

CBL CORPORATION LIMITED

DEED OF INDEMNITY AND ACCESS BY DEED POLL

BY: CBL CORPORATION LIMITED (Company)

INTRODUCTION

The Company wishes to indemnify its directors and certain of its employees, and those of its Related Companies, on the terms set out in this deed poll.

DEFINITIONS

Director means a person who is, has been or will be appointed or elected to the position of director of the Company or a Related Company, including an alternate director;

Employee means an employee of the Company or a Related Company and to whom the board of the Company advises in writing shall be indemnified under this deed poll;

Indemnified Person means each Director and each Employee; and

Related Company means a related company (having the meaning given that term by section 2(3) of the Companies Act 1993) of the Company.

COVENANTS

1. INDEMNITY

1.1 Subject to this deed poll and to the applicable provisions of the Companies Act 1993, the Company indemnifies and will keep indemnified the Indemnified Person against:

- (a) all reasonable costs incurred by the Indemnified Person in any proceeding that relates to liability for any act or omission by the Indemnified Person as a director or employee of the Company or a Related Company and in which judgment is given in the Indemnified Person's favour, or in which the Indemnified Person is acquitted or which is discontinued; and
- (b) liability (not being criminal liability or liability in respect of a breach, in the case of a director, of the duty specified in section 131 of the Companies Act 1993 or, in the case of an employee, of any fiduciary duty owed to the Company or a Related Company) to any person other than the Company or a Related Company, for any act or omission by the Indemnified Person as a director or employee of the Company or a Related Company and all reasonable costs incurred by the Indemnified Person in defending or settling any claim or proceeding relating to any such liability,

(together "**Claims**").

1.2 The indemnities contained in clause 1.1 shall not apply in respect of any Claims or liabilities resulting from:

- (a) the settlement or admission by the Indemnified Person of any Claim without the prior written consent of the Company which would (in the reasonable opinion of the Company) prejudice the successful defence thereof by the Company;

- (b) any separate legal costs, charges and expenses which may result from the engagement by the Indemnified Person of the Indemnified Person's own advisers in connection with any Claim after the defence of such Claim has been assumed by the Company under clause 3, save where separate representation for the Indemnified Person is reasonably necessary; or
- (c) any liability in respect of which and to the extent that an indemnity is prohibited by law.

1.3 The indemnities given pursuant to clause 1.1:

- (a) are effective with respect to acts and omissions that occurred prior to the execution date of this deed poll while the Indemnified Person was a director or employee of the Company or a Related Company; and
- (b) extend to all acts and omissions of the Indemnified Person in the Indemnified Person's role as a director or employee of the Company or a Related Company while the Indemnified Person is or was a director or employee of the Company or a Related Company.

2. NOTIFICATION

- 2.1 If any Claim is brought or threatened to be brought against the Indemnified Person, as a result of which the Indemnified Person may seek to have recourse to the indemnities in clause 1.1, the Indemnified Person shall notify the Company in writing of the existence of the Claim as soon as practicable and will make available to the Company and its advisers all such information, books and records, and will cooperate with the Company in such manner as the Company and its advisers may require in respect of that Claim. The Indemnified Person's costs (if any) of meeting the Indemnified Person's obligations in this clause 2.1 will be met by the Company within 10 days of the Indemnified Person providing to the Company evidence reasonably satisfactory to the Company that such costs have been incurred. For the avoidance of doubt and for the purposes of this clause 2.1, "costs" means any expenses incurred by the Indemnified Person in meeting his or her obligations under this clause 2.1, but excludes any fees incurred or losses suffered by the Indemnified Person as a result of time worked or opportunities forgone.
- 2.2 The amount of the Company's liability under this deed poll shall be reduced by the amount of any additional liability or expense suffered or incurred by the Company as a result of any breach of any of the Indemnified Person's obligations under clause 2.1.

