, the Face Value of the Capital Notes, together with all interest, including default interest, accrued and unpaid on the Capital Notes, will become repayable and each Capital Note will be due to be redeemed for an amount equal to the Liquidation Amount of the Capital Note.
- 4.10 Upon the commencement of Liquidation of Hellaby Holdings Limited, the Capital Notes shall cease to be convertible, and the Face Value of the Capital Notes, together with all Accrued Interest on the Capital Notes, will become repayable and each Capital Note will be due to be redeemed for an amount equal to the Liquidation Amount.
- 4.11 The Trustee acknowledges that for the purposes of the Contracts (Privity) Act 1982, the Senior Creditors of Hellaby Holdings Limited shall be entitled to rely upon and enforce all obligations of the Trustee and Hellaby Holdings Limited pursuant to this paragraph 4.
- 4.12 None of the enforcement restrictions affects:
- (a) the right of the Trustee to seek directions from a court in accordance with the Securities Act or to take any other proceedings seeking the directions of, or guidance by, any court or other authority as to the performance of its functions and duties hereunder or otherwise in relation to the Trust Deed; or
 - (b) any proceedings taken by the Trustee or any Holder at any time seeking a judgement or order declaratory of the rights or obligations of any Holder or any party to the Trust Deed; or
 - (c) the right of the Trustee or a Holder, in the circumstances expressly permitted by the Trust Deed and the conditions of issue of the Capital Notes, to take any action permitted by the Trust Deed.

5 Payments

- 5.1 In the case of the first payment of interest on a Capital Note (less any amount required to be deducted pursuant to section 6), the payment will be made to the person whose name appears in the Register as the original subscriber of that Capital Note. In the case of each subsequent payment of interest on a Capital Note, and, if redeemed, the amount payable pursuant to paragraph 3.9 (less any amount required to be deducted pursuant to section 6), will be made to the person whose name appears in the Register as the Holder of that Capital Note on the Record Date in respect of the relevant payment. If more than one person is named in the Register in respect of the relevant Capital Notes, payment will be made to the first person so named.
- 5.2 If any Interest Date, the Conversion Date or the Maturity Date of a Capital Note is not a Business Day, the due date for the payment to be made on that date, or date by which action must be taken in relation to that Capital Note, will be the immediately succeeding Business Day and all other provisions of the Trust Deed will be read and construed accordingly.
- 5.3 (a) All payments in respect of any Capital Note held by a Holder shall, at the election of a Holder, be paid by the Registrar by cheque sent by mail to the address, or by direct credit to a bank account, specified by that Holder by written notice from time to time. A Holder may at any time amend any notice so given, provided that no amendment of a notice shall have effect unless another address or bank account is specified by that Holder.
- (b) No notice or amendment of a notice given under paragraph 5.3(a) will have effect in respect of any payment unless received by the Registrar on or before the Record Date for that payment. Any notice given under paragraph 5.3(a) will be deemed to be automatically cancelled upon transfer of a Capital Note. A notice from one of several Holders of the same Capital Notes shall be deemed to be given by all such Holders.
- (c) If, for whatever reason, at any time a Holder has provided neither a current address nor current details of a bank account to the Registrar, any payments in respect of any Capital Note to that Holder shall be deemed to be unclaimed money.

6 Taxes

- 6.1 All amounts payable under a Capital Note must be paid:
- (a) free of any restriction or condition;
- (b) free and clear of and (except to the extent required by law or as provided for in this section 6) without any deduction or withholding on account of any taxes; and
- (c) without deduction or withholding on account of

any other amount whether by way of set-off or otherwise (except as provided in this paragraph 6).

- 6.2 If Hellaby Holdings Limited is lawfully able to pay Approved Issuer Levy in respect of any payment of interest (or deemed interest) to a non-resident Holder, Hellaby Holdings Limited, or the person making payment on its behalf, shall pay the Approved Issuer Levy to the appropriate authority and shall deduct the amount paid from the interest (or deemed interest) payable to that Holder in lieu of deducting New Zealand non-resident withholding tax at the rate otherwise applicable from that payment. If the Issuer is not lawfully able to pay Approved Issuer Levy in respect of any payment of interest (or deemed interest) to a non-resident Holder, then New Zealand non-resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are not resident in New Zealand for taxation purposes and who are not engaged in business in New Zealand through a fixed establishment in New Zealand.
- 6.3 New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are resident in New Zealand or who are engaged in business through a fixed establishment in New Zealand unless:
- (a) an appropriate exemption certificate is produced to Hellaby Holdings Limited on or before the Record Date for the relevant payment; and
- (b) Hellaby Holdings Limited is permitted by the terms of section NF 2(7) of the Income Tax Act 2004 to make the payment free of New Zealand resident withholding tax.
- 6.4 “**Approved Issuer Levy**” means, in relation to any payment of interest (as defined in section 86F of the Stamp Cheque Duties Act 1971) under any Capital Note, the levy payable by Hellaby Holdings Limited in accordance with section 86J of the Stamp and Cheque Duties Act 1971 to enable the payment of such interest to be made to any person not resident in New Zealand for tax purposes with a deduction for New Zealand non-resident withholding tax at the rate of zero percent pursuant to section NG 2(1) of the Income Tax Act 2004.

