

Shareholders' Agreement relating to Wairarapa Tararua Water Limited

PARTIES

Carterton District Council

Masterton District Council

South Wairarapa District Council

Tararua District Council

Each a Council and together the Councils

Wairarapa Tararua Water Limited

Company

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PARTIES

Carterton District Council
Masterton District Council
South Wairarapa District Council
Tararua District Council
(Each a “**Council**” and together the “**Councils**”)

Wairarapa Tararua Water Limited
 (“**Company**”)

BACKGROUND

- A. The Councils are the Shareholders in the Company. The parties have entered into this agreement to record how the Shareholders will manage their shareholdings in the Company and their respective relationships with each other.
- B. The Company is party to this agreement to record certain obligations owed to it by, and owed by it to, the Shareholders.
- C. The terms and conditions of this agreement are set out in Schedule 1 (Agreement Details) and Schedule 2 (Terms and Conditions) and Schedules 3 to 8.

SIGNATURES

SIGNED for and on behalf of

CARTERTON DISTRICT COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

MASTERTON DISTRICT COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

SOUTH WAIRARAPA DISTRICT COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

TARARUA DISTRICT COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

WAIRARAPA TARARUA WATER LIMITED

by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

SCHEDULE 1
AGREEMENT DETAILS

<p>Initial share issue and shareholding <i>(Clause 2.2, Schedule 2)</i></p>	<p>Total Shares to be issued on incorporation: [●]</p> <p>Initial Shareholders:</p> <table border="1" data-bbox="552 551 1318 801"> <thead> <tr> <th>Shareholder</th> <th>Number of Shares</th> </tr> </thead> <tbody> <tr> <td>Carterton District Council</td> <td>[●]</td> </tr> <tr> <td>Masterton District Council</td> <td>[●]</td> </tr> <tr> <td>South Wairarapa District Council</td> <td>[●]</td> </tr> <tr> <td>Tararua District Council</td> <td>[●]</td> </tr> </tbody> </table> <p>[Drafting Note: Shareholdings to be determined based on connections.]</p>	Shareholder	Number of Shares	Carterton District Council	[●]	Masterton District Council	[●]	South Wairarapa District Council	[●]	Tararua District Council	[●]						
Shareholder	Number of Shares																
Carterton District Council	[●]																
Masterton District Council	[●]																
South Wairarapa District Council	[●]																
Tararua District Council	[●]																
<p>Price payable for each share issued <i>(Clause 2.3, Schedule 2)</i></p>	<p>The transfer of the assets and assumption of liabilities under the relevant transfer agreement to be entered into by each Shareholder</p>																
<p>Name of Company <i>(Clause 2.4, Schedule 2)</i></p>	<p>Wairarapa Tararua Water Limited</p>																
<p>Registered office and address for service of Company <i>(Clause 2.4, Schedule 2)</i></p>	<p>19 Kitchener Street, Martinborough, Martinborough, 5711, New Zealand</p>																
<p>Initial Directors and term of appointment <i>(Clause 4.2, Schedule 2)</i></p>	<p>Initial Directors and their term of appointment:</p> <table border="1" data-bbox="552 1581 1388 1861"> <thead> <tr> <th>Directors</th> <th>Term</th> </tr> </thead> <tbody> <tr> <td>[Name]</td> <td>[insert months/years]</td> </tr> <tr> <td>[Name]</td> <td></td> </tr> </tbody> </table>	Directors	Term	[Name]	[insert months/years]	[Name]		[Name]		[Name]		[Name]		[Name]		[Name]	
Directors	Term																
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<p>Other matters to be included in the</p>	<p>As set out in Schedule 8.</p>																

<p>Statement of Expectations</p> <p><i>(Clause 12.2(c), Schedule 2)</i></p>		
<p>Interest rate payable on payment default</p> <p><i>(Clause 16.3(a), Schedule 2)</i></p>	<p>For any day, interest calculated at the Bill Rate for that day plus a margin of 4 percentage points, where the Bill Rate means the average rate per annum (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page displaying substantially the same information) under the heading FRA for bank accepted bills having a term of 90 days as fixed at 10:45am on the first business day following the due date.</p>	
<p>Address for notices</p> <p><i>(clause 19.1, Schedule 2)</i></p>	<p>Carterton District Council</p>	<p>Masterton District Council</p>
	<p>[insert physical and postal address details of Council]</p> <p>Email: [insert details]</p> <p>Attention: [insert details]</p>	<p>[insert physical and postal address details of Council]</p> <p>Email: [insert details]</p> <p>Attention: [insert details]</p>
	<p>South Wairarapa District Council</p>	<p>Tararua District Council</p>
	<p>[insert physical and postal address details of Council]</p> <p>Email: [insert details]</p> <p>Attention: [insert details]</p>	<p>[insert physical and postal address details of Trust]</p> <p>Email: [insert details]</p> <p>Attention: [insert details]</p>
	<p>Wairarapa Tararua Water Limited</p>	
	<p>[insert physical and postal address details of Company]</p> <p>Email: [insert details]</p> <p>Attention: [insert details]</p>	
<p>Stakeholders' Forum membership</p>	<p>Total number of members of the Stakeholders' Forum: 6</p> <p>Initial members of the Stakeholders' Forum:</p>	

(Schedule 4)

- [X], appointed by Carterton District Council
- [X], appointed by Masterton District Council;
- [X], appointed by South Wairarapa District Council;
- [X], appointed by Tararua District Council;
- [X], appointed by Rangitāne; and
- [X], appointed by Ngāti Kahungunu.

Alternates of the Stakeholders' Forum:

- [X], appointed by Carterton District Council
- [X], appointed by Masterton District Council;
- [X], appointed by South Wairarapa District Council;
- [X], appointed by Tararua District Council;
- [X], appointed by Rangitāne; and
- [X], appointed by Ngāti Kahungunu.

SCHEDULE 2

TERMS AND CONDITIONS

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this agreement the following definitions apply:

"Alternate" means in relation to a Shareholder, an alternate to that Shareholder's appointed Stakeholders' Forum Member to observe, participate and vote at meetings of the Stakeholders' Forum (as applicable, in accordance with Schedule 4 of this agreement).

"Board" means the board of Directors of the Company.

"Business" means the business and activities set out in clause 2.2 of the Constitution.

"Business Day" means a day (other than a Saturday, a Sunday or a public holiday) on which registered banks are open for business in Carterton, Masterton, South Wairarapa and Tararua, New Zealand.

"Companies Act" means the Companies Act 1993.

"Confidential Information" means all information of a confidential nature (which, where the confidentiality of the information is not expressly stated, shall be determined by the recipient, acting reasonably) obtained by one party from the other party under or in connection with this agreement, including, in relation to the Company, trade secrets, proprietary information and confidential information belonging to the Company that are not generally known to the public, including information concerning business plans, financial statements and other information provided pursuant to this agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists or other business documents which the Company treats as confidential, and any other information in respect of which the Company is bound by an obligation of confidence owed to a third party, but does not include the provisions of this agreement.

"Constitution" means the constitution of the Company as filed with the New Zealand Companies Office on the incorporation of the Company, as amended or replaced from time to time.

"Director" means a director of the Company.

"Event of Default" in respect of a Shareholder, means where a Shareholder breaches or fails to observe any of the obligations under this agreement and:

- (a) if that breach or failure is capable of remedy, does not remedy that breach or failure within 20 Business Days of notice from any other Shareholder specifying the breach or failure and requiring remedy; or
- (b) if that breach or failure is material in the context of the obligations of that Shareholder under this agreement and that breach or failure is not capable of remedy.

"Incorporation Date" means the date on which the Company is incorporated as determined by the date recorded by the New Zealand Companies Office.