3. ASSUMPTION OF DEFENCE

- 3.1 Where the Company is notified of any potential Claim, the Company shall be entitled to assume the defence thereof and shall consult the Indemnified Person in relation to the selection of counsel for the Indemnified Person. Where the Company assumes the defence of any Claim it shall be entitled to determine the conduct of such Claim. Whoever conducts the defence of any Claim shall ensure that:
- (a) the other party is kept informed on a timely basis of any development in relation to the Claim; and
 - (b) to the extent practicable, the other party and its legal counsel are consulted in a timely manner prior to taking any significant steps in relation to the Claim.
- 3.2 Where the Company conducts the defence of any Claim, it shall ensure that no settlement or compromise is made without the Indemnified Person's consent (such consent not to be unreasonably withheld or delayed) if, and to the extent to which, the Company reasonably considers that it might result in, crystallise or increase any liabilities for the Indemnified Person, unless the Company at the same time confirms that those liabilities are indemnified under this

deed poll and that the Company will not deny the obligation to indemnify the Indemnified Person in respect of such liabilities.

- 3.3 Where the Company does not assume the defence of any Claim or, pursuant to clause 4, any Claim (or part thereof) which the Company intends to assert that the indemnity in clause 1.1 does not apply, then the Company shall make available to the Indemnified Person and the Indemnified Person's advisors all relevant information, books and records, and will cooperate with the Indemnified Person in such manner as is reasonable in respect of the Claim.

4. RESUMPTION OF CONDUCT OF ACTIONS

- 4.1 If, in respect of any Claim brought against the Indemnified Person, the defence of which has been assumed by the Company pursuant to clause 3, the Company intends (whether by reason of any fact or matter which is asserted or proven in such proceedings or otherwise) to assert that the indemnity contained in clause 1.1 does not apply, the Company shall promptly notify the Indemnified Person accordingly. In that event the Company may require the Indemnified Person to resume the conduct of such parts of such Claim as relate to the matters for which the Company disputes its liability to indemnify the Indemnified Person and it shall be agreed or determined, as between the Indemnified Person and the Company, whether the indemnity contained in clause 1.1 applies. Neither the Indemnified Person nor the Company shall compromise or settle any such Claim until such matter is agreed or determined. For clarity, whether the Company or the Indemnified Person defends such claims, the Indemnified Person may be required to pay to the Company those defence costs relating to the claim that are not indemnified.
- 4.2 Notwithstanding the foregoing, any adjudication of a Claim prior to agreement or determination as to whether the indemnity does, or does not, apply shall not prejudice the right of the Indemnified Person or the Company to assert thereafter that the indemnity does, or does not, apply.
- 4.3 The Indemnified Person may by written notice to the Company at any time assume the unrestricted conduct of the defence of any Claim on the basis that the Indemnified Person thereby waives all rights to indemnity from the Company in relation to that Claim.

5. CONTINUING INDEMNITY

- 5.1 The indemnities in clause 1.1 are irrevocable, unconditional, continuing and principal obligations of the Company despite:
- (a) the resignation or removal of the Indemnified Person as a director or employee of the Company or a Related Company;
 - (b) the settlement of any dispute between the Indemnified Person and the Company or any third party; or
 - (c) the occurrence of any other thing, subject to the terms of this deed poll,
- and remain in full force until released by the Indemnified Person.
- 5.2 Neither the obligations of the Company under this deed poll nor the rights, powers and remedies conferred by the Company upon the Indemnified Person either by law, by this deed poll or by any document or agreement to which this deed poll relates shall be discharged, impaired or otherwise affected by:
- (a) any of the obligations of the Company under this deed poll or any other document or agreement to which this deed poll relates being or becoming illegal, invalid, unenforceable or ineffective in any respect;

- (b) any time or other indulgence being granted or agreed to be granted to the Company in respect of its obligations under this deed poll or any other document or agreement to which this deed poll relates; or
- (c) any other act, event or omission which, but for this clause 5, might operate to discharge, impair or otherwise affect any of the obligations of the Company under this deed poll or any document or agreement to which this deed poll relates or any of the rights, powers or remedies conferred upon the Indemnified Person by this deed poll or such documents or agreements or by law.