7 Guarantee

- 7.1 The obligations of Hellaby Holdings Limited under the Capital Notes and the Trust Deed (the Note Obligations) are guaranteed on an unsecured and subordinated basis by each of AB Equipment Limited, AB Rental Limited, BBQ Factory Limited, Brake & Transmission NZ Limited, Diesel Distributors Limited, Elldex Packaging Limited, Eurolift NZ Limited, Hellaby Properties Limited, Levana Textiles Limited, and TRS Tyre & Wheel Limited (“Guarantors”). The guarantee has been granted in favour of the Trustee

and is held by the Trustee on behalf of itself and all Holders of Capital Notes.

7.2 If Hellaby Holdings Limited fails to comply with any Note Obligation on the due date for payment to that Holder, upon receipt by the Guarantor of a demand for payment by a Holder or by the Trustee under the guarantee together with evidence that the Note Obligation is due and payable by Hellaby Holdings Limited to the Holder and has not been paid, each Guarantor undertakes that, subject to conditions 7.3 to 7.8 below, it will pay to the Holder the due and unpaid Note Obligation.

7.3 Each Guarantor will remain liable to Holders and the Trustee under the guarantee notwithstanding that as a result of any failure by Hellaby Holdings Limited to comply with a Note Obligation either the Trustee or the Holder has exercised rights against Hellaby Holdings Limited under the Trust Deed or the Capital Notes or that Hellaby Holdings Limited is placed into Liquidation.

7.4 The obligation of each Guarantor under this guarantee is a continuing obligation and will remain in force until all Note Obligations have been discharged in full. The liability of each Guarantor under this guarantee will not be affected by:

- (a) the granting of time or by any other indulgence to Hellaby Holdings Limited or any other guarantor (including any other Guarantor) by any Holder or the Trustee;
- (b) the compounding, compromise, release, abandonment, waiver, variation or extension of any of the rights of any Holder or the Trustee against Hellaby Holdings Limited or any other guarantor (including any other Guarantor);
- (c) any neglect or omission to enforce such rights;
- (d) any other thing which under the law relating to sureties might, but for this provision, release the Guarantor in whole or in part from any obligation under the guarantee given by it in the Trust Deed;
- (e) the liability of any other Guarantor or other guarantor of Hellaby Holdings Limited ceasing from any cause whatever (including release or discharge by the Holders (or any of them) or the Trustee);
- (f) any other person joining this, or giving any similar guarantee;
- (g) any other Guarantor or other guarantor being incompetent to give this or any other guarantee, or failing to become, or remain, legally bound in whole or in part under any of them respectively;
- (h) any guarantee (including any guarantee given pursuant to the Trust Deed) being held to be void, ineffective or informal;
- (i) any wholly-owned subsidiary which, pursuant to the terms of the Trust Deed, is required to become a Guarantor, failing or being incompetent to become or remain a Guarantor.

7.5 Each Guarantor is liable under the Trust Deed as a principal debtor and not merely as a surety.

7.6 Each Guarantor shall not without the prior written consent of the Trustee:

- (a) take, accept or continue to hold any security from Hellaby Holdings Limited or any other Guarantor;
- (b) take, accept or continue to hold any security from any person who has given a security to a Holder or the Trustee for any obligation in respect of any Capital Notes; or
- (c) take steps to recover (whether directly or by set-off, counterclaim or otherwise), or accept, money or other property, or exercise or enforce rights, in respect of any amount due (whether actually or contingently) from Hellaby Holdings Limited or any other guarantor to the Guarantor.

7.7 Each Guarantor waives in favour of the Holders and the Trustee all its rights (including rights of subrogation, contribution and marshalling) against any Holder or the Trustee, Hellaby Holdings Limited and each other Guarantor and any other person so far as is necessary to give effect to the Trust Deed.