"Independent Director" has the meaning given to it in the Constitution.

"Iwi" means each of Rangitāne and Ngāti Kahungunu.

"LGA" means the Local Government Act 2002.

"LGFA" means the New Zealand Local Government Funding Agency Limited.

"LG(WS) Act" means the Local Government (Water Services) Act 2025.

"Local Authority" has the meaning given to it in the LGA.

"Material" means material in the context of the Business and assets of the Company as a whole.

"Ngāti Kahungunu" means the hapu of Ngāti Kahungunu ki Wairarapa Tamaki nui a Rua as represented by Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Trust.

"Ordinary Resolution" means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question.

"Rangitāne" means the hapu of Rangitāne o Wairarapa and Tamaki nui-a-Rua as represented by Rangitāne tu mai ra Trust.

"Reserved Matters" means matters of the nature listed in Schedule 3.

"Security Interest" includes a mortgage, debenture, charge, lien, pledge, assignment or deposit by way of security, bill of sale, lease, hypothecation, hire purchase, credit sale, agreement for sale on deferred terms, option, right of pre-emption, caveat, claim, covenant, interest or power in or over an interest in an asset and any agreement or commitment to give or create any such security interest or preferential ranking to a creditor including set off.

"Service Area" has the meaning set out in the LG(WS) Act.

"Shares" means shares in the Company on issue from time to time.

"Shareholder" means a shareholder in the Company and includes any person who subsequently becomes a shareholder. Where Shares are held by persons jointly, those persons are considered one Shareholder for the purpose of this agreement.

"Special Resolution" means a resolution that is approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the question.

"Stakeholders' Forum" means the forum of Shareholder and Iwi representatives formed pursuant to clause 6.1.

"Stakeholders' Forum Member" means a member of the Stakeholders' Forum.

"Statement of Expectations" has the meaning given to it in the LG(WS) Act.

"Terms of Reference" means the terms of reference of the Stakeholders' Forum in the form set out in Schedule 4 as amended from time to time.

"Transfer Agreement" has the meaning set out in the LG(WS) Act.

"Water Service Connection" means a physical connection to the wastewater network and the drinking water network provided by, or on behalf of, the Company, with a connection to the network in respect of both wastewater and drinking water for a single user being deemed to be a single connection.

"Water Services" has the meaning set out in the LG(WS) Act, which shall be the water services in respect of which responsibility is transferred to the Company in accordance with the respective Transfer Agreements between the Company and each Shareholder.

"Water Services Strategy" has the meaning set out in the LG(WS) Act.

1.2 **Interpretation:** In this agreement, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) words in this agreement have the same meaning as in the Companies Act unless inconsistent with the context;
- (e) a reference to a party, person or entity includes:
 - (i) an individual, firm, company, trust, partnership, joint venture, association, corporation, body corporate, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case 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, entity;
- (f) a reference to dollars or \$ is to New Zealand currency and excludes every tax and duty;
- (g) a reference to a clause or schedule is to a clause or schedule of this agreement;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re enactments or replacements of any of them;
- (i) references to the word 'include' or 'including' are to be construed without limitation;

- (j) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (l) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (m) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day; and
- (n) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 **Subsidiaries of the Company:** If at any time the Company has a subsidiary (as defined in the Companies Act) or subsidiaries, clauses 3.1, 5.1 and 6.1 shall be read so as to relate to the group of companies consisting of the Company and its subsidiaries, rather than to the Company alone.

2. ESTABLISHMENT OF COMPANY AND STAKEHOLDERS' FORUM

2.1 **Incorporation:** The Shareholders shall immediately after signing this agreement take all steps necessary (including signing documents) to:

- (a) incorporate the Company as a New Zealand registered company including by:
 - (i) granting any necessary authorisations, approvals and delegations;
 - (ii) procuring the execution of director consent forms by the Initial Directors;
 - (iii) preparing, or procuring that an authorised person prepare, a share register for the Company; and
 - (iv) completing, or procuring that an authorised person complete, all necessary Companies Office filings;
- (b) procure that the Company enter into and execute this agreement; and
- (c) establish the Stakeholders' Forum in accordance with clause 6.1.

2.2 **Shares:** The Company shall immediately upon incorporation have the number of shares set out in Schedule 1 which, on issue, will be held by the Shareholders set out in Schedule 1. These shareholdings represent the Shareholders' best estimate of the number of Water Service Connections as at 1 July 2027.

2.3 **Payment for Shares:** As set out in Schedule 1, no cash amount shall be payable by each Shareholder in respect of each Share held by that Shareholder.

2.4 **Name and registered office:** The name of the Company shall be as set out in Schedule 1 and the initial registered office and address for service of the Company shall be as set out in Schedule 1.

3. PURPOSE OF COMPANY

- 3.1 **Purpose:** It is the intention of the Shareholders and the Stakeholders' Forum that the Company is to carry on the Business.
- 3.2 **Initial business set up:** The Shareholders and the Company will develop and agree the terms of the Transfer Agreements, including incorporating the debt transfer principles set out in Schedule 5 to the Commitment Agreement between Shareholders dated 25 August 2025, promptly after execution of this agreement and must enter into the Transfer Agreements no later than [September 2026] (or such other date as the parties may agree). Once entered, the Shareholders and the Company must each comply with the terms and conditions of the relevant Transfer Agreement.

4. BOARD AND DIRECTORS

- 4.1 **Board:**
- (a) The Company will have a number of Directors that complies with the Constitution.
 - (b) The Directors will be appointed and removed in accordance with the Constitution.
 - (c) All Directors will be Independent Directors. A Director who ceases to be an Independent Director must be promptly replaced by another person who is an Independent Director in accordance with this agreement.
- 4.2 **Initial Directors:** The Directors named in Schedule 1 are deemed to have been nominated by the Stakeholders' Forum to be the Directors from incorporation of the Company, and are deemed to have been appointed for a term commencing from the Incorporation Date and continuing for the period stated in Schedule 1 unless the Director otherwise ceases to be a Director in accordance with the Constitution or the Companies Act.
- 4.3 **Performance evaluation:** The Board will undertake a self-evaluation of its performance on an annual basis, in line with accepted good governance principles and practices and any reasonable written requests of the Stakeholders' Forum, and the results will be reported directly to the Stakeholders' Forum.

5. SHAREHOLDERS' RIGHTS AND OBLIGATIONS

- 5.1 **Voting and Shareholder Reserved Matters:**
- (a) Subject to clause 5.1(b) and any resolution that is required by the Companies Act or the Constitution to be passed as a Special Resolution or by any other voting threshold, all resolutions of meetings of the Shareholders may be passed by Ordinary Resolution.
 - (b) The Company will not enter into any transaction or matter which is a Shareholder Reserved Matter unless the entry into that transaction or matter is approved in writing in accordance with the threshold for the relevant Shareholder Reserved Matter specified in Schedule 3.
- 5.2 **Duty to comply with Constitution:** Each Shareholder shall comply with the Constitution.

- 5.3 **Compliance with laws:** The Shareholders will each ensure they comply with their, and the Company complies with its, obligations under the LGA, Local Government (Water Services Preliminary Arrangements) Act 2024, the LG(W.S) Act, the Water Services Act 2021, the Companies Act and all other applicable laws.
- 5.4 **Spirit of collaborative working:** The Shareholders and the Company must at all times act in a spirit of co-operation and collaborative working, endeavouring to act together to allow for the effective communication of the Shareholders' intentions or requirements to the Company and of the Company's intentions or requirements, as applicable.
- 5.5 **No surprises:** The Shareholders shall use best endeavours to act under the principle of "no surprises", both with the Company and with each other in relation to their respective interests. The Company shall use best endeavours to act under the principle of "no surprises" with each of the Shareholders in relation to their respective interests.

