

SKYCITY Capital notes

In July 2000, SKYCITY Entertainment Group Limited (Issuer) issued NZ\$150 million (150 million x NZ\$1) of unsecured, subordinated capital notes through a public offering in New Zealand.

The capital notes are, in effect, a perpetual security, with some conditions (including coupon rate) able to be reset by the Issuer on election dates. The election dates are every five years with the next election date 15 May 2010. The first election date (15 May 2005) saw no change to the conditions except the coupon rate and the new election date. The current coupon rate is 8.0% p.a.

Conditions of the Capital Notes

1. Deed

1.1 Deed binding

The statements in these Conditions include summaries of, and are subject to the detailed provisions of, the trust deed dated 4 May 2000 (the Deed) between Sky City Limited and the New Zealand Guardian Trust Company Limited, as trustee. Words and expressions defined in the Deed and not otherwise defined in these Conditions have the same meanings where they are used in these Conditions.

1.2 Notice of Deed

Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Deed.

2. Status and subordination of the Capital Notes

2.1 Status

The Capital Notes, including this Capital Note, constitute unsecured subordinated obligations of the Company and rank *pari passu* and without priority or preference among themselves

2.2 Subordination

The obligations of the Company to the Noteholder under, and the rights of the Noteholder (or the Trustee on behalf of the Noteholder) against the Company in respect of, the Principal Amount of, and Unpaid Interest on, the Capital Notes are subordinated to the claims of Senior Creditors (as defined below) of the Company in that in and upon the Commencement of Liquidation the claims of the Noteholder against the Company under and in respect of the Capital Notes in such Liquidation are:

- (a) Claims of Senior Creditors subordinated in point of priority and right of payment to, and rank behind, the claims of the Senior Creditors (as defined below): and
- (b) Limited to Liquidation Amount limited to the Liquidation Amount (as defined below).

In these Conditions:

Liquidation Amount means the Principal Amount of the Capital Notes plus Accrued Interest and unpaid Interest in respect of that amount; and Senior Creditors means all creditors of the Company in relation to obligations other than indebtedness owed by the Company in respect of Capital Notes or obligations which are expressed to be subordinate to the obligations of the Company under or in relation to the Capital Notes.

2.3 Relevant provisions of Deed

The Deed contains provisions (which, like all other provisions of the Deed, are binding on the Trustee and each Noteholder), restricting the remedies of the trustee and the Noteholder in relation to the Capital Notes and providing that the Trustee and the Noteholder must hold on trust various amounts in favour of the trustee and Senior Creditors. These provisions are set out in full at the end of these Conditions. In the event of any conflict between the Deed and these Conditions, the Deed is to prevail.

3. Interest

3.1 Interest Rate and calculation of interest

Each Capital Note bears interest at the rate per cent, per annum (the Interest Rate) determined by the Company on the date on which that Capital Note is constituted and issued (the Issue Day) by entry of the details specified in clause 5.2 of the Deed on the register, provided that, in the case of each Capital Note issued in accordance with clause 3.6 of the Deed, on, or as soon as practicable after, the approval from holders of Ordinary Shares referred to in clause 2 of the Deed, the Interest Rate will be the rate set by the Company on the date on which the monies comprising the Issue Price were received by the Company. The Interest Rate applicable to a Capital Note will be notified to the Noteholder by general announcement to the Stock Exchange and by notice accompanying the Holding Certificate for each Noteholder's Capital Notes. Interest will be calculated on the Principal Amount of a Capital Note and will, subject to clause 3.6 of the Deed, accrue daily from the Issue Date on the basis of a 365 day year (subject to Condition 3.2). Interest will cease to accrue on each Capital Note on the earliest of:

- (a) the date upon which is converted into Ordinary Shares (the Conversion Date);
- (b) the date on which it is redeemed or purchased for cash by the Company (the Cash Redemption Date); and
- (c) in the event of Liquidation, the date on which the Capital Note is redeemed by payment of the Liquidation Amount (the Redemption Date).

In these conditions, Accrued Interest means all interest on the Principal Amount of the Capital Notes which has accrued and is payable in accordance with these Conditions.

3.2 Interest and Unpaid Interest

- (a) Accrued Interest and suspension of interest
Accrued Interest on Capital Notes accrued during each interest Period (and any Unpaid Interest) is payable on the relevant Interest Date. The Company may elect to suspend payment of that amount of Accrued Interest (or Unpaid Interest) or any part of such interest on the relevant Interest Date if:
 - (i) the Board believes on reasonable grounds that making the payment of interest, or such part of the interest (as the case may be), would, or would be likely to, result in the Company breaching the solvency test set out in Section 4 of the Companies Act 1993; or
 - (ii) the payment of interest, or such part of the interest (as the case may be), would, or would be likely to, result in the Company breaching any covenant, warranty or undertaking it has given to a Senior Creditor under the terms on which that credit is provided by that creditor to the Company; or

(iii) the payment of the interest, or such part of the interest (as the case may be), would, or would be likely to, breach any other legal obligation.

(b) Unpaid Interest

All Accrued Interest not so paid will, so long as it remains unpaid, bear interest (Additional Interest) at the Interest Rate accruing daily and compounded on each subsequent Interest Date. The Company may, at its option and upon giving not more than 14 or less than seven days' notice to Noteholders (which notice may be accompanied by a post-dated cheque), pay all or part of such Accrued Interest and Additional Interest (together, Unpaid Interest) which, if part only, must be paid on a pro rata basis across all Capital Notes, but so that no Unpaid interest relating to any Interest Period may be paid before the Unpaid Interest relating to any earlier Interest period has been paid. All unpaid Interest will become due and payable in and upon the Commencement of Liquidation, but subject to clause 4 of the Deed and Condition 2.2.

(c) Notice to Trustee and Noteholders

The Company covenants with the Trustee and each Noteholder that it will promptly notify the Trustee and each Noteholder if the Company intends not to or fails to make a payment of interest on the Capital Notes when due in accordance with Condition 3.2(a).

In these Conditions:

Final Interest Date means the first to occur of the Conversion Date, the Cash Redemption Date, the Redemption Date or the Election Date;

Interest Date means the first to occur of the Conversion Date, the Cash Redemption Date, the Redemption Date or the Election Date;

Interest Date means 15 August 2000, and each 15 November, 15 February, 15 May and 15 August thereafter until the Final Interest Date; and

Interest Period means the period from and including one Interest Date to, but excluding, the next (or, in the case of the first Interest Period, the first) Interest Date, provided that the first Interest Period will, subject to clause 3.6 of the Deed, be deemed to be a period from and including the Issue Date to but excluding 15 August 2000.

If the Company has elected to suspend payment of Accrued Interest in accordance with this Condition, the Company is not obliged to pay Accrued Interest on any Interest Date, but has covenanted in the Deed not to pay any dividend on, or make an distribution in respect of, its shares (or take certain other actions) while any such interest remains unpaid. Any non-payment of Accrued Interest on an Interest Date, does not constitute a default by the Company for any purpose.

3.3 Payments

All payments in relation to a Capital Note may be satisfied by:

(a) Post - mailing cheques to the addresses, of; or

(b) Direct Credit - direct credit to any bank account nominated in writing (prior to the Record Date) by,

In the case of any payment of Accrued Interest in relation to the Interest Period from the Issue Date to 15 August 2000, the subscriber of the Capital Note, and in all other cases, the Noteholder entered in the Register on the Record Date. Such mailing or direct credit will occur prior to 5pm on the relevant Interest Date (or, if

that date is not a business day, the next business day after that date) or other date on which payment is required to be made.