6. **ADVANCES TO INDEMNIFIED PERSON**

- (a) Subject to paragraphs (b) and (c) of this clause 6, the Company will advance money to the Indemnified Person to enable the Indemnified Person to pay, or to reimburse the Indemnified Person for, any reasonable legal costs reasonably incurred or reasonably expected to be incurred (before the outcome of the Claim is known) by the Indemnified Person in defending a Claim for liability incurred or allegedly incurred by the Indemnified Person as a director or employee of the Company or a Related Company (including such legal costs incurred after the Indemnified Person ceases to be a director or employee of the Company or a Related Company).
- (b) Any amount advanced by the Company under paragraph (a) will be limited to such amount:
 - (i) as may be reasonably required by a lawyer as payment on account for services to be rendered in defending the Claim and disbursements that the Indemnified Person reasonably expects to incur upon prompt payment of such account for services; and
 - (ii) as the Company (acting reasonably) is satisfied, after receiving evidence from the Indemnified Person, has been or will be genuinely incurred in defending the Claim.
- (c) The Company will advance any money required in accordance with paragraph (a) within ten (10) days after receiving:
 - (i) a request from the Indemnified Person to do so; and
 - (ii) evidence from the Indemnified Person reasonably satisfactory to the Company:
 - A. that the Indemnified Person is or is entitled to be indemnified under this deed poll; and
 - B. that the amounts claimed are reasonable and have been, or will be, genuinely incurred in defending the Claim.
- (d) Where the Company has made any payment pursuant to the provisions of this deed poll, and it is subsequently established that the Company was not liable under this deed poll to make that payment, or that a lesser amount was actually payable by way of indemnity pursuant to this deed poll, then the Indemnified Person shall promptly repay and reimburse the Company for any such amounts or excess amounts paid by the Company that should not have been so paid, and in no event later than three months after receipt of written demand for such reimbursement or repayment from the Company. This clause shall not apply to the extent to which the Company has assumed the defence of the Claim and has settled it without the consent of the Indemnified Person or if the Company has otherwise made any payment without the consent of the Indemnified Person.

7. SUBROGATION

- 7.1 If the Company makes, agrees to make or is obliged to make any payment under this deed poll in respect of any liability or costs for which the Indemnified Person is entitled to indemnification, then the Company shall be entitled to be subrogated to all of the Indemnified Person's rights against any other person or entity (including, without limitation, any rights of recovery or indemnity) in relation to or arising out of the act or omission which gave rise to the Indemnified Person's right of indemnification under this deed poll. The Indemnified Person must, at the Company's expense, do and concur in doing anything reasonably required by the Company for the purpose of enforcing any such rights.

8. TAXES

- 8.1 If for any reason any governmental authority imposes any tax on any sum paid to the Indemnified Person hereunder, then the Company must pay to the Indemnified Person such additional amount as is required to ensure that the total amount paid, less any tax imposed on such amount, is equal to the amount that would otherwise be payable hereunder.
- 8.2 In addition to any payment by the Company to the Indemnified Person hereunder, the Company must pay to the Indemnified Person an amount equal to any goods and services tax in terms of the Goods and Services Tax Act 1985 (**GST**) that is or becomes payable by the Indemnified Person on the supply for which the indemnity payment is made, provided that no additional amount is payable on account of GST under this clause unless the Indemnified Person issues a tax invoice to the Company for that supply. Any payment by the Company to the Indemnified Person for a loss, cost or expense incurred by the Indemnified Person must be reduced by the amount of any input tax credit to which the Indemnified Person is entitled for that loss, cost or expense.