6. STAKEHOLDERS' FORUM

6.1 Establishment and Terms of Reference:

- (a) The Shareholders will establish, maintain and operate a Stakeholders' Forum in accordance with the Terms of Reference to provide overarching governance of the Company, including:
- (i) in relation to the appointment of Directors to the Board of the Company;
 - (ii) to assist the Shareholders to fulfil their obligations under this agreement;
 - (iii) to provide opportunities for collaboration with Iwi;
 - (iv) where the Company has any obligation to consult with the Shareholders under the LG(W.S) Act or other applicable law, to allow the Company to meet such obligation by consulting with the Stakeholders' Forum; and
 - (v) where the Company has Treaty settlement obligations (including under the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017, the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Claims Settlement Act 2022 and the Te Rohe o Rongokako Joint Redress Act 2022), to allow the Company to meet such obligations by consulting with the Stakeholders' Forum.
- (b) The Stakeholders' Forum will be deemed to have been established on the date of this agreement, at which time:
- (i) the Terms of Reference are on the terms attached at Schedule 4 to this agreement; and
 - (ii) the initial Stakeholders' Forum Members and Alternates are as set out in Schedule 1.

6.2 Stakeholders' Forum Members:

- (a) The Stakeholders' Forum will be made up of:

- (i) one Stakeholders' Forum Member appointed by each Shareholder; and
 - (ii) one Stakeholders' Forum Member appointed by each of Rangitāne and Ngāti Kahungunu.
- (b) Each Stakeholders' Forum Member (and/or their Alternate) appointed by a Shareholder may be (but is not required to be) an elected member of a Council.
 - (c) Each Shareholder and Iwi must ensure that it has appointed a Stakeholders' Forum Member and an Alternate at all times. If a Shareholder or Iwi fails to comply with this requirement, then the Chief Executive (or equivalent) of the relevant Shareholder or Iwi (as applicable) will be deemed to be the Stakeholders' Forum Member appointed by that Shareholder or Iwi until such time as a new Stakeholders' Forum Member is appointed by that Shareholder or Iwi (as applicable).
 - (d) Each Iwi who appoints a Stakeholders' Forum Member, and that Stakeholders' Forum Member, must enter into confidentiality arrangements substantially similar to those set out in clause 18 of this agreement.

6.3 Replacing a Stakeholders' Forum Member:

- (a) Each Shareholder's appointed Stakeholders' Forum Member and/or Alternate may be replaced from time to time by that Shareholder providing written notice to the Stakeholders' Forum and the other Shareholders.
- (b) Each Iwi appointed Stakeholders' Forum Member and/or Alternate may be replaced from time to time by the relevant Iwi (and not any other person) providing written notice to the Stakeholders' Forum and the Shareholders.

6.4 Terms of Reference:

- (a) The Shareholders may amend the Terms of Reference by the written agreement of all Shareholders, provided the Shareholders have first consulted with Iwi.
- (b) The:
 - (i) operation of the Stakeholders' Forum will be governed by the Terms of Reference (as amended from time to time); and
 - (ii) Shareholders must procure that their appointed Stakeholders' Forum Member (and their Alternate) comply at all times with the Terms of Reference.

6.5 Delegations to a Stakeholders' Forum Member: Each Shareholder agrees to delegate to its appointed Stakeholders' Forum Member, and their Alternate, those responsibilities and powers set out in the Appendix to the Terms of Reference and those in clause 6.6.

6.6 Authority of Stakeholders' Forum Member: Subject to the delegations under clause 6.5 above, the Shareholders agree that any right, power, discretion or action for a Shareholder under this agreement (including casting a vote on any Shareholder resolution, signing any notice, resolution, consent or approval and approving any Shareholder Reserved Matter)

may be exercised by the Stakeholders' Forum Member appointed by that Shareholder (or their Alternate).

6.7 **Iwi representation:** The parties acknowledge and agree that clauses 6.2(a)(ii), 6.2(d), 6.3(b) and parts of Schedule 4 contain benefits in favour of Rangitāne and Ngāti Kahungunu and shall be enforceable by those Iwi in accordance with Part 2, Subpart 1 of the Contract and Commercial Law Act 2017. Nothing in this clause 6.7 prevents the Shareholders from amending this agreement, including any of clauses 6.2(a)(ii), 6.2(d), 6.3(b) and Schedule 4, without the consent of each Iwi provided where any change is proposed to Iwi rights of participation in the Stakeholders' Forum the Shareholders:

- (a) proactively seek ways to enhance Iwi participation;
- (b) consult with Iwi in good faith on the proposed change;
- (c) engage with Iwi as to the effects of the proposed change; and
- (d) seek to mitigate the adverse effects of the proposed change, if any.

6.8 **Breach:**

- (a) Each Stakeholders' Forum Member (and their Alternate) must comply with all applicable requirements of the Terms of Reference.
- (b) In the event of Material breach by a Stakeholders' Forum Member (or their Alternate), as determined by a majority of the other Stakeholders' Forum Members, of the Terms of Reference or the rules that may be adopted by the Stakeholders' Forum from time to time to regulate its own procedures, the other Stakeholders' Forum Members may suspend the voting and other rights of participation of that Stakeholders' Forum Member for such time as they consider necessary to resolve the breach or otherwise appropriate in the circumstances.
- (c) If:
 - (i) the suspended Stakeholders' Forum Member fully remedies the relevant breach to the reasonable satisfaction of all other Stakeholders' Forum Members (such satisfaction to be evidenced in writing); or
 - (ii) the other Stakeholders' Forum Members agree (acting reasonably),the suspension shall automatically end and all rights, privileges, and entitlements of the suspended Stakeholders' Forum Member under this agreement shall be reinstated with effect from the date on which such written confirmation is given.

7. ISSUING ADDITIONAL SHARES

7.1 **Share issue:** Additional shares in the Company may be issued:

- (a) with the written approval of all Shareholders;
- (b) to an existing Shareholder in accordance with the process set out in clause 7.2; or
- (c) to a third party in accordance with the process set out in clause 8.2.

7.2 **Periodic adjustment to Shares:** The Shareholders agree that their intention is for each Shareholder's shareholding in the Company as a proportion of total Shares to be equivalent to the number of Water Service Connections in the Shareholder's Service Area as a proportion of total Water Service Connections in the Service Areas for all Shareholders. To maintain this equivalency over time:

- (a) within four weeks after 1 July of each third anniversary of the date of this agreement, the Board must calculate the number of Water Service Connections in each Shareholder's Service Area as a proportion of total Water Service Connections in the Service Areas for all Shareholders as at that 1 July;
- (b) promptly after the calculations referred to at clause 7.2(a) have been completed, the Board must notify the Shareholders and the Stakeholders' Forum of the resulting proportions of each Shareholder and the details of the Board's proposed action under clause 7.2(c);
- (c) at least 10 business days after notifying the Shareholders and the Stakeholders' Forum under clause 7.2(b) (the **Notification Period**), but promptly thereafter, the Board and the Shareholders must take all steps necessary to issue and/or acquire and cancel Shares in the Company in such number and in respect of such Shareholders as is required to ensure that, immediately following such issuance and/or cancellation, each Shareholder's shareholding in the Company as a proportion of total Shares is equivalent to the proportion calculated in respect of that Shareholder under clause 7.2(a). For the avoidance of doubt, shares must not be issued, acquired or cancelled under this clause 7.2 prior to the conclusion of the Notification Period without the agreement of all Shareholders; and
- (d) all shares acquired or issued under this clause 7.2 as part of any periodic adjustment to shareholdings shall be acquired or issued for nil consideration.