In these Conditions, Record Date means a Friday which is also a day on which the Stock Exchange is open for trading (or the previous day if the Stock Exchange is not open for trading on such Friday), not less than seven Business Days prior to the relevant Interest Date, such Record Date being notified to the Stock Exchange at least 10 Business Days prior to the relevant Record Date.

3.4 Withholding tax

(a) Deduction for withholding

Subject to Condition 3.4(b), all payments or credits to, or to the account of, Noteholders (including payments of, and credits in respect of, interest) will be made net of any tax in respect thereof required by law to be withheld, deducted or paid by the Company, except to the extent that the Company is satisfied that the Noteholder is exempt from any such tax or is a person in respect of whom any such withholding, deduction or payment is not required to be made. Any Noteholder claiming any such exemption or to be such a person must provide the Company with such evidence as the Company may from time to time require to satisfy itself in respect of the validity of that claim.

(b) Approved issuer levy

Noteholders to whom such is relevant may in writing request the Company to advise the basis, if any, upon which the Company, at no cost to itself, is prepared from time to time to deduct and pay an approved issuer levy (within the meaning of section 86F of the Stamp and Cheque Duties Act 1971) as an alternative to the exercise by the Company of its rights as referred to in Condition 3.4(a)

(c) Taxation indemnity from Noteholder

If in relation to any Capital Note, the Trustee or the Company becomes liable to make any payment of or on account of tax payable by the Noteholder or in relation to any Capital Notes (except as payable by the company under clause 6.2(g) of the Deed, or where primary liability for such rests with the Company), the Trustee and the Company is each indemnified by the Noteholder and the personal representatives or successor of that Noteholder, and, in the case of the Trustee, alternatively by the Company (in relation to which the Company will in turn be indemnified as aforesaid) in respect of any such liability, and any monies paid by the Trustee and the Company in respect of any such liability may be recovered by action from such Noteholder and the personal representatives or successor of the such Noteholder or the Company (as the case may be) as a debt due to the trustee or the Company. Nothing in this Condition prejudices or affects any other right or remedy of the Trustee or the Company.

4. Election to retain or convert Capital Notes

4.1 Election Notice

The Company must give to each Noteholder (and send a copy to the Trustee) not later than three Business Days after the date (the Election Record Date) which is 33 Business Days before 15 May 2005 (the Election Date) a notice (an Election Notice) specifying:

(a) New Conditions

If applicable, the New Conditions (New Conditions) as to Interest Rate, Interest Dates, Election Date (the New Election Date), and each other

modification to the Conditions to apply to the Capital Notes following the Election Date; and

- (b) Redeem Capital Notes
The proportion of Capital Notes which it intends to compulsorily redeem in accordance with Condition 4.5.

4.2 Noteholder's election to retain or convert

Unless the Company has given notice under Condition 4.1(b) that it will redeem all Capital Notes on the Election Date, each Noteholder must complete and sign the Election Notice and return it to the Company not later than the date (the Notification Date) which is 20 Business Days after the Election Record Date and must indicate in the Election Notice, in relation to the proportion of Capital Notes he or she holds which will not be compulsorily redeemed by the Company either or both of:

- (a) Retain Capital Notes
the Capital Notes in respect of which the Noteholder accepts the New Conditions with effect from the Election Date; and
- (b) Convert Capital Notes
the Capital Notes which the Noteholder wishes to convert into Ordinary Shares on the Election Date. If, in relation to a Capital Note;
- (c) No Election Notice received
the Company does not receive an Election Notice from the Noteholder on or before the Notification Date; or
- (d) No election indicated
to the extent that the Company receives an Election Notice, the Election Notice does not indicate whether or not the Noteholder elects to convert all or part of the Capital Notes into Ordinary Shares; or
- (e) Election Notice incomplete or invalid
the Election Notice requires a declaration to be completed by the Noteholder as to the name and domicile of the beneficial owner of the Capital Notes and such declaration is not duly completed; or
- (f) Denomination and multiples of Capital Notes
To the extent that the Company receives an Election Notice, implementation of the election made by the Noteholder would result in him or her remaining a Noteholder of Capital Notes with a Principal Amount of less than \$5,000 or in a multiple of other than \$1,000.

the Noteholder will be deemed to have accepted the New Conditions in respect of, in the case of (c), (e) and (f) above, all such Capital Notes and, in the case of (d) above, such number of such Capital Notes in respect of which no such indication has been given.

4.3 Conversion of Capital Notes

- (a) Basis of conversion
Subject to Conditions 4.3(b), 4.5(a) and 5, the Company must convert Capital Notes by the issue to the relevant Noteholder on the Election Date of such number (fractions being rounded to the nearest whole number) of Ordinary Shares as have an aggregate Value equal to the aggregate as at the Election Date (less any withholdings or deductions required by law) of the Principal Amounts of, and Accrued Interest and Unpaid Interest on, any capital Notes which are held by the Noteholder which he or she has elected to convert into Ordinary Shares.

In these Conditions, Value means 95 per cent of the weighted average sale prices of an Ordinary Share of the Company expressed in cents and fractions of cents sold on the Stock Exchange during the period of 15 Business Days immediately prior to the Election Date on which Ordinary Shares were bought and sold. Each Ordinary Share issued in accordance with this Condition will rank pari passu with the Ordinary Shares of the Company then on issue, except that such Ordinary Shares will not carry any rights to any dividend or other distribution declared or paid to made on such Ordinary Shares by reference to a record date prior to the Election Date. Letters of allotment or holding certificates in respect of Ordinary Shares so issued will be posted to the relevant Noteholders on, or as soon as practicable after, the Election Date.

(b) Alternatives to Conversion

If, at any time prior to the Election Date, the Company is unable lawfully to issue Ordinary Shares to Noteholders in conversion of Capital Notes in accordance with these Conditions, or the Ordinary Shares of the Company cease to be eligible to be quoted on the Stock Exchange, the Capital Notes will be unaffected and continue in force on their then terms (including as to Interest Rate) until the Election Date, and, if on the Election Record Date, the Company remains unable to issue Ordinary Shares, or its Ordinary Shares remain ineligible to be quoted, and the Trustee is not satisfied that such Ordinary Shares will become eligible to be so quoted within 30 days, all rights of conversion will be suspended and the Company is to elect (such election to be notified to Noteholders within the same time periods applicable to Election Notices under Condition 4.1), whether the Capital Notes or any proportion of the Capital Notes will be compulsorily redeemed in accordance with Condition 4.54 or be deemed to be rolled over on the following terms:

- (i) the Interest Rate to apply to the Capital Notes from the Election Date to the Replacement Election Date (as determined in Condition 4.3(b) (ii)) will be the Market Rate (as defined below) as at the Election Date; and
- (ii) the Election Date will be replaced by a new Election Date (which must be the date two years from the Election Date (or if that date is not a business day, the next business day after that date) (the Replacement Election Date)).

In these conditions:

Market Rate means, on any date, the Swap Rate at that date plus a margin of 2.25 per cent; and Swap Rate means the mid-point of the "receive" and "pay" rates (rounded, if necessary to the nearest four decimal places) displayed at or about 11am on Telerate page 8989 (or its successor page) for tow year New Zealand dollar interest rate swaps.

It, at any time prior to the Replacement Election Date, the Company is unable lawfully to issue Ordinary Shares to Noteholders in conversion of Capital Notes in accordance with these Conditions or the Ordinary Shares of the Company cease to be eligible to be quoted on the Stock Exchange, this Condition 4.3(b) will apply with the necessary modifications.

