

CANTERBURY EARTHQUAKE CHURCH AND HERITAGE TRUST

Trust Deed

- (1) Ecclesiastical Insurance Office plc
- (2) Canterbury Earthquake Church
and Heritage Trustee Limited
- (3) Ansvar Insurance Limited
- (4) ACS (NZ) Limited



CANTERBURY EARTHQUAKE CHURCH AND HERITAGE TRUST

TRUST DEED

Date: 15 May 2012

PARTIES

- (1) **Ecclesiastical Insurance Office plc** (company no 00024869) whose registered office is at Beaufort House, Brunswick Road, Gloucester, GL1 1JZ, United Kingdom (*Ecclesiastical*).
- (2) **Canterbury Earthquake Church and Heritage Trustee Limited** whose registered office is at Level 6, 396 Queen Street, Auckland, New Zealand (*the Trustee*).
- (3) **Ansvar Insurance Limited** (company no 007 216 506) whose registered office is at Ansvar House, Level 12, 432 St Kilda Road, Melbourne, Victoria, 3004, Australia (*Ansvar Australia*).
- (4) **ACS (NZ) Limited** (company no. 115156) whose registered office is at Level 6, 396 Queen Street, Auckland, New Zealand (*the Company*).

BACKGROUND

- A Ecclesiastical wishes to establish a charitable trust on the terms described in this Deed and has transferred \$2.00 to the Trustee subject to the intentions expressed in this Deed. Further money, investments or other property may be paid or transferred to the Trustee by way of addition to the Trust Fund with the intention that such further money, investments or other property be held and applied in accordance with the intentions expressed in this Deed.
- B Ecclesiastical is the beneficial owner of 100,000 ordinary shares and has subscribed for or is to subscribe for one Special Share in the Company (*the Special Share*) which carries the right to appoint one person as a director to the board of the Company and to remove and replace its appointee.
- C Ansvar Australia is the beneficial owner of 1,600,000 ordinary shares in the Company.
- D The ordinary shareholdings of Ecclesiastical and Ansvar Australia in the Company and the Special Share together (when issued) will comprise the entire issued share capital of the Company.
- E The Company proposes to enter into a scheme of arrangement pursuant to Part 15 of the New Zealand Companies Act 1993 with the creditors of the Company by an originating application dated 24 April 2012 (claim number CIV-2012-404-2217).
- F A meeting to consider the proposed scheme is to be held on 12 June 2012 and the hearing at which the Company will ask the High Court of New Zealand to approve it is to be held on 19 June 2012.



- G Ansvar Australia and Ecclesiastical have resolved to transfer their Shares to the Trustee in consideration of a payment by the Trustee in the sum of \$1.00 to each.

OPERATIVE PROVISIONS:

1. TITLE

The Trust constituted by the transfer of \$2.00 subject to the intentions expressed in this Deed shall be called the Canterbury Earthquake Church and Heritage Trust or such other name as the Trustee, with the prior written approval of the Company, may from time to time determine in accordance with the power contained in this Deed.

2. INTERPRETATION AND CONSTRUCTION

- 2.1 In this Deed, where the context admits, the following definitions and rules of construction shall apply:

charitable shall mean charitable according to the law of New Zealand;

Court shall mean High Court of New Zealand;

Business Day shall mean a day (other than a Saturday or Sunday) when banks in Auckland are open for business;

Effective Date shall mean the date specified in the final order of the Court approving a Part 15 Scheme as being the date on which such Scheme becomes effective;

Encumbrance shall mean any mortgage, charge, pledge, security assignment, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest or any other encumbrance or security interest of any kind and of any type of preferential arrangement (including, without limitation, title transfer and retention agreements) having a similar effect to any of the foregoing;

Entities shall mean any company, partnership, trust, foundation, society, board establishment, association or other body established or resident in any part of the world whether or not it has separate legal personality and/or corporate identity;

Grants Advisory Committee means the committee appointed pursuant to Paragraph 6 of Schedule 2;

Loan Agreement shall mean each loan agreement entered into between Ecclesiastical (or its nominee) as lender and the Trustee as borrower in the form or substantially in the form set out in the Third Schedule;

Objects shall mean the exclusively charitable objects specified in Clause 7;