7.3 **Adjustment to Shares for capital events:** An adjustment to the respective holdings of Shares may be initiated at any time by the Board, and will be initiated by the Board prior to any increase in capital from Shareholders or distribution to Shareholders, in each case in accordance with the methodology as set out in clause 7.2, provided that the Board will select a date that the adjustment should be undertaken as at.

7.4 **Disputes:** Any dispute as to the operation of, and calculations under, clause 7.2 or 7.3 will be resolved in accordance with clause 17, provided that if the Board receives a notice of dispute pursuant to clause 17.1 within five business days after notice has been given under clause 7.2(b), the Board will not proceed to take any action under clause 7.2(c) until the dispute has been resolved under clause 17, following which the Board may take such action or make such adjustments as it deems reasonably necessary to give effect to any change in shareholdings, including in respect of transactions that may have occurred prior to the resolution of the dispute but on a basis consistent with the determined outcome of the dispute.

8. SHAREHOLDER ENTRY AND EXIT

8.1 **No sale:** No Shareholder shall directly or indirectly sell, transfer, or dispose of the legal or beneficial ownership of, or the control of, any of its Shares otherwise than in compliance with this clause 8, the Constitution and the LG(WS) Act.

8.2 **New Shareholders:** A Local Authority who is not an existing Shareholder may be admitted as an additional Shareholder in accordance with the process and requirements of Schedule 5.

8.3 **Shareholder exit:** A Shareholder who wishes to exit from its shareholding in the Company may do so in accordance with the process and requirements of Schedule 6.

9. LOANS AND GUARANTEES BY SHAREHOLDERS

9.1 **Loans and guarantees:** No Shareholder will be required to make any loans to the Company or guarantee the obligations of the Company, to any creditor or other party except with the express prior agreement of such Shareholder or as set out in clause 9.2 below.

9.2 **Establishment funding:** The Shareholders agree that it is intended that the Company will, in advance of the Company receiving revenue from the Business, borrow from Shareholders for the purpose of meeting the reasonable establishment and operating costs of the Company (**Establishment Loans**). To this end, it is agreed that:

- (a) the Company may, in one or more requests in writing given prior to the date on which it receives its first revenue following the closing under the Transfer Agreement, request the advance by each Shareholder of up to, in aggregate with all other sums advanced by that Shareholder under this clause 9.2, the sum of \$[•];
- (b) that request for advance must be made to each Shareholder at the same time and for the same amount;
- (c) the Shareholders must advance the funds requested to the Company under the Establishment Loan within five Business Days of receipt of the request;
- (d) the Establishment Loan will be unsecured, interest free and repayable upon the earlier of:
 - (i) 30 June 2028;
 - (ii) the date on which the Company is eligible to borrow from LGFA and remain in compliance with all LGFA funding requirements and covenants; and
 - (iii) the date elected by the Company; and
- (e) the Shareholders will do all things reasonably required in connection with the Establishment Loans, including capitalising the Establishment Loans, to the extent necessary for the Company to be able to borrow from LGFA.

9.3 **LGFA:** The Shareholders agree that it is intended that the Company will borrow from LGFA. In accordance with LGFA foundation policies, the Company (as a CCO) must have financial support from its shareholders. To this end, it is agreed that each Shareholder will:

- (a) support the Company in taking all steps necessary for it to:
 - (i) be approved by LGFA as a borrower; and

- (ii) accede to LGFA's Multi Issuer Deed and Notes Subscription Agreement (or similar); and
- (b) either:
 - (i) enter into, in a timely manner, a deed of guarantee (or such other documentation as required by LGFA) for the Company's debt liabilities to LGFA; or
 - (ii) commit to provide uncalled capital,
 based on the following principles:
 - (iii) no Shareholder will ultimately be required to guarantee, or pay, more than that Shareholder's Agreed Proportionate Amount; and
 - (iv) the guarantee/amount of any uncalled capital will be reviewed periodically to ensure it reflects the above principle.

9.4 The "**Agreed Proportionate Amount**" for a Shareholder will be set out or determined in accordance with the Transfer Agreement for that Shareholder, and will be agreed with all Shareholders.

10. **SETTING WATER CHARGES AND OTHER REVENUE RECOVERY**

10.1 The Board will make all decisions in relation to the setting of water charges and other revenue recovery.

10.2 Each decision of the Board regarding water charges will be made:

- (a) in compliance with clause 2.2 of the Constitution (unless that clause is amended in accordance with clause 10.3); and
- (b) having regard to the pricing principles set out in Schedule 7.

10.3 Notwithstanding clauses 10.1 and 10.2:

- (a) if the Shareholders agree otherwise as a Reserved Matter, the Board may adopt harmonisation of pricing between any Service Areas despite the provisions of clause 2.2 of the Constitution; and
- (b) promptly after the ninth anniversary of the date of this agreement the Shareholders will, with the input of the Board, review whether clause 2.2 of the Constitution should be amended to change the way charges are set for water users away from reflecting the costs to serve those water users. Any change will only take effect if the Shareholders agree as a Reserved Matter.

10.4 The Board may, within six weeks of 1 July 2030, 1 July 2033 and 1 July 2036, put forward a business case to Shareholders proposing to adopt a harmonisation pricing strategy for consideration by Shareholders under clause 10.3(a) above. The business case will consider, among other things, the following factors:

- (a) whether there is sufficient reliable information available about future investment requirements to provide reliable and transparent estimates of costs to ratepayers;
- (b) the impact of any proposed changes on each Shareholder's ratepaying population (including distributional impacts within and between Council districts);
- (c) other benefits and costs of the new proposed approach relative to current approach (e.g., impact on operating costs/efficiencies for the entity); and
- (d) whether other compensatory measures could be put in place to manage any significant impact (if any) on subsets of ratepayers.

Nothing in any such proposal or in this clause 10.4 obliges any Shareholder to agree to any such proposal.

11. DISTRIBUTIONS

11.1 The Board may authorise dividends and other distributions (as those terms are defined in the Companies Act) only in accordance with a dividend policy adopted by the Shareholders in accordance with this clause 11.

11.2 Each Shareholder acknowledges and agrees that:

- (a) the initial dividend policy of the Company will be to re-invest all profits of the Company into the Business and, accordingly, the Company does not intend to pay dividends to Shareholders; and
- (b) it is the Shareholders' intention that the initial dividend policy will be maintained for at least nine years from the Incorporation Date.

11.3 The Shareholders may agree by a unanimous resolution of Shareholders to the Company adopting an updated dividend policy from time to time. Unless otherwise agreed by that unanimous resolution of Shareholders, the payment of any dividend (including if made under an updated dividend policy) will be:

- (a) subject to the Company being able to:
 - (i) comply with its then current business plan;
 - (ii) comply with its obligations to any third party;
 - (iii) comply with its legal obligations, including under the LG(W.S) Act (including the obligation not to not pay a dividend amount that could compromise the Company's ability to act in accordance with the financial principle that it must ensure that the revenue and funding it applies to providing Water Services is sufficient to sustain the Company's long-term investment in its Water Services while meeting all regulatory requirements);
 - (iv) meet the solvency test set out in the Companies Act; and
 - (v) maintain prudential capital reserves,

(as determined in each case by the Board);

- (b) made on a pro-rata basis, in proportion to the Shares then held by each Shareholder.

12. STATEMENT OF EXPECTATIONS

12.1 **Preparation:** The Stakeholders' Forum will be responsible for preparing the Statement of Expectations in accordance with the LG(WS) Act, within the time periods required by the LG(WS) Act.