4.4 Compulsory redemption

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

(a) Ordinary Shares

Is, or is entitled to become, the holder (absolutely or beneficially and whether directly or indirectly) of all Ordinary Shares; or

- (b) Voting Power
Has or will have the right to cast all votes on a poll at a general meeting of the Company on a matter on which holders of Ordinary Shares are entitled to vote,

But no offer is made to the Noteholders to purchase all of the Capital Notes, the Company must give notice prior to the next Election Date to all Noteholders within the same time period applicable to Election Notices under Condition 4.1 offering, to redeem or purchase all Capital Notes on that next Election Date and, as an alternative, at the Company's discretion, New Conditions in respect of the Capital Notes. If a Noteholder elects that the Company redeems or purchases (or procures the purchase of) his or her Capital Notes, such redemption or purchase must occur on that Election Date at the price calculated in accordance with Condition 4.5(d).

4.5 Redemption or purchase at option of Company on Election Dates

- (a) Notice of Election
No later than 10 Business Days before and including the Election Date, the Company may elect that it redeems, or that it or a subsidiary compulsorily purchases, for cash some or all of the Capital Notes which a Noteholder has elected to convert into Ordinary shares by giving notice in writing of such election to Noteholders.
- (b) Redemption or purchase for cash
If the Company elects that it will compulsorily redeem, or that it or a subsidiary will purchase, for cash some or all of the Capital Notes, the Company must promptly notify Noteholders that such redemption or purchase of the Capital Notes for cash will occur on the Election Date, and such redemption or purchase for cash will be at the price calculated in accordance with Condition 4.5(d).
- (c) Part redemption or purchase
If the Company elects to exercise its rights under Condition 4.1 to redeem some but not all of the Capital Notes, or to exercise its or its subsidiary's rights under Condition 4.5(a) to redeem or purchase some but not all of the Capital Notes, then any such redemption or purchase for cash must be on a pro rata basis across all relevant Capital Notes.
- (d) Calculation of redemption or purchase amount
For the purposes of Conditions 4.1, 4.4 and 4.5(b), the redemption or purchase price, as the case may be, payable for the Capital Notes will be the amount equal to the aggregate of:
 - (i) the Principal Amount of the Capital Notes to be redeemed or purchased; and
 - (ii) the unpaid Interest in respect of such Capital Notes.

4.6 Share register

All Ordinary Shares issued upon the conversion of Capital Notes will be validly issued and be entered on the Ordinary Share register of the Company.

4.7 Surrender of Holding Certificates on conversion

- (a) Conversion into Ordinary Shares
Every Noteholder must, if and to the extent so required by the Company as a condition precedent to the issue of Ordinary Shares in the conversion of Capital Notes, surrender the holding Certificate in respect of such Capital Notes to the Company.
- (b) New Holding Certificate

Every Noteholder must, if and to the extent so required by the Company, as a condition precedent to the issue of a new Holding Certificate in accordance with Condition 4.6, surrender the existing Holding Certificate to the Company or the Registrar.

- (c) Conversion, purchase or redemption
Every Noteholder must immediately surrender to the Company or the Registrar, the Holding Certificate in respect of such Capital Notes to be converted, purchased or redeemed pursuant to Conditions 4.3 or 4.5.
- (d) Cancellation of Holding Certificate not surrendered
The Registrar is entitled, at the option of the Company, to cancel or to enter the Company in the Register as the Noteholder of, and issue a substitute Holding Certificate for, any Capital Notes relating to the Holding Certificate not so surrendered.

4.8 Capital Notes held by subsidiaries

Notwithstanding these Conditions, this Condition 4 (other than Condition 4.9) will not apply to any Capital Note already held by a subsidiary of the Company on the Notification Date. Any such Capital Note will be subject to clause 3.11 of the Deed.

4.9 Cancellation on conversion, redemption or purchase

Each Capital Note which is converted into an Ordinary Share or redeemed in accordance with the Conditions is and will be deemed to be cancelled, and neither the Company nor the Trustee will have any further liabilities or obligations in respect of that Capital Note or the relevant Noteholder. Each of the Company and its subsidiaries may at any time purchase a Capital Note for its own account. Each Capital Note so purchased by the Company will be cancelled and neither the Company nor the Trustee will have any further liabilities or obligations in respect of that Capital Note or the relevant Noteholder. The rights and obligations attaching to a Capital Note so purchased by a subsidiary of the Company may not be exercised by or against the Company while the subsidiary holds the Capital Note, and, notwithstanding Condition 4, upon any Election Date, the Capital Note will become subject to the New Conditions. Any Capital Note so purchased by a subsidiary of the company may be transferred by the subsidiary in accordance with this Deed and the Conditions.

5. Regulatory approvals

5.1 Decline to convert

The Company may, by notice in writing to the relevant Noteholder, decline to convert any Capital Note into an Ordinary Share if, as a consequence of any such conversion, the number of Ordinary Shares held by the Noteholder, together with his or her Associates, will exceed the Approved Percentage unless, prior to the Election Date, the Noteholder provides the Company with:

- (a) Confirmation from Regulatory Authorities
Confirmation in writing from each Regulatory Authority that, as a consequence, directly or indirectly, of any such conversion:
 - (i) the Noteholder, together with his or her Associates (if any), is not an Associated person; or
 - (ii) if the Noteholder, together with his or her Associates (if any), is already an Associated Person, he or she will not acquire Ordinary Shares which, together with Ordinary Shares already held by the Noteholder and his or her Associates, exceed the threshold already approved by the Regulatory Authority; or

- (b) Approval from Regulatory Authorities
Approval in writing from each Regulatory Authority of:
- (i) the Noteholder, together with his or her Associates (if any), as an Associated person; or
 - (ii) (where applicable under Relevant Casino Legislation) if the Noteholder, together with his or her Associates (if any) is already an Associated person, the acquisition of the new or greater relevant financial interest of the acquisition of the new or greater relevant power, or the attainment of any other position, power, control or influence by the Noteholder in relation to a holder of a Casino Licence as a consequence, directly or indirectly, of any such conversion.

5.2 Deemed acceptance of New Conditions

If the Company declines to convert any Capital Note in accordance with Condition 5.1, then, notwithstanding these Conditions or the Deed, the holder of that Capital Note is deemed to have accepted the New Conditions in accordance with Condition 4.2.

5.3 Power to sell Capital Notes

Where the Board determines on reasonable grounds that the presence of a Noteholder (the Relevant Noteholder) on the Register may result in the imposition of any pecuniary penalty on the holder of a Casino Licence, or in any Casino licence being varied, suspended or cancelled, or in the imposition or revocation of any condition on or of any Casino Licence:

(a) Statutory declaration

The Board may, by notice in writing, require the Relevant Noteholder to lodge with the Company within 14 days of the date on which such notice is given by the Company, a statutory declaration (or such other documentary evidence as may be required by the Board) as to the following matters:

- (i) the identity of all Associates of the Relevant Noteholder; and
- (ii) the number of Capital Notes (expressed as a percentage of the total number of Capital Notes) that are held, or in which Relevant Interests are held, by the Relevant Noteholder and each Associate of the Relevant Noteholder; and

(b) Sell Capital Notes

The Company may sell Capital Notes held by the Relevant Noteholder in accordance with Condition 5.4, provided that, subject in all respects to the requirements of each Regulatory Authority, this power of sale may not be exercised unless:

- (i) Notice to the Noteholder
The Company has given one month's notice to the Relevant Noteholder of the Company's intention to exercise its power of sale under these Conditions; and
- (ii) Transfer
During that month, the Relevant Noteholder has not transferred those Capital Notes to a person who is not an Associate of the Relevant Noteholder.