Related Person for the purposes of Clause 12.4 and in relation to any business to which section CW42(5) of the Income Tax Act 2007 applies, means a person specified in paragraphs (i) to (iv) of subsection (5)(b) of that section, the persons currently specified being:

- (i) a settlor or trustee of the trust by which the business is carried on; or



- (ii) a shareholder or director of the company by which the business is carried on; or
- (iii) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
- (iv) a person associated with a settlor, trustee, shareholder or director already mentioned in this definition;

Retention Period shall mean the period commencing on the date of this Deed and ending on the earlier of:

- (a) if a Part 15 Scheme is approved by the Court within two years from the date of this Deed, the date of termination of such Scheme;
- (b) such date as shall for the time being be specified pursuant to the power conferred by Clause 9;
- (c) the day before the last day of the period of 80 years less two days from the date of this Deed;

\$ shall mean the lawful currency of New Zealand;

a Part 15 Scheme shall mean the Scheme or, if such scheme is not so approved, any other scheme which is approved by the Court under Part 15 of the New Zealand Companies Act 1993 in respect of the Company;

the Scheme shall mean any scheme of arrangement which is approved by the Court following an originating application filed on 24 April 2012, claim number CIV-2012-404;

the Scheme Administrators shall mean the persons for the time being appointed as administrators of a Part 15 Scheme;

Shares shall mean, where the context admits, the ordinary shares in the capital of the Company for the time being comprised, or to be comprised following the transfer and registration contemplated by Clause 3, in the Trust Fund, but shall for the avoidance of doubt exclude the Special Share;

Special Share shall mean the share in the capital of the Company held or to be held by Ecclesiastical giving it the right to appoint and remove or replace one director of the Company;

Subscription Loan shall mean a contingent loan made pursuant to a Loan Agreement, in each case the proceeds of which shall be applied by the Trustee in subscribing for additional fully paid ordinary shares in the capital of the Company;

Trust shall mean the trust constituted by the transfer of \$2.00 subject to the intentions expressed in this Deed;

Trustee shall include, where the context admits, the trustee for the time being of the Trust;



Trust Fund shall mean:

- (a) the \$2.00 referred to in Background A;
- (b) all money, investments or other property paid or transferred to the Trustee by Ecclesiastical, Ansvar Australia or the Company (or such other Entity as Ecclesiastical may nominate) to, or so as to be under the control of, and, in either case, accepted by the Trustee as additions to the Trust Fund;
- (c) the proceeds from any Subscription Loans;
- (d) all accumulations (if any) of income added to the Trust Fund;
- (e) the money, investments and property from time to time representing the above.

2.2 The powers contained in, or incorporated by Clauses 6 to 9 (inclusive):

- 2.2.1 for Scheme Administrators, are for the purpose of their carrying out a Part 15 Scheme in respect which they have been appointed; and
- 2.2.2 for any party other than the Scheme Administrators, are fiduciary powers.

2.3 The perpetuity period for the purpose of this Deed shall be eighty years, less two (2) days.

2.4 References to any statutory provision shall include any statutory modification or re-enactment as re-enacted of such provision.

2.5 References in this Deed to Clauses, Paragraphs and Schedules are to be construed as references to the clauses of this Deed, paragraphs of the Schedules to this Deed and Schedules to this Deed respectively.

2.6 Words denoting the singular shall include the plural and vice versa.

2.7 Words denoting any gender shall include both the genders.

2.8 The clause headings are included for reference only and shall not affect the interpretation of this Deed.

2.9 References to a party to this Deed includes that party's personal representatives, successors, permitted assigns and, in the case of a trustee, any replacement or successor trustee.

3. TRANSFER AND REGISTRATION OF THE SHARES

3.1 Ansvar Australia and Ecclesiastical hereby severally covenant with the Trustee, in consideration for the promise of payment contained in Clause 3.2, to transfer the Shares to the Trustee in accordance with this Clause 3.

3.2 The Trustee shall, when requested by Ecclesiastical, pay \$1 to Ansvar Australia and \$1 to Ecclesiastical for the Shares then registered in their names, in accordance with this Clause 3.