12.2 **Process:** Unless the Shareholders otherwise agree, or an alternative process is provided for in the LG(WS) Act (in which case that alternative process will be followed):

- (a) The Stakeholders' Forum will meet eight months before the date on which the Company is required to prepare a Water Services Strategy under the LG(WS) Act, to discuss and agree to the process for preparing the next Statement of Expectations. That process must comply with the requirements of the LG(WS) Act including in respect of liaising with the Company.
- (b) The Stakeholders' Forum Members will procure that one or more Shareholders publish the process agreed in accordance with clause 12.2(a) on their website in accordance with the LG(WS) Act.
- (c) The Stakeholders' Forum Members will then work collectively to prepare a draft Statement of Expectations in accordance with the process agreed under clause 12.2(a) and the requirements of this agreement and the LG(WS) Act.
- (d) In addition to the requirements specified in the LG(WS) Act, the Statement of Expectations shall also include the matters set out in Schedule 8. However, for clarity, section 228(3) of the LG(WS) Act applies.
- (e) The Shareholders must approve and adopt (as a Shareholder Reserved Matter) the draft Statement of Expectations prepared in accordance with clause 12.2(c), subject to any amendments they consider necessary, at least six months prior to the date on which the Company is required to prepare a Water Services Strategy under the LG(WS) Act.

Promptly after the Statement of Expectations has been approved and adopted in accordance with clause 12.2(e), the Statement of Expectations will be circulated to the Chairperson of the Board, the Chief Executive of the Company and the Stakeholders' Forum.

12.3 **Compliance:** The Shareholders, the Stakeholders' Forum and the Board will ensure that the business of the Company is conducted in accordance with its Statement of Expectations.

13. SECURITY INTERESTS, AMALGAMATION

13.1 **No Security Interest:** A Shareholder must not grant a Security Interest over any of its Shares.

13.2 **Amalgamation of Local Authorities:** In the event of an amalgamation or any other change in the governance structure of a Shareholder, the Shareholders will meet and discuss the

effect of the amalgamation on the shareholding structure of the Company and will exercise their voting rights to ensure that the shareholding percentages for the Shares remain reasonable as agreed by all Shareholders.

14. TERM AND TERMINATION

14.1 **Term:** This agreement commences on the date signed by all parties and continues until the first date on which:

- (a) only one Shareholder owns all Shares;
- (b) none of the Shareholders hold Shares; or
- (c) the date on which the Company is removed from the Companies Register.

15. CONSEQUENCES OF TERMINATION

15.1 **Effect of termination:** Any termination of this agreement with respect to a Shareholder does not affect any accrued rights that Shareholder may have against the other parties to this agreement or which the other parties to this agreement may have against it.

15.2 **Survival:** Termination of this agreement will not affect the rights and obligations of the Shareholders set out in clauses 1, 15, 17, 18, 19 and 20 which are intended to survive the termination of this agreement.

16. SUSPENSION OF RIGHTS

16.1 **Consequences:** If an Event of Default occurs in respect of a Shareholder (the "**Defaulting Shareholder**") the Non-Defaulting Shareholders may, while that Event of Default continues, by notice in writing to the Defaulting Shareholder require that the Defaulting Shareholder is suspended as follows:

- (a) all rights of the Defaulting Shareholder under this agreement (including the right to vote on a Reserved Matter and to participate in the Stakeholders' Forum) and all rights attaching to the Defaulting Shareholder's Shares ("**Default Shares**") (including voting) are suspended and the Default Shares are not to be counted for the purpose of determining a quorum for a Shareholders' meeting; and
- (b) all Director appointment rights of the Defaulting Shareholder are suspended,

with any period of suspension only lasting for such time as:

- (c) in the case of a breach or failure is capable of remedy, the Event of Default is continuing; and
- (d) in the case of a breach or failure that is not capable of remedy, the consequences of the Event of Default have been mitigated to the fullest extent practicable and (without imposing on any Shareholder an obligation to offer compensation) the Company and Shareholders have been compensated for the consequences of the Event of Default to the reasonable satisfaction of each shareholder.

16.2 **Non-Defaulting Shareholder:** For the purposes of clause 16.1:

- (a) "Non-Defaulting Shareholders" means all Shareholders which are not the Defaulting Shareholder, other than any such Shareholder which is a Related Party of the Defaulting Shareholder; and
- (b) any notice which may be given by the Non-Defaulting Shareholders may be given by a Shareholder or Shareholders which holds or hold more than half of the Shares held by all Non-Defaulting Shareholders.

16.3 **Default interest:** If either party does not pay any amount payable under this agreement on the due date for payment ("**Due Date**") that party shall pay to the other party interest (both before and after judgment) on that amount. That interest:

- (a) shall be paid at the rate set out in Schedule 1;
- (b) shall be paid by instalments at intervals of 10 Business Days from the Due Date; and
- (c) shall be calculated on a daily basis from and including the Due Date until the unpaid amount is paid in full.

The right of a party to require payment of interest under this clause does not limit any other right or remedy of that party.

16.4 **Other remedies:** Clauses 16.1 and 16.3 are without prejudice to any other right, power or remedy under this agreement, at law, or otherwise, that any Shareholder has in respect of a default by any other Shareholder.

17. DISPUTE RESOLUTION

17.1 **Notice in writing:** If a party claims that a dispute has arisen, that party must give written notice to the other parties. The written notice must specify the nature of the dispute.

17.2 **Negotiation:**

- (a) On receipt of a notice delivered in accordance with clause 17.1 and before any party may refer a dispute to mediation, the representatives must, in good faith and acting reasonably, do their best to resolve the dispute quickly and efficiently through negotiation.
- (b) If any representative considers that the dispute is not being resolved in a timely manner, such representative may serve written notice on the other parties' representatives to escalate the dispute to the Chief Executives or equivalent (where the representatives are not the Chief Executive or equivalent) of the applicable Shareholders for resolution.
- (c) If the dispute has not been resolved within 20 Business Days (or within such other period as agreed by the parties) of the date of the notice referred to in clause 17.2, any party may submit the dispute to mediation.

17.3 **Mediation:**

- (a) If the parties do not resolve the dispute by negotiation, the parties must, in good faith and acting reasonably, do their best to resolve the dispute by participating in mediation with an independent mediator.
- (b) If the parties do not agree on a mediator, then the mediator will be appointed by the New Zealand Dispute Resolution Centre.
- (c) The parties must mediate the dispute in accordance with principles agreed between them or, if no agreement can be reached, the New Zealand Dispute Resolution Centre Mediation Rules.
- (d) Unless the parties agree otherwise, the mediator's fee and any other costs of the mediation itself (such as for venue hire or refreshments) will be shared equally between the parties, but the parties will each pay their own costs of preparing for and participating in the mediation (such as for travel and legal representation).

17.4 **Arbitration**

- (a) If the dispute has not been resolved within 40 Business Days (or within such other period as agreed by the parties) of the dispute being referred to mediation, any party (the "**Initiating Party**") may refer such dispute to binding arbitration by issuing a written notice ("**Arbitration Notice**") to the other Party or Parties (together with the Initiating Party, the "**Disputing Parties**") for final resolution in accordance with the provisions of this clause 17.4 and in accordance with the provisions of the Rules of Arbitration of the New Zealand Dispute Resolution Centre, as amended or modified from time to time ("**NZDRC Rules**").
- (b) The arbitral panel shall consist of one arbitrator. The arbitrator will be appointed by the agreement of the Disputing Parties or, failing agreement within 10 Business Days of the date of the Arbitration Notice, in accordance with the NZDRC Rules.
- (c) The seat of arbitration shall be Wellington, New Zealand and the arbitration shall be conducted in the English language.
- (d) The award of the arbitration shall be in writing and must include reasons for the decision.
- (e) The award of the arbitration shall be final and binding on the parties. No party may appeal to the High Court under Clause 5 of Schedule 2 of the Arbitration Act 1996 on any question of law arising out of an award.
- (f) The award shall allocate or apportion the costs of the arbitration as the arbitrator deems fair.
- (g) Neither the existence of any dispute nor the fact that any arbitration is pending hereunder shall relieve any of the parties of their respective obligations under this agreement.