5.4 Sale procedure

If the power of sale specified in Condition 5.3 is exercised:

- (a) Sell through Stock Exchange
The Company must arrange for the sale of the Relevant Noteholder's Capital Notes (or such number of those Capital Notes as must or may be sold by the Company under these Conditions) through the Stock Exchange or in some other manner approved by the Stock Exchange;
- (b) Company has power to sign documents
The Relevant Noteholder is deemed to have authorised the Company to act on behalf of the Relevant Noteholder to the sale of those Capital Notes and to sign all documents which may be required in order to effect any such sale;
- (c) Net proceeds to be held on trust
The net proceeds of sale are to be held on trust by the Company for, and paid (after deduction of amounts referred to in paragraph (d)) to, the Relevant Noteholder on surrender of the Holding Certificate (if any) relating to the relevant Capital Notes;
- (d) Costs of sale may be deducted
The Company may deduct from the proceeds of sale any costs of sale and any other costs incurred by the Company in exercising the powers permitted by this Condition 5.4; and
- (e) No further liability
Neither the Company nor the Trustee, on completion of such sale, will have any further liability or obligation to the Relevant Noteholder in respect of the relevant Capital Notes.

5.5 No liability of Company, Board or Trustee
None of the Company, any Director or the Trustee will be liable to the Relevant Noteholder (or any of its Associates) for or in connection with the exercise or purported exercise of any of the powers permitted by the Condition 5 or otherwise in connection with the provisions of this Condition 5.

5.6 Requests for information by Regulatory Authorities
If required to do so by any Regulatory Authority, the Board will, by notice in writing, require any Noteholder to provide to the Company any information which the Regulatory Authority is authorised, under the terms of Relevant Casino Legislation, to require that Noteholder to provide. If the Board has given a notice to a Noteholder under this Condition, no vote may be cast in respect of any Capital Notes held by that Noteholder or any of his or her Associates (whether by voice, show of hands, on a poll or in any other manner) on any matter arising for determination at any meeting of Noteholders (and any vote cast at any such meeting is to be disregarded) unless and until the relevant Noteholder provides to the Company all of the information which is the subject of the Board's notice under this Condition.

5.7 Provisions of information to Regulatory Authorities
Notwithstanding any other provision in the Deed or these Conditions, each Noteholder acknowledges that the Company may provide to any Regulatory Authority from time to time all information in the Company's possession or control which was provided to the Company by or on behalf of that Noteholder (including, without limitation, all proxy forms and all statutory declarations (or other documentary evidence) or otherwise lodged with the Company in accordance with the Deed or these Conditions) and all other information in the Company's possession or control which relates (whether in whole or in part) to that Noteholder or any of his or her Associates or the respective holdings of Capital Notes of that Noteholder or of any of its Associates.

5.8

Definitions

In this Condition 5:

Approved Percentage means, in relation to a Noteholder:

- (a) the percentage of votes attaching to all shares in the Company which each Regulatory Authority has approved as being able to be exercised, in total, by the Noteholder and his or her Associates; or
- (b) if each Regulatory Authority has approved a different percentage of votes attaching to all shares in the Company as being able to be exercised, in total, by the Noteholder and his or her Associates, the lowest such percentage approved by any Regulatory Authority; or
- (c) if the Regulatory Authorities (or any of them) have not provided or have revoked any such approval, five per cent of the votes attaching to all shares in the Company;

Associate means:

- (a) in relation to any matter under the New Zealand Casino Control Act or under consideration by the Casino Control Authority, an "Associated person" as defined in the Listing Rules;
- (b) in relation to any matter under the South Australian Casino Act or under consideration by the gaming Supervisory Authority, a "close associate" as defined in that Act; and
- (c) in relation to any matter under any other relevant casino legislation or under consideration by any other Regulatory Authority, any person who is in an equivalent or substantially similar position to any person to whom (a) above applies for the purposes of the relevant casino legislation;

Associated Person means:

- (a) for the purposes of any matter under consideration by the Casino Control Authority, an "associated person" as defined in the New Zealand Casino Control Act;
- (b) for the purposes of any matter under consideration by the Gaming Supervisory Authority, a person occupying a position of control or significant influence in respect of the Casino Licence holder under the South Australian Casino Act; and
- (c) for the purposes of any matter under consideration by any other Regulatory Authority, any person who occupies a position of control or has a relationship or holds a power over a Casino Licence holder which requires the prior approval or consent of the Regulatory Authority for the purposes of the relevant casino legislation;

Board means the Directors who number not less than the required quorum acting together as a Board of Directors;

Casino Licence means any licence to own or operate, or permitting the operation of, a casino held by the Company or any of its subsidiaries;

Casino Control Authority means the Casino Control Authority established under the New Zealand Casino Control Act;

Gaming Supervisory Authority means the Gaming Supervisory Authority established under the Gaming Supervisory Act 1995 of South Australia;

New Zealand Casino Control Act means the Casino Control Act 1990 of New Zealand;

Relevant financial interest has the meaning set out in the New Zealand Casino Control Act;

Relevant Interest has the meaning set out in the Listing rules;

Relevant position has the meaning set out in the New Zealand Casino Control Act;

Relevant power has the meaning set out in the New Zealand Casino Control Act;

South Australian Casino Act means the Casino Act 1997 of South Australia;

Regulatory Authority means:

- (a) in relation to a Casino Licence in New Zealand, the Casino Control Authority;
- (b) in relation to a Casino Licence in South Australia, the Gaming Supervisory Authority; and
- (c) in relation to a Casino Licence in any other jurisdiction, the regulatory authority (or authorities) that oversees the operation of casinos in that jurisdiction; and

Relevant Casino Legislation means:

- (a) the New Zealand Casino Control Act;
- (b) the South Australian Casino Act; and
- (c) in relation to any other jurisdiction where the Company or any of its subsidiaries hold a Casino Licence, the legislation providing for the establishment, operation and regulation of casinos in that jurisdiction.

6. Takeover

6.1 Definitions

In these Conditions 6 and 7, unless the context otherwise requires:

Acquisition Notice means the notice to be given by a Majority Holder under Condition 6;

Affected Group has the meaning set out in the Listing Rules;

Affected Capital Notes means, where there is a Majority Holder, all Capital Notes held by the Remaining Holders;

Associated Person has the meaning set out in the Listing Rules;

Default means non-compliance with any of the requirements of Conditions 6.3 and 7.4;

Defaulter has the meaning set out in the Listing Rules;

Defaulter's Capital Notes means in relation to a Defaulter, Capital Notes in which the Defaulter has a Relevant Interest;

Differential Offer has the meaning given to it in the Listing Rules;

Director means, in relation to the Company, any person occupying the position of director of the Company, by whatever name called;

Exchange Transaction means a transaction involving Transfers effected by trades matched through the Stock Exchange's order matching market, which complies with the requirements of the Listing Rules;

Insider means:

- (a) Directors or Associated Persons of Directors; or
- (b) Persons who hold Relevant Information of the Company which has not been disclosed to the market;

Majority Holder means a person, or a group of Associated Persons, who holds Capital Notes the aggregate Principal Amount of which is 90 per cent or more of the Capital Notes;

Notice means notice to the Stock Exchange and the Company in a manner complying with the Listing Rules for release to the market;

Relevant Group has the meaning set out in the Condition 6.14(b);

Relevant Information has the meaning set out in the Listing Rules;

Remaining Holders means all Noteholders other than the Majority Holder;

Restricted Transfer has the meaning set out in the Listing Rules;

Ruling has the meaning set out in the Listing Rules;

Transfer has the meaning set out in the Listing Rules; and

Transferor and transferee have corresponding meanings to Transfer.

6.2 Stock Exchange Ruling

If the Stock Exchange gives a Ruling in relation to any matter dealt with in Conditions 6 or 7, that Ruling will be binding on the Company, the Trustee and each Noteholder, and will take effect as if that Ruling was incorporated in these Conditions.