- 3.3 Ansvar Australia shall, contemporaneously with the payment under Clause 3.2, deliver to the Trustee a transfer to the Trustee of all the shares in the Company then registered in the name of Ansvar Australia.
- 3.4 Ecclesiastical shall, contemporaneously with the payment under Clause 3.2, deliver to the Trustee a transfer to the Trustee of all the shares in the Company then registered in the name Ecclesiastical, other than the Special Share.
- 3.5 Ansvar Australia and Ecclesiastical shall take all necessary steps to procure the registration of the Trustee as legal owner of their holdings of the Shares as soon as practicable after the delivery of each share transfer.
- 3.6 Ansvar Australia and Ecclesiastical hereby severally covenant to do and execute, or procure to be done and executed, all necessary acts, deeds, documents and things to give effect to this Deed and, without limitation to the generality of the foregoing, the transfers and registration of the Shares referred to in Clauses 3.3 and 3.4.
- 3.7 Ansvar Australia and Ecclesiastical are not aware of the existence of any Encumbrance (or of any agreement to create the same) in relation to any of the Shares.

4. SUBSCRIPTION LOANS

- 4.1 The Trustee shall enter into the Loan Agreement set out in the Third Schedule, and drawdown the loan available under that Loan Agreement in one or more advances in accordance with the terms of the Loan Agreement and use the proceeds for the sole and exclusive purpose of subscribing for additional fully paid ordinary shares in the Company). The Trustee shall accept all offers of additional Subscription Loans or advances under a Subscription Loan from Ecclesiastical which are made from time to time, provided such Subscription Loans or advances are repayable only once the Trustee and/or the Company has paid \$5 million in aggregate towards the Objects.
- 4.2 The Trustee shall:
- 4.2.1 apply all proceeds from Subscription Loans or advances under such Subscription Loans towards subscribing for new ordinary shares in the Company;
 - 4.2.2 hold all such shares purchased with a Subscription Loan or advances under a Subscription Loan upon the trusts and with and subject to the powers and provisions contained in this Deed in relation to the Trust Fund; and
 - 4.2.3 should the Trustee be unable to fully or partially apply the proceeds from a Subscription Loan or an advance under a Subscription Loan towards subscribing for new ordinary shares in the Company, repay the remaining balance of the loans not so applied to Ecclesiastical in accordance with the terms of the relevant Loan Agreement(s).
- 4.3 Notwithstanding any term in this Deed, the Trustee shall comply with all the terms of the Subscription Loans.



5. POWER TO RECEIVE ADDITIONAL PROPERTY FROM THE SHAREHOLDERS

- 5.1 The Trustee may at any time accept additional money, investments or other property, of whatever nature and wherever situate, paid or transferred to the Trustee by Ecclesiastical, Ansvar Australia or the Company (or such other Entity as Ecclesiastical may nominate). Such additional money, investments or other property shall, subject to any contrary direction, be held on the trusts and with and subject to the powers and provisions of this Deed.
- 5.2 Ecclesiastical covenants to contribute \$10 million to the Trustee to be held on the trusts and with and subject to the powers and provisions of this Deed. The Trustee shall:
- 5.2.1 apply such \$10 million, and any other amounts received by the Trustee on the basis they are used for the purpose of investing in the Company, towards subscribing for new ordinary shares in the Company;
 - 5.2.2 hold all such shares purchased with amounts referred to in Clause 5.2.1 upon the trusts and with and subject to the powers and provisions contained in this Deed in relation to the Trust Fund; and
 - 5.2.3 should the Trustee be unable to fully or partially apply the proceeds from amounts towards subscribing for new ordinary shares in the Company, repay the remaining balance of the amounts applied to Ecclesiastical.

6. TRUST DURING THE RETENTION PERIOD

This Clause 6 shall apply to the Trust Fund during the Retention Period.