7.8 Until the commencement of Liquidation of the Guarantor, each Guarantor is entitled to pay, and each Holder or the Trustee or any person on behalf of the Holder is entitled to receive, all payments under the guarantee due and payable by the Guarantor and the Trustee is entitled to pay any amounts to or for the benefit of the Holder or any other person on behalf of any Holder or any person on behalf of the Holder without regard to the subordination referred to below.

8 Enforcement of Guarantee

8.1 Subject to permitted proceedings, the Trustee shall not be entitled to claim, demand, sue, prove for, compel or enforce payment or repayment from a Guarantor any amount in respect of the Face Value of, or Accrued Interest on, the Capital Notes or other sum due or payable in respect of the Capital Notes except following commencement of Liquidation of such Guarantor.

8.2 Except as permitted by paragraph 7.8, the Trustee shall not be entitled to take or receive directly or indirectly from a Guarantor any amount in respect of the Face Value of, or any Accrued Interest on, the Capital Notes or any other sum due or payable in respect of the Capital Notes, and the Trustee shall not be entitled to pay, or procure the payment to the order of or for the benefit of, any Holder, any sums for the time being held by or under the control of the Trustee.

8.3 No Holder shall be entitled to take or receive, directly or indirectly from a Guarantor any amount in respect of the Face Value of, or Accrued Interest on, the Capital Notes or any other sum due or payable in respect of the Capital Notes, except as permitted by paragraph 7.8 or be entitled to claim, demand, sue, prove for, compel or enforce payment or repayment

from the Guarantor or the Trustee or any other person such amount.

- 8.4 Except as permitted by paragraph 7.8, no Guarantor shall make to, or to any person on behalf of, any Holder any payment or repayment in respect of an amount in respect of the Face Value of, or Accrued Interest on, any Capital Note, or of any other sum in respect of any Capital Note, unless and until all amounts owing to Senior Creditors of the Guarantor have been fully paid or repaid.
- 8.5 Subject to the provisions of this section 8, only the Trustee may enforce the provisions of the guarantee and no Holder is entitled to proceed directly against the Guarantor unless the Guarantor is in breach of the Trust Deed and the Trustee fails to act.
- 8.6 No Holder may claim or prove in the Liquidation of a Guarantor for any amount owing to that Holder to the extent the Trustee has claimed or proved for such amount in such Liquidation on behalf of such Holder, any claim or proof made contrary to this clause must be withdrawn by such Holder.
- 8.7 No Holder may proceed against a Guarantor or the Trustee for the enforcement or performance of any provision of the Trust Deed or any condition of issue of the Capital Notes that is solely for the benefit of the Trustee.
- 8.8 In the Liquidation of each Guarantor, neither the Trustee nor any Holder is entitled to prove any amount payable by such Guarantor in respect of the Face Value of, or Accrued Interest on, any Capital Note except as a debt which is subject to, and contingent upon, prior payment of the Senior Creditors of the Guarantor in full.
- 8.9 As a separate and independent obligation each Guarantor agrees that in the event that the guarantee is not effective to ensure that no loss of any kind is suffered by the Trustee or the Holders by reason of the non-payment by Hellaby Holdings Limited of any part of the amount of any Note Obligation for any cause whatsoever, each Guarantor will indemnify each of them against any such loss.
- 8.10 Upon the commencement of Liquidation of a Guarantor the claims of Holders against the Guarantor under the guarantee will be subordinated in point of priority and right of payment to and rank behind all Senior Creditors of the Guarantor.

9 Restrictions on Borrowing Group

- 9.1 The Trust Deed imposes the following principal restrictions and financial covenants on the Borrowing Group:

Hellaby Holdings Limited covenants that on each Test Date while any Capital Note remains outstanding it will ensure that:

- i. the ratio of Total Group Debt to Total Group Assets does not exceed 0.65:1.00; and
- ii. Total Group Shareholders' Equity is not less than NZ\$70,000,000.