6.3 Notice of takeover by Insider

Unless otherwise permitted by the Listing Rules or a Ruling, no Restricted Transfer of Capital Notes under which any Transferee is an Insider may take place unless:

- (a) Notice of Transfer
 - A Notice is given at least 15 Business Days before the Transferor and the Transferee become bound to effect the Transfer, containing the following particulars:
 - (i) the price or consideration, either specified as a fixed amount or expressed as a range with the higher price or consideration being not greater than 20 per cent, more than the lower price or consideration of that range;

- (ii) any conditions of the transaction which are material to the assessment of the price or price range by prospective Transferors of the Capital Notes;
 - (iii) identification of the class, and the maximum number of Capital Notes and percentage of the relevant class (if any), to which the transfer proposal relates;
 - (iv) the identity of all persons reasonably expected to acquire Relevant Interests in the Capital Notes as a result of the Transfer proposal;
 - (v) the number of Capital Notes (expressed in each case as a percentage of the total number in each relevant class, (if any), of Capital Notes) which will be held, or in which Relevant Interests will be held, upon completion of the proposed transaction, by each Transferee and Associated persons of each Transferee;
 - (vi) the time within which the Transfers are intended to occur;
 - (vii) how the Transfers are to be effected;
 - (viii) the date on which the Notice is given; and
- (b) Notice of change to proposed Transfer
A Notice of any change in, or addition to, the particulars notified under Condition 6.3(a) is to be given at least two Business Days before the change takes effect, in the case of a change to price or other consideration, and at least 15 Business Days before the change takes effect, in the case of a change to any other particulars.

6.4

Obligations of the Board upon the giving of a Notice

Upon the giving of a Notice under Condition 6.3(a) the Board must:

- (a) Notice from the Board
Give a Notice as soon as can be achieved, and before the expiry of the Notice period referred to in Condition 6.3(a), containing the following particulars:
 - (i) whether any Director or Associated person of a Director is expected by any Director to be a Transferee in the notified transaction;
 - (ii) whether there is any Relevant Information pertaining to the Company which any Director believes is likely to be available to any Transferee in the proposed transaction, which has not been made generally available to the market;
 - (iii) whether any Director considers there is any undisclosed Relevant Information which should materially affect the decision of a reasonably informed prospective Transferor in the proposed Transfer and, if so, an indication whether the Director would consider the Transfer to be made more or less desirable to the prospective Transferor by the Relevant Information; and
 - (iv) a statement as to the timing and expected significance of any further action, investigation, report or disclosure which the Directors, or any of them, intend to make in response to the relevant proposals for Transfers;
- (b) Comply with Listing Rules
Comply (so far as is applicable) with Listing Rule 4.5.7; and

- (c) Commission appraisal report
Forthwith commission an appraisal report which complies with Listing Rule 4.5.8 and deal with that appraisal report in accordance with the requirements of that Listing Rule. The requirement to commission an appraisal report under this Condition will not apply if:
 - (i) all Transferors consent to waive the requirement; or
 - (ii) a majority of disinterested Directors (as defined in Listing Rule 4.5.9) certify that in their opinion the cost and difficulty of providing the appraisal report will outweigh the benefit, because prospective Transferors and their Associated Persons are not at an information disadvantage in relation to prospective Transferees and their Associated Persons, or because the appraisal report would not materially remedy any such information prejudice.

6.5 Restricted Transfer status report

(a) Status Report

If a Restricted Transfer is not completed within three months of the Notice given under Condition 6.4 or any status report given under this Condition 6.5(a) then, before continuing with the Restricted Transfer, additional market information on the status of the Restricted Transfer must be provided to the Company and the Stock Exchange in a manner complying with Listing Rule 10.2.3 for release to the market. The additional market information must include:

- (i) when the Restricted Transfer is intended to be completed; and
- (ii) details of the Transfer(s) that comprise the Restricted Transfer which have not been completed.

(b) Company response to Restricted Transfer status report

Upon receipt of the information provided under Condition 6.5(a), the Directors of the Company must promptly advise the Stock Exchange:

- (i) of any change in circumstances (and the implications of any such change) which would affect the continuing relevance and currency of any appraisal or report or the response initially provided, in either case, under Condition 6.4; and
- (ii) that they are complying with Listing Rule 10.1.

6.6 Consequences of Default

If a person acquires a Relevant Interest in the Capital Notes in breach of either Condition 6.3 or 7.4 (not being a breach committed only by the Company or the Board):

(a) Voting rights suspended

No vote may be cast in respect of the Defaulter's Capital Notes on a poll (and any such vote cast must be disregarded) while the Default remains unremedied;

(b) Power to sell

The Defaulter's Capital Notes may be sold by the Company in accordance with Condition 6.7, but this power may not be exercised:

- (i) until one month after the Company has given notice to the Defaulter (and if the Defaulter is not the registered Noteholder of the Defaulter's Capital

Notes, to the person registered as Noteholder) of its intention to exercise this power; and

- (ii) if, during that month the Defaulter has remedied the Default (if capable of being remedied) or has transferred the Defaulter's Relevant Interest in the Defaulter's Capital Notes to a person who is not a Defaulter; and

(c) Lien on Defaulter's Capital Notes

The Company will have a lien on the Defaulter's Capital Notes for:

- (i) any costs to the Company of determining whether a person is a Defaulter and exercising the powers permitted by Conditions 6.6 and 6.7; and
- (ii) any expenses of any Affected Group acting in accordance with Conditions 6.9 and 6.10, which are reimbursed or are to be reimbursed by the Company.

6.7 Sale procedure

If the power of sale specified in Condition 6.6(b) becomes exercisable:

(a) Sell through the Stock Exchange

The Company must arrange for the sale of the Defaulter's Capital Notes through the Stock Exchange or in some other manner approved by the Stock Exchange;

(b) Company has power to sign documents

Each holder of Defaulter's Capital Notes is deemed to have authorised the company to act on behalf of that Noteholder in relation to the sale of the relevant Capital Notes and to sign all documents relating to such sale which may be required to give effect to such sale;

(c) Net proceeds to be held on trust

The net proceeds of sale must be held on trust by the Company for, and paid (after deduction of amounts referred to in paragraph (d)), to holders of the relevant Capital Notes on surrender of the Holding Certificate (if any) relating to the relevant Capital Notes;

(d) Costs of sale may be deducted

The Company may deduct from the proceeds of sale any costs of sale and any costs to the Company of determining whether a person is a Defaulter and exercising the powers permitted by Conditions 6.6 and 6.7, and any amounts which the Company may choose to pay to members of any Affected Group acting in accordance with Conditions 6.9 and 6.10 in reimbursement of expenses incurred by those members; and

(e) No further liability

Neither the Company nor the Trustee, on completion of such sale, will have any further liability or obligation to the Defaulter in respect of the relevant Capital Notes.

6.8 Protection of other persons

No purchaser or other person dealing with the Company need be concerned to enquire whether the power of sale specified in Condition 6.6(b) has become properly exercisable, or as to the propriety or regularity of a sale made in purported exercise of that power, or as to the application of the proceeds of sale received by the Company. The receipt of the Company will be a good discharge to the purchaser for the purchase price, and no question will be raised as to the title of the purchaser to Capital Notes sold in purported exercise of the power of sale set out in Condition 6.6(b).