17.5 **Implementation of agreement:** The parties must do whatever is reasonably necessary to put into effect any negotiated or mediated agreement, arbitral award or other resolution. This includes exercising voting rights and other powers as required.

17.6 **Rights and obligations during a dispute:** During a dispute, each party must continue to perform its obligations under this agreement.

17.7 **Interlocutory relief and right to terminate:** This clause does not restrict or limit the right of a party to obtain interlocutory relief, or to immediately terminate this agreement where this agreement provides such a right.

18. CONFIDENTIAL INFORMATION AND PUBLIC ANNOUNCEMENTS

18.1 **Confidentiality:** Each party must keep confidential the Confidential Information, and must not disclose or permit the disclosure of such Confidential Information to any other person. If a party becomes aware of a breach of this obligation, that party will immediately notify the other parties.

18.2 **Further permitted use and disclosure:** This agreement does not prohibit the disclosure of Confidential Information by a party in the following circumstances:

- (a) the other parties have consented to the disclosure of the relevant Confidential Information;
- (b) the disclosure is specifically contemplated and permitted by this agreement;
- (c) the disclosure of Confidential Information is to an employee, subcontractor, agent or representative who needs it for the purposes of this agreement;
- (d) the disclosure is to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this agreement;
- (e) the disclosure is required by a court or governmental or administrative authority; or
- (f) the disclosure is required by applicable law or regulation, including under the Local Government Official Information and Meetings Act 1987.

18.3 **Public announcements and media releases:** Each Shareholder agrees that it will not make any public announcements or issue media releases in connection with, or on behalf of, the other Shareholders or the Company in relation to the Company or Water Services, except with the written consent of the other Shareholders. Nothing in this provision shall prohibit or restrict a Shareholder from making a public announcements or media releases in connection with the Shareholder's own involvement with, or policies in relation to, the Company.

19. NOTICES

19.1 **Giving notices:** Any notice or communication given to a party under this agreement is only given if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that party at its address and marked for the attention of the relevant department or officer (if any) set out in Schedule 1.
- (b) Emailed to that party at its email address and marked for the attention of the representative set out in Schedule 1.

- 19.2 **Change of details:** If a party gives the other party three Business Days' notice of a change of its postal address or email address, any notice or communication is only given by that other party if it is delivered, posted or emailed to the latest postal address or email address.
- 19.3 **Time notice is given:** Any notice or communication is to be treated as given at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, five Business Days after it is posted.
 - (c) If it is sent by email, when it is received in readable form addressed in the manner specified above.

However, if any notice or communication is given, on a day that is not a Business Day or after 5pm on a Business Day, in the place of the party to whom it is sent it is to be treated as having been given at the beginning of the next Business Day.

20. GENERAL

- 20.1 **No partnership, joint venture:** Nothing in this agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between any of the Shareholders, and a Shareholder may not make, or allow to be made, any representation that any such relationship exists between any of the Shareholders. A Shareholder shall not have authority to act for, or to incur any obligation on behalf of, any other Shareholder, except as expressly provided for in this agreement.
- 20.2 **No privity:** Other than as expressly provided for in this agreement, this agreement is not intended to confer a benefit on any person or class of persons who is not a party to it.
- 20.3 **Board action:** Wherever this agreement requires the Board to do anything, each Shareholder shall take all steps available to it to ensure that the Director or Directors appointed by that Shareholder takes all necessary steps to do that thing.
- 20.4 **Counterparts:** This agreement is deemed to be signed by a Shareholder if that Shareholder has signed or attached that Shareholder's signatures to any of the following formats of this agreement:
- (a) an original; or
 - (b) a photocopy; or
 - (c) an electronic copy;

and if every Shareholder has signed or attached that Shareholder's signatures to any such format and delivered it in any such format to the other Shareholders, the executed formats shall together constitute a binding agreement between the Shareholders.

- 20.5 **Entire agreement:** This agreement contains everything the parties have agreed in relation to the subject matter it deals with. No party can rely on an earlier written agreement or anything said or done by or on behalf of another party before this agreement was executed.

- 20.6 **Severance:** If any provision of this agreement is, or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and shall not affect the enforceability, legality, validity or application of any other provision of this agreement.
- 20.7 **Further assurance:** Each Shareholder shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.
- 20.8 **Variation:** No variation of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- 20.9 **Assignments and transfer:** A party must not assign or transfer any of its rights or obligations under this agreement without the prior written consent of each of the other parties.
- 20.10 **Costs:** Except as otherwise set out in this agreement, each party must pay its own costs and expenses, including legal costs and expenses, in relation to preparing, negotiating, executing and completing this agreement and any document related to this agreement.
- 20.11 **Inconsistency with Constitution:** If there is any inconsistency between this agreement and the Constitution then the parties agree to abide by this agreement and to do everything required to change the Constitution so that it is consistent with this agreement.
- 20.12 **Waivers:**
- (a) A waiver of any right, power or remedy under this agreement must be in writing signed by the Council granting it. A waiver only affects the particular right, obligation or breach for which it is given. It is not an implied waiver of any other right, obligation or breach or an implied waiver of that right, obligation or breach on any other occasion.
 - (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement does not amount to a waiver.
- 20.13 **Governing law:** This agreement is governed by the laws of New Zealand.

SCHEDULE 3
MATTERS REQUIRING SHAREHOLDER APPROVAL

Matter or transaction	Approval threshold
Statement of Expectations	
A decision to approve and adopt the draft Statement of Expectations pursuant to clause 12.2(e).	More than half the number of Shareholders (i.e., as at the date this agreement was first entered into, approved by at least 3 out of 4 Shareholders)
Material transactions	
"Major transactions" as that term is defined in the Companies Act.	Special Resolution
"Major transactions", being any transaction to acquire, sell, lease (whether as lessor or lessee), exchange or otherwise (except by way of charge) dispose of assets where the transaction involves an aggregate value (including over the term of the contract, if applicable) above \$100,000,000 ¹ .	Special Resolution
Changes to structure	
Any alteration to, or revocation of, the Constitution.	Special Resolution
Any issue of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares.	All of the Shareholders
Any alteration of rights, privileges or conditions attaching to the Shares.	All of the Shareholders
Any arrangement, dissolution, reorganisation, liquidation, merger or amalgamation of the Company.	All of the Shareholders
Any transfer by the Company of Shares held by the Company or any purchase or other acquisition by the Company of its own Shares.	All of the Shareholders
Any cancellation, buy-back or reduction of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares.	All of the Shareholders
The giving of any financial assistance for the purpose of, or in connection with, the purchase of Shares.	All of the Shareholders
Making a Material change in the nature of the Company's business or engaging in business activities other than the Business.	All of the Shareholders
Starting or settling any legal or arbitration proceedings, except in the ordinary course of business.	All of the Shareholders
Any decision for the ceasing operations, liquidation, winding-up, dissolution, restructuring or assignment to its creditors or any similar transaction of the Company.	75% of the number of Shareholders

¹ Subject to indexing from June 2025 in accordance with changes to the Producers Price Index (All Industries) (as published by Statistics New Zealand) – SQU900000 June 2025 = 1483.