Where:

Group means, on any date, Hellaby Holdings Limited, each of its subsidiaries and associated companies included in the most recent interim financial statements or annual financial statements of Hellaby Holdings Limited and its subsidiaries (whichever is most recent), prepared in respect of the period in which that date falls;

Group Financial Indebtedness means all outstanding indebtedness of the Group for or in respect of money borrowed (whether or not for cash consideration) by whatever means (including indebtedness incurred under acceptances, bills of exchange, capital notes, convertible notes, redeemable shares, finance leases, debt factoring with recourse and sale and finance leaseback arrangements);

Test Date means 30 June and 31 December in each year, or such other dates as at which Hellaby Holdings Limited prepares its interim financial statements and annual financial statements;

Total Group Assets means, in respect of any date, the total assets of the Group disclosed by the most recent interim financial statements or annual financial statements of the Group (whichever is the most recent), prepared in respect of the period in which that date falls;

Total Group Debt means, in respect of any date, Group Financial Indebtedness (including any amounts outstanding under Capital Notes) disclosed by the most recent interim financial statements or annual financial statements of the Group (whichever is the most recent), prepared in respect of the period in which that date falls; and

Total Group Shareholders' Equity means, in respect of any date, the total shareholders' equity of the Group (excluding the Capital Notes and minority interests) disclosed by the most recent interim financial statements or annual financial statements of the Group (whichever is the most recent) prepared in respect of the period in which that date falls.

- 9.2 Hellaby Holdings Limited has covenanted in the Trust Deed that:

- (a) It will, at all times, comply with the provisions of, and its obligations under, the Companies Act and the Listing Rules and also with the relevant terms and conditions of the Capital Notes;
- (b) It will forthwith send to the Trustee a copy of each notice that it sends:
 - i. the Holders;
 - ii. any of the NZX, holders of Ordinary Shares, or the Companies Office in relation to the Capital Notes; and
 - iii. relating to any general meeting of Hellaby

- Holdings Limited which any shareholder of Hellaby Holdings Limited is entitled to receive;
- (c) It will comply with its obligations under applicable laws and the Listing Rules relating to the provision of information to the NZX;
 - (d) It will procure that on and from 30 July 2006:
 - i. within 30 Business Days of each date on which any wholly-owned subsidiary of Hellaby Holdings Limited incorporated in New Zealand, that is not a Guarantor at that date, has gross assets having a value which is more than 5% of the value of the Total Group Assets on the date of the most recent annual financial statements or interim financial statements of the Group (whichever is the most recent), such wholly-owned subsidiary becomes a Guarantor by signing and delivering to the Trustee a deed of accession; and
 - ii. evidence reasonably satisfactory to the Trustee (including, if required, legal opinions) that the obligations of that wholly-owned subsidiary under the deed of accession and the guarantee are legal, valid and binding in accordance with their terms, is provided to the Trustee; and
 - (e) at any time during which:
 - i. the payment of interest on the Capital Notes is suspended; or
 - ii. Hellaby Holdings Limited is in breach of paragraph 9.1; or
 - iii. Hellaby Holdings Limited or a Guarantor is not obliged to make any payment in respect of the Capital Notes,
 - (f) Hellaby Holdings Limited shall not pay any dividend or make any other distribution; and neither it nor any Guarantor shall:
 - i. provide any financial assistance in connection with the purchase of its Ordinary Shares (other than permitted financial assistance); or
 - ii. make any payment on any securities or other indebtedness ranking behind the Capital Notes.
 - (g) it will use all reasonable endeavours to ensure that:
 - i. the Capital Notes are, upon issue, quoted on the NZDX and that such quotation is maintained until all Capital Notes are converted or redeemed in full or otherwise no longer qualify for listing; and
 - ii. the Ordinary Shares issued on the conversion of Capital Notes are, upon their issue, quoted on the New Zealand Stock Exchange operated by the NZX and that such quotation is maintained.

10 Provisions of Reports to the Trustee

10.1 Hellaby Holdings Limited shall provide to the Trustee:

- (a) copies of the annual audited financial statements of Hellaby Holdings Limited and the annual audited consolidated financial statements of Hellaby Holdings Limited and its subsidiaries for each financial year, duly audited and signed, with a separate report by the auditors on the matters required by the Trust Deed;
- (b) copies of the financial statements of Hellaby Holdings Limited and the consolidated financial statements of Hellaby Holdings Limited and its subsidiaries for each half-yearly period, unaudited; and
- (c) certain reports of the directors of Hellaby Holdings Limited which address certain matters regarding the Capital Notes and compliance by Hellaby Holdings Limited with the terms of the Trust Deed.