- 6.9 **Affected Group**
The Board must, if so directed by a resolution of an Affected Group (passed by a simple majority of votes of Noteholders entitled to vote and voting), cause the Company to exercise the power of sale specified in Condition 6.6(b) if that power has become exercisable.
- 6.10 **Meeting of groups for resolution to enforce takeover position**
(a) **Power to call meeting**
The Noteholders who together hold Capital Notes, the aggregate principal Amount of which is five per cent or more of the Capital Notes comprising an Affected Group, may by notice to the Board, require the Board to convene a meeting of the Affected Group for the purpose of considering a resolution under Condition 6.9
- (b) **Procedure**
Subject to Condition 6.13(b), the provisions of Schedule 3 govern proceedings at a meeting of an Affected Group with any necessary modifications.
- 6.11 **No liability**
Neither the Company nor any Director nor the Trustee will have any liability to any Defaulter, any holder of Defaulter's Capital Notes, or any person whom the board believes to be a Defaulter or holder of Defaulter's Capital Notes, for or in connection with the exercise or purported exercise of the powers specified in Conditions 6.6, 6.7 and 6.9.
- 6.12 **Limitation of remedies**
(a) **Sole remedy**
The sole remedy of the Company, a Noteholder, a Director, the Trustee, or any other person, in respect of a breach or alleged breach of any of the requirements of this Condition 6 is to exercise, or require the Company or the Board to exercise, the powers set out in Condition 6.6. Without limiting this Condition, no person is entitled to seek any injunction or other remedy to prevent a transaction alleged to be in breach of any of the requirements of Condition 6.
- (b) **Remedy unaffected**
Nothing in this Condition 6.12 affects the remedies of a Noteholder against any Director in respect of a breach of any of the requirements of Condition 6 by that Director.
- 6.13 **Voting restrictions**
(a) **Board to identify Defaulter's Capital Notes**
The Company must use reasonable endeavours to ascertain for the purposes of Condition 6.6(a) whether any Capital Notes are Defaulter's Capital Notes. If any Noteholder, or the Stock Exchange, alleges that any Capital Notes are Defaulter's Capital Notes, the Board must properly consider and investigate that allegation.
- (b) **Chairperson's ruling conclusive**
The ruling of the chairperson of any meeting of Noteholders or an Affected Group as to whether any person is or is not entitled to vote at the meeting will, for the purposes of proceedings at that meeting, be conclusive, and the proceedings of, or any resolution passed at, any meeting will not be impugned by reason of a breach of Condition 6.6(a). This Condition will not prejudice any action which any person may have against any Noteholder by reason of that Noteholder having cast a vote at any meeting in breach of Condition 6.6(a).

6.14 Extraordinary Resolution for amendment of takeover provisions
An Extraordinary Resolution of each Relevant group is required prior to amendment of these Conditions in any of the following ways:

- (a) Inclusion of minority vote provisions
The inclusion of minority veto provisions (as defined by Listing Rule 4.6.1);
- (b) Cancellation of modification to notice and pause provisions
The cancellation of any modification to notice and pause provisions so that those provisions apply to all Restricted Transfers;
- (c) Deletion of minority vote provisions
The deletion of minority veto provisions (as defined by Listing Rule 4.6.1); or
- (d) Modifications to notice and pause provisions
The modification to notice and pause provisions so that such provisions apply only to Restricted Transfers in which the Transferees are Insiders.

For this purpose, Relevant Group means each of the groups comprising:

- (e) Any Noteholder who:
 - (i) holds, or who is one of a group of Associated Persons who together hold, Capital Notes, the aggregate Principal Amount of which is, 10 per cent or more of the Capital Notes; or
 - (ii) has, or who is one of a group of Associated Persons who together have, the power (whether contingent or not) to appoint one or more Directors of the Company; or
 - (iii) is a person or a member of a class of persons, whom the Stock Exchange in its discretion declares not to be a member of the public for the purposes of the Listing Rules; and
- (f) Any Noteholder who is a member of the public (being a holder other than those referred to in paragraph (e)), in each class (if any), of Capital Notes.

6.15 Meeting of Relevant Groups for amendment of takeover provisions

- (a) Board may submit amendments to Noteholders
The Board may at any time submit for the consideration of the Noteholders an amendment to these Conditions in any of the ways referred to in Condition 6.14(a).
- (b) Board must submit amendments to Noteholders
The Board must submit for the consideration of the Noteholders an amendment to these Conditions in one of the ways referred to in Condition 6.14(a) upon request being made to the Board which:
 - (i) is in writing and signed by or on behalf of Noteholders who together hold Capital Notes, the aggregate Principal Amount of which is five per cent or more of all Capital Notes; and
 - (ii) specifies in general terms the amendments to these Conditions which is proposed.
- (c) Board must submit draft amendments
If the Board wishes, or is required, to submit for consideration an amendment to these Conditions under this Condition, the Board must:

- (i) cause draft amendments to the Conditions to be prepared and approved by the Stock Exchange; and
 - (ii) cause those amendments to be submitted for approval by Extraordinary Resolution of each Relevant Group, and by such other resolution as may be necessary to effect an amendment to these Conditions.
- (d) Meeting of Noteholders
For the purposes of voting by Relevant Groups for the purpose of Conditions 6.14 and 6.15, one meeting may be held of Noteholders constituting the Relevant Groups, so long a voting is by way of poll and proper arrangements are made to distinguish between votes of members of different Relevant Groups.
- (e) Board to identify Relevant Groups
Prior to the holding of the meeting, the Board must investigate which Noteholders fall within Condition 6.14(b) so as to ascertain which Noteholders fall within which Relevant Group. The Board's determination in good faith of which Noteholders fall within which Relevant Group will be final and neither the Company nor the Board will be liable for any error.
- (f) Voting at the meeting will be conducted by way of poll only. In all other respects the provisions of Schedule 3 govern proceedings at the meeting with any necessary modifications.

6.16 Takeover provisions to cease to apply
Subject to first obtaining approval of the Stock Exchange to that effect, the whole or any part of Conditions 6.3 to 6.15, as determined by the Stock Exchange and subject to such conditions as the Stock Exchange may from time to time impose, will cease to apply on the coming into force of a takeovers code under the Takeovers Act 1993 (provided, however, that Conditions 6.6 to 6.11 and Condition 6.13 will continue to apply for the purpose of any Default which may have occurred prior to any such takeovers code coming into force and for the purpose of Conditions 7.7 and 7.8). If Conditions 6.3 to 6.5 cease to apply, they will not be revived by any subsequent revocation of a takeovers code under Section 31 of the Takeovers Act 1993.

7. Compulsory acquisition

7.1 Acquisition notice

A Majority Holder must, within 20 Business Days after becoming a Majority Holder, give an Acquisition Notice to the Remaining holders specifying:

- (a) Majority Holder
That the Majority Holder has beneficial ownership of 90 per cent or more of the Affected Capital Notes;
- (b) Options
Either:
 - (i) that the Majority Holder intends to acquire all Affected Capital Notes held by the Remaining Holders; or
 - (ii) that any Remaining Holder may require the Majority Holder to acquire the Affected Capital Notes held by that Remaining Holder by giving notice to that effect to the Majority Holder within one month after the date of the Acquisition Notice; and
- (c) Consideration

The consideration which the Majority holder is prepared to provide for the Affected Capital Notes.

7.2 Obligation of Majority Holder

Upon giving an Acquisition Notice, the Majority Holder is entitled and bound:

- (a) Acquire all Affected Capital Notes
If the Acquisition Notice contains the statement in Condition 7.1(b)(i), to acquire all Affected Capital Notes held by the Remaining Holders; or
- (b) Acquire Affected Capital Notes if required by Remaining Holders
If the Acquisition Notice contains the statement in Condition 7.1(b)(ii), to acquire all Affected Capital Notes held by the Remaining holders in relation to which the Noteholder, within one month after the date of the Acquisition Notice, gives notice requiring the Majority Holder to acquire.