Any decision to admit a new Shareholder, as set out in clause 8.2 of this agreement.	All of the Shareholders
Any decision to approve the exit of an existing Shareholder, as set out in clause 8.3 of this agreement.	All of the Shareholders, other than the exiting Shareholder
Pricing	
Any amendments or replacements to the pricing principles set out in Schedule 7 to this agreement or to clause 2.2 of the Constitution during the period of nine years commencing from 1 July 2027.	All of the Shareholders
Any amendments or replacements to the pricing principles set out in Schedule 7 to this agreement or to clause 2.2 of the Constitution during the period following 1 July 2036.	Special Resolution

SCHEDULE 4

FORM OF STAKEHOLDERS' FORUM TERMS OF REFERENCE

Stakeholders' Forum

Purpose

The Stakeholders' Forum ("**Stakeholders' Forum**") is established to:

- provide governance oversight of the Company which provides Water Services in the Service Area set out in Schedule 1; and
- provide a forum for the representatives of the Company's shareholders ("**Shareholders**") and Iwi to meet, discuss and co-ordinate on relevant issues and, through their representatives, exercise their powers in respect of the Company.

Status

The Stakeholders' Forum is a representative forum of the Shareholders and Iwi representatives. For clarity, it is not a "joint committee" for the purposes of the LGA.

Definitions

In these Terms of Reference:

"**Full Forum Matter**" means a matter set out in this Schedule 4 that is identified with an asterisk (*).

"**Council Forum Matter**" means a matter set out in this Schedule 4 that is not identified with an asterisk (*).

Specific responsibilities

The Stakeholders' Forum's responsibilities are:

Governance oversight responsibilities

Governance oversight of the Company, including by:

- receiving and considering the half-yearly and annual reports of the Company;
- receiving and considering such other information from the Company as the Stakeholders' Forum may request on behalf of the Shareholders and/or receive from time to time;
- undertaking performance and other monitoring of the Company;
- considering and providing recommendations to the Shareholders on proposals from the Company;
- providing co-ordinated feedback, and recommendations as needed, on any matters requested by the Company or any Shareholder;

- providing recommendations to the Shareholders regarding the relevant network infrastructure owned by each Shareholder and/or the Company;
- providing recommendations to the Shareholders regarding water conservation;
- preparing the three yearly Statement of Expectations in accordance with the process and other requirements of the Shareholders' Agreement and the LG(WS) Act;*
- seeking and interviewing candidates for the Company's board as needed;*
- monitoring the performance of the board of the Company;* and
- providing recommendations to the Shareholders regarding changes to these terms of reference, the Shareholders' Agreement and the Constitution.

Stakeholders' Forum decision making responsibilities

Considering and making decisions on the following:

- approving the three yearly Statement of Expectations in accordance with the process and other requirements of the Shareholders' Agreement and the LG(WS) Act;
- approving director appointments and/or removals;* and
- approving the remuneration of directors of the Company*.

Shareholders' responsibilities

To the extent that each Shareholder delegates its relevant powers to the Stakeholders' Forum Member it appoints, the Stakeholders' Forum will provide a forum for the Shareholders to meet and exercise their powers in relation to the Company.

Chairperson

The Chairperson and Deputy Chairperson will be elected by the Stakeholders' Forum once all Stakeholders' Forum Members have been appointed.

Quorum

A quorum for meetings of the Stakeholders' Forum will be met:

- where the agenda includes consideration of a Full Forum Matter– if a majority of Stakeholders' Forum Members (or Alternates, other than Alternates attending as an observer) are present; and
- where the agenda includes consideration of a Council Forum Matter– if a majority of those Stakeholders' Forum Members (or Alternates, other than Alternates attending as an observer) appointed by Shareholders are present.

Where the Stakeholders' Forum is providing a forum for the Shareholders to meet and exercise their powers in relation to the Company, the requirements of the Constitution and this agreement will prevail.

Alternates

Each Stakeholders' Forum Member must have an Alternate appointed by the relevant Shareholder or Iwi. The Alternate may attend as an observer without rights of participation or voting at all meetings of the Stakeholders' Forum. In the event that the primary Stakeholders' Forum Member is unable to attend any meeting of the Stakeholders' Forum, the Alternate may attend that meeting with full rights of participation and may exercise the vote of its primary Stakeholders' Forum Member.

Decision-making

The Stakeholders' Forum will strive to make all decisions by consensus.

In the event that a consensus on a particular matter before the Stakeholders' Forum is not able to be reached, each Stakeholders' Forum Member has a deliberative vote.

A vote of the Stakeholders' Forum is passed if a majority (i.e., more than 50%) of the votes cast are in favour of the matter. In the situation where there is an equality of votes cast on a matter, the Chairperson does not have a casting vote and therefore the matter subject to the vote is defeated and the status quo is preserved.

Iwi representatives

In relation to any decisions of the Stakeholders' Forum, notwithstanding anything to the contrary, Iwi representatives will only have voting rights at meetings of a Stakeholders' Forum in respect of Full Forum Matters.

Policies

The Stakeholders' Forum will develop and agree:

- (a) a process to manage actual, potential and perceived conflicts of interest of Stakeholders' Forum Members and Alternates, Shareholders and Iwi;
- (b) a code of conduct for all Stakeholders' Forum Members and Alternates;
- (c) confidentiality protocols and disclosure policies;
- (d) standing orders relating to the operation of Stakeholders' Forum meetings; and
- (e) such other policies as the Stakeholders' Forum determines.

Remuneration

Each Shareholder and Iwi appointor will be responsible for the payment of remuneration (if any) to its representative on the Stakeholders' Forum and for any costs associated with that person's membership of the Stakeholders' Forum. To ensure consistency, where remuneration is to be paid to a representative on the Stakeholders' Forum, the amount of such remuneration must be agreed by the Stakeholders' Forum.

Administration

Reports to be considered by the Stakeholders' Forum may be submitted by any of the Shareholders or the Company.

Procedures

Unless otherwise specified in this agreement, the Rules for Shareholder Meetings set out in clauses 1 – 6 (inclusive) and clause 10 of Schedule 1 of the Constitution will apply to the procedures of the Stakeholders' Forum as if the relevant references were to the Stakeholders' Forum and its members and Alternates.

Appendix to Schedule 4

Common delegations

Governance oversight responsibilities

- Each Shareholder will delegate to the Stakeholders' Forum the responsibilities and powers necessary to participate in and carry out the Stakeholders' Forum governance oversight responsibilities.

Shareholders' responsibilities

- Each Shareholder will delegate to its appointed Stakeholders' Forum Member and, in accordance with these terms of reference, that person's Alternate, all responsibilities and powers in relation to the agreement of:
 - when Shareholder meetings, or resolutions in lieu of Shareholder meetings, are required (without prejudice to Shareholder and Board rights to call meetings under the Constitution); and
 - the appointment, removal and remuneration of directors.

SCHEDULE 5

SHAREHOLDER ENTRY PRINCIPLES

Process for admission as new Shareholder

A territorial authority (as defined in the LG(WS)Act who is not an existing Shareholder (**Proposed Shareholder**) may be admitted as an additional Shareholder (**Admission**) in accordance with the following process:

- (a) a Proposed Shareholder must submit a proposal to the Board setting out the Proposed Shareholders' credentials and the rationale for its proposed shareholding (a **Proposal**);
- (b) following receipt of a Proposal, the Board will assess the merits of the Proposal, consider the implications of it for the Company, its then current Water Services Strategy under the LG(WS) Act and make a recommendation to the Stakeholders' Forum as to whether or not the Shareholders should approve the Admission and any suggested terms and conditions of Admission (a **Recommendation**);
- (c) following receipt of a Recommendation:
 - (i) the Stakeholders' Forum will consider the Proposal and the Shareholders will determine if the Recommendation should proceed to be consulted on as a change proposal in accordance with the requirements of the LG(WS)Act;
 - (ii) the Shareholders must comply with any required consultation in respect of the change proposal under the LG(WS)Act;
 - (iii) following completion of the change proposal requirements under the LG(WS)Act, the Shareholders may, at their discretion, approve the Admission as a Reserved Matter. The Proposed Shareholder will not be admitted if the Shareholders consider that its Admission would be likely to:
 - (aa) materially worsen the Company's financial position or forecast financial position; or
 - (bb) result in the Company failing to meet its regulatory obligations to be financially sustainable; and
- (d) the parties must comply with all applicable legislative requirements.