11 Trustee's Powers and Duties

11.1 The Trustee's powers and duties are set out below.

11.2 The Trustee may, among other things:

- (a) represent the Holders in certain matters or proceedings concerning them and in particular if action is required to collect or protect amounts for them;
- (b) invest any moneys held by the Trustee in its capacity as Trustee, at its discretion, in the name of the Trustee or its nominee, in any investment whatsoever, with power to vary such investments for others of a like nature and to deal with, or dispose of, such investments;
- (c) enter into and execute on its own behalf and on behalf of the Holders instruments varying the provisions of the Trust Deed to the extent permitted by the Trust Deed; and
- (d) receive and distribute amounts paid in respect of the Capital Notes, if they are not paid directly to the Holders, and to return any payments received to Hellaby Holdings Limited which it is required to do so by virtue of the subordinated nature of the Capital Notes.

11.3 Except to the extent it is obligated to do so by law, the Trustee will not be bound to take steps to ascertain whether or not Hellaby Holdings Limited or a Guarantor has committed any breach of the Trust Deed or any of the Capital Notes (and shall be entitled to assume without enquiry that no such breach is occurring or has occurred) unless:

- (a) the Trustee has become aware that, or has received specific advice that, a breach has, or appears to have, occurred or threatens to occur, from the directors of Hellaby Holdings Limited or a Guarantor or the auditors; or
- (b) the Trustee has received notice of the commencement of Liquidation.

11.4 Except as otherwise expressly provided in the Trust Deed, the Trustee:

- (a) shall as regards all trusts, powers, authorities and discretions vested in it by the Trust Deed have absolute discretion as to the exercise thereof and as to the conduct of any action, proceeding or claim and provided it shall have acted with reasonable care and diligence it shall not be responsible for any loss or cost that may result from the exercise or non-exercise thereof; and
- (b) may refrain from exercising any discretion, power or authority vested in it by the Trust Deed until it has a direction to act from the Holders given by Extraordinary Resolution and the Trustee shall not be responsible for any loss or cost that may result from the non-exercise of the relevant discretion.

11.5 The Trustee has entered into the Trust Deed on the basis that the duties of the Trustee as prescribed in clause 1 of the Fifth Schedule to the Securities Regulations 1983 shall be construed and interpreted to recognise and take into account the following characteristics of the Capital Notes:

- (a) The Capital Notes are debt securities in respect of which payments of interest can, in accordance with the terms of issue, be suspended and to this extent payment cannot be compelled except upon the Liquidation of Hellaby Holdings Limited;
- (b) There is no acceleration right for a default under the Capital Note terms (including, without limitations, on breach of the financial covenants set out in paragraph 9.1 above);
- (c) The Capital Notes have certain characteristics analogous to shareholders' equity rather than debt securities;
- (d) Certain provisions of the Trust Deed derive from the Listing Rules and in the absence of notice to the contrary from Hellaby Holdings or the NZX the Trustee is entitled to assume that Hellaby Holdings Limited is complying with the applicable provisions of the Listing Rules and the provisions of the Trust Deed reflecting substantially the Listing Rules and the Trustee is entitled to act accordingly and in acting have regard to the actions of the NZX in relation to non compliance;
- (e) The Capital Notes are subordinated to the rights of the Senior Creditors and Hellaby Holdings Limited may freely incur further indebtedness, and shall, subject to section 62 of the Securities Act 1978, and to the maximum extent possible, be limited accordingly.

All Holders shall be deemed to have knowledge of and to have accepted that the duties and obligations of the Trustee pursuant to clause 1 of the Fifth Schedule of the Securities Regulations 1983 shall be construed, interpreted and limited as described above.

11.6 The duties set out in clause 1 of the Fifth Schedule of the Securities Regulations 1983 are deemed to be included in the Trust Deed.

11.7 The Trustee may:

- (a) retire at any time, without assigning any reason therefore, upon giving at least 60 days' notice in writing to Hellaby Holdings Limited;
- (b) be removed at any time by Extraordinary Resolution; or
- (c) be removed at any time, without any reason being assigned therefore, by Hellaby Holdings Limited giving at least 60 days' notice in writing to the Trustee,

subject in each case to the contemporaneous due appointment of a new Trustee and the transfer to such new Trustee of the securities (if any) collateral to the Trust Deed and the money and investments held by the Trustee hereunder. Upon the Trustee serving notice of its retirement or receiving notice of its removal in accordance with this paragraph, the Trustee shall promptly take all necessary steps to transfer the securities (if any) collateral to the Trust Deed and the money and investments held by the Trustee hereunder to the new Trustee on the date of the new Trustee's appointment.