7.3 Consideration

The consideration to be provided for Affected Capital Notes which the Majority Holder is entitled and bound to acquire is to be determined as follows:

- (a) Independent report
The Acquisition Notice must specify the consideration which the Majority Holder is prepared to provide. The Majority Holder must, before giving the Acquisition Notice, provide to the Company and the Stock Exchange a report from an independent appropriately qualified person, previously approved by the Stock Exchange, confirming that that consideration is fair and reasonable to the Remaining Holders.
- (b) Objection to consideration
If, within 10 Business Days after the date of the Acquisition Notice, the Majority Holder receives written objections to the consideration specified in the Acquisition Notice from Noteholders who hold Capital Notes, the aggregate principal Amount of which 10 per cent or more of the Affected Capital Notes held by the Remaining Holders, the consideration must be determined in accordance with Conditions 7.3(c) and (d). If no such objection is received, the consideration will be as specified in the Acquisition Notice.
- (c) Further independent report
If objections of the nature referred to in Condition 7.3(b) are received by the Majority Holder, the consideration must be determined by an independent appropriately qualified person, previously approved by the Stock Exchange, who must be a different person from the person referred to in Condition 7.3(a). That person will act as an expert and not as an arbitrator and be directed to provide a decision within 20 Business Days after his or her appointment.
- (d) Objectors to pay costs
If the consideration determined by the person appointed in accordance with Condition 7.3(c) is less than, or the same as, the consideration specified in the Acquisition Notice, the fee and expenses of that person must be borne by the Remaining Holders who made the objections referred to in Condition 7.3(b). In this case, the Majority holder must deduct that amount from the consideration payable by the Majority Holder to the objectors in proportion to their Noteholdings (and may, if the consideration is not cash, deduct and sell sufficient of that consideration to produce sufficient cash).
- (e) Majority Holder to pay costs
If the consideration determined by the person appointed in accordance with Condition 7.3(c) is more than the consideration specified in the Acquisition

Notice, the fee and expenses of that person must be borne by the Majority Holder.

7.4 Time for payment

The Majority Holder must pay or provide to each holder of Affected Capital Notes which are to be acquired, the consideration for those Affected Capital Notes as follows:

(a) Acquisition Notice

If the relevant Acquisition Notice contains the statement in Condition 7.1(b)(i), by the date 10 Business Days after the date of the Acquisition Notice; or

(b) Notice

If the Acquisition Notice contains the statement in Condition 7.1(b)(i), by the date 10 Business Days after receipt by the Majority Holder from the holder of the notice referred to in Condition 7.2(a), provided that if the consideration is required to be determined in terms of Condition 7.3(c), it must be paid or provided two Business Days after it has been determined.

7.5 Remaining holder not located

If any holder of Affected Capital Notes which are to be acquired cannot be located by the Majority Holder, the Majority Holder must pay or provide the consideration due to that Noteholder to the Company. The Company must hold that consideration upon trust for that Noteholder for a period of five years from the date of its receipt by the Company. If that consideration is not claimed by that Noteholder within that period, the Company must return it to the Majority Holder.

7.6 Procedure

Upon payment or provision by the Majority Holder of the consideration for Affected Capital Notes in accordance with Conditions 7.4 and 7.5, the Company must promptly execute on behalf of all the holders of those Capital Notes, transfers of those Capital Notes in favour of the Majority Holder or its nominee and must cause the name of the Majority Holder or its nominee to be entered on the Register as Noteholder in respect of those Affected Capital Notes. If the company fails to execute any such transfer, the majority Holder may do so.

7.7 Default consequences

If a Majority Holder fails to give an Acquisition Notice when required to do so by Condition 7.1 or after having become bound to acquire the Affected Capital Notes of Remaining Holders in accordance with the provisions of this Condition 7, fails to do so, Conditions 6.6 to 6.11 and 6.13 will apply with the following modifications:

(a) Defaulter's Capital Notes

The Affected Capital Notes held by the majority Holder will be deemed to be Defaulter's Capital Notes;

(b) Default

The failure to comply with this Condition 7 will be deemed to be a Default; and

(c) Affected Group

The Remaining Holders will be deemed to be an Affected Group.

7.8 Limitation of remedies

(a) Sole Remedy

The sole remedy of the Company, the Trustee, Noteholder, a Director, or any other person, in respect of a breach or alleged breach of Condition 7 is to exercise, or require the Company or the Board to exercise, the powers referred to in Condition 6.6 (as modified by Condition 7.7). Without limiting the preceding sentence, no person is entitled to seek any injunction or other

remedy to prevent a transaction alleged to be in breach of Condition 7. Neither the Company nor the Trustee, on completion of a sale of Capital Notes under Condition 7.7, will have any further liability or obligation to the majority holder in respect of the relevant Capital Notes.

- (b) Remedy unaffected
Nothing in this Condition affects the remedies of a Noteholder against any Director in respect of a breach of Condition 7 by that Director.

8. Transfers and replacements of Capital Notes

8.1 Transfers

The Capital Notes may be transferred in minimum Principal Amounts of \$1,000 or such lesser amount as the Company may from time to time permit subject to this Condition 8, provided that, following any such transfer, if the transferor remains a Noteholder, he or she holds Capital Notes with minimum Principal Amount of \$5,000 and in a multiple of \$1,000.

8.2 Form of Transfer

Subject to these Conditions and the Deed, a Noteholder may transfer any Capital Note held by him or her by:

- (a) Written instrument
A written instrument of transfer in the usual or common form signed by the Transferor and the Transferee; or
- (b) FASTER system
Means of the FASTER system operated by the Stock Exchange; or
- (c) Other method
Any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with any Listing Rules, and which is approved by the Company.

8.3 Registration process

(a) Transfers other than through FASTER

The following provisions apply to instruments of transfer other than any transfer under Condition 8.2(b)

- (i) the instrument of transfer must be left at the Registry accompanied by the Holding Certificate (if any) in respect of the Capital Notes to be transferred or such other evidence as the Registrar or the trustee requires to prove the Transferor's title to, or right to transfer, the Capital Notes together with evidence that any applicable duties and taxes have been paid; and
- (ii) on registration of a transfer of a Capital Note, the Holding Certificate (if any) evidencing that Capital Note will be cancelled and replaced.

(b) Fees

The Company will direct the Registrar not to charge a fee to any Noteholder for:

- (i) registering transfers of Capital Notes; or
- (ii) splitting Holding Certificates in relation to Capital Notes; or

- (iii) issuing Holding Certificates (where bound to do so) and transmission receipts in relation to Capital Notes; or
- (iv) using holder or FASTER identification numbers in relation to Noteholders; or
- (v) effecting conversions between sub-registers (if any) of the Register; or
- (vi) noting transfer forms in relation to Capital Notes,

Except in the case where Holding Certificates, or any information necessary to effect a Transfer of Capital Notes are issued to replace a lost or destroyed Holding Certificate.