9. INSURANCE

- 9.1 The Company agrees to procure, pay the premium in respect of, and maintain for the benefit of the Indemnified Person from the date of this deed poll:
- (a) directors and officers liability insurance for usual perils related to the activities of the Indemnified Person in relation to the Company, including retired Indemnified Persons run-off cover;
 - (b) such insurance for liability for all Directors and Employees and separate cover for all Directors and Employees solely for legal defence costs; and
 - (c) in respect of the Company and directors, appropriate statutory liability insurance.
- 9.2 Where the Indemnified Person has an insurance policy that expressly covers his or her liability as a director or employee of the Company or a Related Company, then the Indemnified Person must make a claim under that policy in respect of any liability for which the Indemnified Person may be able to claim under this deed poll. If the Company has made a payment under this deed poll in respect of a liability for which the Indemnified Person has such insurance, the Indemnified Person must on receipt pay any relevant proceeds of that policy to the Company.

10. ACCESS TO COMPANY BOOKS

- 10.1 During the period that the Indemnified Person is a director or employee of the Company or a Related Company, the Company shall provide the Indemnified Person at such reasonable times as the Indemnified Person may request with access to such books, records, files, databases and other information of the Company or a Related Company as is reasonably required to enable the Indemnified Person to defend any action, proceedings or claims brought

against the Indemnified Person that relate to liability for any act or omission of that Indemnified Person in his or her capacity as a director or employee of the Company or a Related Company.

11. NOTICES TO THE COMPANY

- 11.1 All notices and other communications given pursuant to this deed poll by an Indemnified Person to the Company shall be sent by mail with postage prepaid, by hand delivery or email transmission to the address specified below (or to such other notice details as the Company may specify from time to time):

Attention: Carden Mulholland
Level 8, 51 Shortland Street
Auckland 1010
New Zealand
Email: CMulholland@cblinsurance.com

- 11.2 All such notices or communications shall be deemed to have been duly given or made:

- (a) if mailed, three days after being deposited in the mail by the sender;
- (b) if hand delivered, on delivery; or
- (c) if transmitted by email, on the date and time at which it enters the addressee's information system (as shown in a confirmation delivery report from the sender's information system which indicates the email was sent to the email address of the addressee notified for the purposes of this clause 11),

but if the receipt, delivery or transmission is not on a working day or is after 5.00pm on a working day, the notice or other form of communication is taken to be received at 8.30am on the next working day.

12. AMENDMENT

- 12.1 Subject to clause 5.1, the Company may vary or amend any of the provisions contained in this deed poll by notice in writing to each Indemnified Person, provided that no variation or amendment to this deed poll will prejudicially affect any indemnity that is being provided at the time of the variation or amendment.

13. JURISDICTION

- 13.1 This deed poll shall be construed in accordance with and be governed by the laws of New Zealand and the Company submits to the exclusive jurisdiction of the Courts of New Zealand.

14. ENTIRE AGREEMENT

- 14.1 This deed poll supersedes and extinguishes all prior agreements, statements, representations and understandings, whether verbal or written, given by or made relating to the matters dealt with in this deed poll.

15. THIRD PARTY RIGHTS


- 15.1 For the purposes of the Contracts (Privity) Act 1982, the Company acknowledges that the promises in this deed poll confer a legally enforceable benefit on each Indemnified Person, subject to the other terms of this deed poll.

16. SEVERABILITY

- 16.1 Part or all of a provision of this deed poll that is illegal or unenforceable may be severed from this deed poll and the remaining parts of the provision or provisions of this deed poll continue in force.

EXECUTED AND DELIVERED AS A DEED POLL

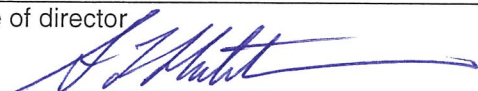
CBL CORPORATION LIMITED by:



Signature of director

Sir John Wells

Name of director



Signature of director

Alastair Lermondon Huxham

Name of director