11.8 The Trust Deed also provides for all remuneration payable to the Trustee and all the fees and outgoings of the Trustee arising out of its duties under the Trust Deed (including any right to be indemnified under the Trust Deed) to rank in priority of the claims of Holders.

12 Amendments to the Trust Deed

12.1 The provisions of the Trust Deed may be added to, or varied, by deed executed by Hellaby Holdings Limited, the Guarantors and the Trustee:

- (a) without the consent of Holders if:
 - i. It is necessary or desirable to correct a manifest error, or to comply with the requirements of any statute or statutory regulations, GAAP or the Listing Rules;
 - ii. It is of a formal or technical nature;
 - iii. In the opinion of the Trustee it is not, or is not likely to become, materially prejudicial to the general interests of the Holders;
 - iv. The law in New Zealand relating to securities is modified and, in the opinion of the Trustee, it is in the interests of the Holders to amend the Trust Deed to take cognisance of such modification;
 - v. It is necessary for the purpose of obtaining or maintaining any quotation of the Capital Notes on the NZDX; or
 - vi. It is necessary to comply with any rulings NZX has granted, or
- (b) with the consent of the Holders given by Extraordinary Resolution.

13 Meetings and Powers Exercisable by Extraordinary Resolution

- 13.1 The Trustee or Hellaby Holdings Limited may at any time of its own volition convene a meeting of the Holders.
- 13.2 Hellaby Holdings Limited shall whenever required to do so by law or by the terms of the Trust Deed convene a meeting of the Holders.
- 13.3 The Trustee and Hellaby Holdings Limited shall at the request in writing of Holders holding not less than 10% of the aggregate Face Value of all Capital Notes then outstanding convene a meeting of the Holders. Any such request shall state the nature of the business proposed to be dealt with at the meeting.
- 13.4 Where a particular majority is not required by the Trust Deed or by law, any matter arising at any meeting of Holders duly convened and held shall be determined by a simple majority of the persons voting thereon on a show of hands or, if a poll is duly demanded, by a majority consisting of not less than 50% plus one of the votes given on such poll.
- 13.5 Without limiting the rights, powers and discretions conferred on the Trustee by the Trust Deed, a meeting of the Holders shall, in addition to all other powers which by the Trust Deed are specified as exercisable by Extraordinary Resolution have the following powers exercisable by Extraordinary Resolution, namely power to:
- (a) sanction either unconditionally or upon any conditions:
 - i. the release of Hellaby Holdings Limited or any Guarantor from any of its obligations under the deed or any relevant accession deed;
 - ii. the release of the Trust Deed in whole or in part;
 - (b) sanction any variation, release, waiver or compromise or any arrangement in respect of the rights of the Holders against Hellaby Holdings Limited or any Guarantor or against its undertakings and assets howsoever such rights shall arise;
 - (c) assent to any variation or addition to the provisions contained in the Trust Deed or any deed or other instrument collateral or supplemental thereto, or the conditions attaching to the Capital Notes, proposed or agreed to by Hellaby Holdings Limited;
 - (d) subject to the Securities Act, discharge, release or exonerate the Trustee from all liability in respect of any act or omission for which the Trustee has or may become responsible under the Trust Deed;
 - (e) sanction any scheme for the reconstruction of Hellaby Holdings Limited or any Guarantor or for the amalgamation of Hellaby Holdings Limited or any Guarantor with any other company where such sanction is necessary;

- (f) subject to the provisions of the Trust Deed, remove any Trustee and approve the appointment of, or appoint, a new Trustee;
- (g) authorise or direct the Trustee to concur in and execute any supplemental deed or other document embodying any sanction, authority, approval, assent, variation, release, waiver, compromise, direction or request;
- (h) direct the Trustee to take, or to refrain from taking, any other action under or pursuant to, or in connection with, any of the provisions of the deed; and
- (i) sanction the exchange of Capital Notes for, or the conversion of Capital Notes into, shares, stock, debentures, debenture stock or other obligations of Hellaby Holdings Limited or any other company formed or to be formed.

14 Miscellaneous

- 14.1 If any provision of the Trust Deed is inconsistent with the Listing Rules, the Listing Rules (as modified by any NZX ruling relevant to Hellaby Holdings Limited) shall prevail.
- 14.2 The Trust Deed also contains detailed provisions in respect of the following matters:
- (a) Certain provisions relating to the Trustee;
 - (b) Notices to be given to Holders;
 - (c) Obligations in respect of unpaid moneys; and
 - (d) Meetings of Holders.