- 8.4 Transfers must be registered
Subject to this Condition 8, the Company must direct the Registrar not to refuse to register or fail to register or give effect to, a transfer of Capital Notes.
- 8.5 Refusal to register transfers
The Company may direct the Registrar to refuse to register any transfer of Capital Notes where these Conditions, the Deed, any Listing Rules or any applicable legislation permits, or requires the Company to do so. In particular, the Company is not obligated to register any transfer of a Capital Note during the period of 14 days immediately preceding an Interest Date nor during the period between the Election Record Date and the Election Date.
- 8.6 Notice of refusal to register
Where a registration of a transfer of Capital Notes is refused under Condition 8.5, the Company must direct the Registrar to give written notice of the refusal and the precise reasons for the refusal to the party lodging the transfer, if any, within five Business Days after the date on which the transfer was lodged. The failure to give such a notice will not invalidate the decision not to register.
- 8.7 Retention of transfers
The Company is to direct the Registrar to retain all instruments of transfer of Capital Notes which are registered, but any instrument of transfer of Capital Notes the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.
- 8.8 Powers of attorney
Any power of attorney granted by a Noteholder empowering the donee to deal with, or transfer Capital Notes, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Company, the Trustee, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received at the Registry.
- 8.9 Transmission by operation of law
Any person becoming entitled to any Capital Note by operation of law (including the death or bankruptcy of any Noteholder) may, upon producing such evidence of entitlement as is acceptable to the Company, obtain registration as the Noteholder of such Capital Note or execute a transfer of such Capital Note. This provision includes any case where a person becomes entitled as a survivor or persons registered as joint Noteholder.
- 8.10 Replacement of Holding Certificates
If any Holding Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the office of the Registrar upon payment by the claimant of the fees and expenses incurred in connection with such replacement and on such terms as to

evidence and indemnity as the Company and the Registrar may require. Mutilated or defaced Holding Certificates must be surrendered before replacements will be issued. The Registrar may decline to register any transfer unless the relevant Holding Certificate is produced, but may in its discretion dispense with production of the Holding Certificate subject to production instead of such indemnity or declaration of loss as it may require.

8.11 Notices

All notices given by Noteholders in accordance with these Conditions will be irrevocable.

9. Subordination provisions of Trust Deed

These are set out in clauses 4.5, 4.9 to 4.12 and 4.16 of the Deed and are quoted below:

4.2 Subordinated contingent debt

In Liquidation, neither the Trustee nor any Noteholder is entitled to prove for the Principal Amount of and/or interest on any Capital Note except as a debt which is subject to, and contingent upon, prior payment of the Senior Creditors in full.

4.5 No set-off

No Noteholder may set off, against any amounts due in respect of any Capital Note held by that Noteholder, any amount held by that Noteholder to the credit of the Company, whether in an account, in cash or otherwise, nor any advances to, or debts of, the Company, nor any other amount owing by the Noteholder to the Company on any account whatsoever, nor may any Noteholder effect any reduction of the amount due to that Noteholder in relation to a Capital Note by a merger of accounts or lien or the exercise of any other right, in all such cases, the effect of which set-off, merger, lien or exercise of such right is or may reduce the amount due in relation to that Capital Note in breach of this Deed or the Conditions. To the extent any set-off merger, lien or other right is required by law to be exercised, that exercise will be subject to clause 4.6.

4.9 No enforcement by Trustee or Noteholders

Subject to clauses 4.4 and 4.15:

(a) Payment to the Company

Notwithstanding clause 4.5, but subject to clause 4.9(c) after the Commencement of Liquidation any amount, other than a payment by the Trustee in accordance with clause 4.11(c), which a Noteholder receives on account of his or her Capital Notes must be paid to the Company to be held by it upon trust to be applied in the manner set out in clause 4.11 and thereafter in or towards the discharge of the indebtedness of the Company to Senior Creditors according to their respective rights and interests as set out in clause 4.11 and, pending payment of any such amount to the Company, that amount received by a Noteholder must be held by the Noteholder on trust to pay that amount to the Company to be held on the trusts constituted or to be constituted under this clause.

(b) Exercise of rights of set-off or counterclaim

If, whether before or after the Commencement of Liquidation and notwithstanding clause 4.9(a), a Noteholder is or becomes entitled to exercise or exercises any rights of set-off, counterclaim or other such remedy in respect of any amount owing by the Noteholder to the Company, the Noteholder must

pay to the Company an amount equal to the amount in respect of which such right is exercised, such amount to be held by the Company upon the trusts set out in clause 4.9(a) and, pending payment of any such amount to the Company, the Noteholder must hold that amount on trust to pay that amount to the Company to be held on the trusts constituted or to be constituted under this clause.

(c) Payment by Liquidator

No amount which would be subject to clause 4.9(b) may be paid by a Liquidator unless and until all indebtedness to Senior Creditors has been fully paid or repaid in accordance with the provisions of this Deed.

4.10 Enforcement by Trustee in Liquidation

(a) Enforcement by Trustee only

Subject to this clause 4, only the Trustee may enforce the provisions of the Capital Notes or this Deed and no Noteholder is entitled to proceed directly against the Company unless the trustee, having become bound so to proceed, fails to do so within a reasonable time and such failure is continuing.

(b) Claims by Noteholders

No Noteholder may claim or prove in Liquidation for any amount owing to him or her under any Capital Note or this Deed to the extent that the Trustee has claimed or proved for, or has determined to claim or prove for, such amount in such Liquidation on behalf of such Noteholder, and any claim or proof made contrary to this clause must be withdrawn by such Noteholder.

(c) Enforcement by Noteholders

No Noteholder may proceed against the Company or the Trustee for the enforcement or performance of any provision of this Deed or the Conditions that is solely for the benefit of the Trustee.

4.11 Distribution on Liquidation

Any amount received by the Trustee under or in respect of this Deed or the capital Notes in or upon the Commencement of Liquidation must be applied, and pending such application must be held by the Trustee upon trust to be applied, subject to any direction made by any court and except as required by law:

(a) Trustee's expenses

First, in payment or retention of all costs, charges, expenses and liabilities incurred and payments made by or on behalf of the Trustee (or any officer, employee or agent of the Trustee) and of all remuneration, indemnified amounts and other monies payable to the Trustee (or any officer, employee or agent of the Trustee) as provided or referred to in this Deed;

(b) Senior Creditor's indebtedness

Secondly, in payment to the Company to be held by it upon trust to apply the same in or towards the discharge of the indebtedness of the Company to Senior creditors according to their respective rights and interests and, pending payment of those amounts to the Company, any such amount received by the Trustee must be held by it on trust to pay the same to the Company to be held on the trusts constituted or to be constituted under this clause;

(c) Noteholder's indebtedness

Thirdly, subject to the indebtedness of the Company to Senior Creditors having been paid or satisfied or provided for in full (for which purpose the Trustee may rely upon any written advice from the Liquidator), in or towards payment to each Noteholder, *pari passu* in proportion to the Principal amounts of the Capital Notes held by him or her, of the aggregate Liquidation Amount; and

(d) Surplus to Company

Fourthly, in payment of the surplus (if any) of such monies to the Company, or to such other person as may otherwise be lawfully entitled to those monies.

4.12 Payments to Liquidator

At any time after the Commencement of Liquidation, the Trustee and any Noteholder may satisfy its obligations under clause 4.9 and, in the case of the trustee on behalf of any Noteholder, under clause 4.9(b) and (c), by paying any amounts referred to in any such clause to the Liquidator with instructions to the Liquidator to effect such application as is required by those clauses, and any such payment will be a complete discharge of any such obligations. Any amount paid or repaid by a Noteholder, or by the Trustee on behalf of any Noteholder in accordance with clauses 4.9(b) or (c) or this clause 4.12 will thereafter be treated as between the Company (and the Liquidator), the trustee and the Noteholder as if it had never been received or recovered by the Noteholder or the Trustee, as the case may be, in the first place.

4.16 Commencement of Liquidation

Upon the Commencement of Liquidation:

(a) Trustee may claim, etc

The Trustee may claim, demand, sue or prove for the payment by the Company of the Liquidation Amount under and in respect of the Capital Notes to the extent necessary to preserve the claim of any Noteholder(s) for payment of the Liquidation Amount (and the Trustee in respect of any amount owing to it by unpaid) in any Liquidation of the Company; and

(b) Capital Notes redeemable

The Principal Amount of the Capital Notes, together with Accrued Interest and Unpaid Interest in respect of that amount, will become repayable and each Capital Note will be due to be redeemed for an amount equal to the Liquidation Amount of the Capital Note."