Terms of admission of new Shareholder

Unless otherwise agreed by all Shareholders in writing, if the Shareholders approve the Admission of a new Shareholder under paragraph (c):

- (a) the Proposed Shareholder's shareholding in the Company as a proportion of total Shares will be equivalent to the number of Water Service Connections in the Proposed Shareholder's Service Area as a proportion of total Water Service Connections in the Service Area following Admission. The Shareholders may agree to adjust the number of Shares through a process consistent with clause 7.1 shortly before or at Admission, to ensure proportionality between all Shareholders immediately following Admission;

- (b) on or shortly after Admission, the Proposed Shareholder will be required to transfer its relevant assets to the Company pursuant to a Transfer Agreement, with the terms of such transfer to be no more favourable to the Proposed Shareholder than the terms of transfer applying to the initial Shareholders under the Transfer Agreement and otherwise on terms that the Board is satisfied are fair and reasonable in the circumstances;
- (c) prior to (but conditional on) Admission, the parties will negotiate, agree and implement any changes to this agreement and the Constitution that may be necessary or desirable as a result of Admission, including to:
 - (i) maintain the intended balance of rights powers and liabilities of Shareholders and Stakeholders' Forum Members; and
 - (ii) ensure appropriate iwi participation for the expanded Service Area,with each party to bear its own costs and expenses of negotiating, agreeing and implementing any changes, including legal costs and expenses; and
- (d) prior to (and with effect on and from) Admission, the Proposed Shareholder must accede to this agreement (as it may be amended in accordance with paragraph (c));
- (e) the Admission will be given effect by the issue of new Shares to the Proposed Shareholder, with the existing Shareholders to take all steps necessary to issue those Shares, with at least one year's lead time between the approval of Admission under paragraph (c) and the giving effect to of the Admission under this paragraph (i) (or such other period as the Parties may agree with the Proposed Shareholder); and
- (f) promptly after the approval of Admission under paragraph (c), the Board and Stakeholders' Forum will develop and agree a transition plan which sets out the process and timeframes for giving effect to Admission, including the steps set out above.

SCHEDULE 6

SHAREHOLDER EXIT PRINCIPLES

Process for Exit

A Shareholder who wishes to exit from its shareholding in the Company (**Exit**) (**Exiting Shareholder**) may do so in accordance with the following process:

- (a) the Exiting Shareholder must submit a notice to the Board and the Stakeholders' Forum stating its intention to Exit (**Exit Notice**);
- (b) following receipt of an Exit Notice:
 - (i) the Stakeholders' Forum will consider the Proposal and the Shareholders will determine if the Exit should proceed to be consulted on as a change proposal in accordance with the requirements of the LG(WS)Act;
 - (ii) the Shareholders must comply with any required consultation in respect of the change proposal under the LG(WS)Act; and
 - (iii) following completion of the change proposal requirements under the LG(WS)Act, the Board and the Stakeholders' Forum will work collaboratively to develop a detailed exit plan (**Exit Plan**) setting out a proposed process and timeline for Exit, including to address the treatment of assets and joint assets, consideration, stranded assets and liabilities and transactions costs, and reflecting the Terms of Exit set out below;
- (c) a finalised Exit Plan will be presented to the Stakeholders' Forum who will consider the Exit Plan and the Shareholders may, at their discretion, approve the Exit as a Reserved Matter. The Exit will not be approved if the Shareholders consider that the Exit would be likely to:
 - (i) materially worsen the Company's financial position or forecast financial position; or
 - (ii) result in the Company failing to meet its regulatory obligations to be financially sustainable; and
- (d) the parties must comply with all applicable legislative requirements, including in respect of consultation.

Terms of Exit

Unless otherwise agreed by all Shareholders in writing, if the Shareholders approve the Exit under paragraph (c):

- (e) the Exiting Shareholder will be entitled to transfer its relevant assets out of the Company for an agreed price;
- (f) prior to (but conditional on) Exit, the parties will negotiate, agree and implement any changes to this agreement and the Constitution that may be necessary or desirable as a result of the Exit, including to:

(i) maintain the intended balance of rights powers and liabilities of Shareholders and Stakeholders' Forum Members; and

(ii) ensure appropriate iwi participation for the reduced Service Area,

with each party to bear its own costs and expenses of negotiating, agreeing and implementing any changes, including legal costs and expenses; and

(g) with effect on and from Exit, the Exiting Shareholder will be released from its obligations under this agreement (except in respect of any breaches up to the date of Exit); and

(h) the Exit will be given effect by the transfer of the Exiting Shareholder's Shares to the remaining Shareholders or by the Company acquiring and cancelling the Exiting Shareholder's Share, with the remaining Shareholders to take all steps necessary to give effect to this step, with at least three year's lead time between the giving of an Exit Notice under paragraph (a) and the giving effect to of the Exit under this paragraph (h).

SCHEDULE 7
PRICING PRINCIPLES

- Transparency between pricing and investment requirements.
- Engagement with communities in setting or changing pricing in a material manner.
- Managing/smoothing the transition impact of any changes to pricing.
- Balancing affordability for customers with investment and financial sustainability requirements.
- Consideration of distributional impacts of pricing decisions.
- Pricing to be on a cost-to-serve basis.

SCHEDULE 8

STATEMENT OF EXPECTATIONS

The parties agree that the Statement of Expectations must include the content required under the LG(WS) Act. As at the date of this agreement, that is:

- (a) the outcomes that the Shareholders expect the Company to achieve by providing Water Services;
- (b) requirements relating to the Shareholders' resource management planning and land use planning that are relevant to the Service Area;
- (c) a requirement that the Company must act in accordance with any relevant statutory obligation that applies to a Shareholder that is a territorial authority; and
- (d) the information that the Company must include in its half-yearly report.

A statement of expectations may contain a matter that applies to all or a specified part of:

- (a) the Water Services provided by the Company (for example, a matter that applies only to wastewater); and/or
- (b) the Service Area (for example, a matter that applies only to a Shareholder's Service Area rather than all Service Areas).

The parties agree that the Statement of Expectations may also include one or more of the following:

- (a) how the Shareholders require the Company to conduct its relationships with:
 - (i) the Shareholders;
 - (ii) the Shareholders' communities or any specified stakeholders within those communities;
 - (iii) hapū, iwi, and other Māori organisations; and
 - (iv) consumers in the Service Area;
- (b) performance indicators and measures that the Shareholders may use to monitor the Company
- (c) expectations relating to the strategic priorities to be included in the Water Services Strategy;
- (d) a requirement that the Company must act in accordance with an obligation that a Shareholder that is a territorial authority may have with a third party (including with hapū, iwi, or other Māori organisations) under a contract or other agreement;
- (e) a requirement that the water organisation undertake a specified obligation on behalf of a Shareholder that is a territorial authority;
- (f) a requirement to undertake community or consumer engagement, and the contents of that engagement;

- (g) expectations in relation to collaborating with the Shareholders and other parties when providing Water Services; and
- (h) a requirement that part or all of the Water Services Strategy must be independently reviewed or audited.