- 6.1 The Trustee shall accumulate the income of the Trust Fund and shall hold such accumulations as an accretion to capital.
- 6.2 Notwithstanding Clause 6.1 and 6.4, but subject to Clause 6.3, the Trustee may instead of accumulating the income of the Trust Fund, in any year, apply the income and in any subsequent year, apply all or such part or parts the accumulated income as if the same were income arising in the then current year at such time or times and in such manner to, or for the benefit of, the Objects as the Trustee may in its discretion think fit, provided that:
- 6.2.1 in the exercise of its function of applying income and accumulated income the Trustee shall:
 - (a) so far as practicable, consult with the Grants Advisory Committee; and
 - (b) so far as consistent with the general interest of the Trust, give effect to the wishes of the Grants Advisory Committee, or (in the case of dispute) of the majority; and
 - 6.2.2 such amounts contributed towards the Objects by the Trustee pursuant to this Clause 6.2 and any amounts contributed towards the Objects by



the Company shall not exceed \$5 million in aggregate until all Subscription Loans have been repaid.

- 6.3 The Trustee shall retain the Shares until the end of the Retention Period, whether or not they are affected by one or more substitutions, as a result of any amalgamation, restructure or rearrangement of capital or the sale of the Company's business. Such retention of the Shares shall be a direction for the purposes of Section 13G of the Trustee Act 1956, and the obligations of the Trustee under this Clause shall constitute a contrary intention for the purposes of sections 2(5) and 2(5A) of the Trustee Act 1956.
- 6.4 The Trustee shall place accumulated income on deposit with a registered bank in New Zealand in any currency at normal commercial rates of interest, provided always that balances may temporarily be held on current account (without the Trustee being liable to refund the Trust Fund for any consequential loss of interest). Such investments shall be a direction for the purposes of Section 13G of the Trustee Act 1956, and the obligations of the Trustee under this Clause shall constitute a contrary intention for the purposes of sections 2(5) and 2(5A) of the Trustee Act 1956.

7. TRUST FROM THE END OF THE RETENTION PERIOD

This Clause 7 shall apply to the Trust Fund from the end of the Retention Period.

- 7.1 At the end of the Retention Period, the Trustee shall hold the Trust Fund upon trust to sell or convert the same into money or (with the consent, in the case of the Shares, of the Company) to allow the same to remain in the state in which it is held.
- 7.2 The Trustee shall hold the capital and income of the Trust Fund at such time or times and in such manner to, or for the benefit of, such exclusively charitable objects, in particular those Christian charities and other Entities, that are supporting those affected by the Christchurch earthquakes as the Trustees shall select, provided that:
- 7.2.1 in the exercise of its function of applying income and capital the Trustee shall:
- (a) so far as practicable, consult with the Grants Advisory Committee; and
 - (b) so far as consistent with the general interest of the Trust, give effect to the wishes of the Grants Advisory Committee, or (in the case of dispute) of the majority; and
- 7.2.2 such amounts applied pursuant to this Clause and any amounts contributed to the Objects by the Company shall not exceed \$5 million in aggregate until all Subscription Loans have been repaid.

Such amounts shall otherwise be applied by such means as the Trustee shall determine and, without detracting from the general nature of the Trustee's discretion, including by means of the provision of financial assistance to such Christian charities and other Entities as the Trustees shall select.

- 7.3 The Trustee may in its discretion, instead of applying the income of the Trust Fund in any year, accumulate all or any part of such income by investing the same, and the



resulting income, in any investments authorised by this Deed or by law as an accretion to capital, without prejudice to the Trustee's right to apply the whole or any part of such accumulated income in any subsequent year as if the same were income of the Trust Fund arising in the then current year.

8. POWERS, DISCRETIONS, RESTRICTIONS AND IMMUNITIES

- 8.1 During the Retention Period and without prejudice to the beneficial provisions of Clause 6, Schedule 1 shall apply to the Trustee in respect of the Trust.
- 8.2 Schedule 2 to this Deed shall apply to the Trust Fund, subject to the provisions of Schedule 1 (during the Reserving Period) and to any other contrary provision of this Deed.
- 8.3 No power or discretion conferred on the Trustee shall be exercised contrary to the provisions of this Deed, or if consistent with the provisions of this Deed, otherwise than in furtherance of the Objects, nor shall the Trustee have power to do anything which may prejudice the charitable nature of the Trust.

9. POWER TO ALTER RETENTION PERIOD

- 9.1 The Trustee may:
- 9.1.1 with the prior approval of the parties, at any time during the Retention Period before the Effective Date;
 - 9.1.2 with the prior written consent of the Scheme Administrators, at any time during the Retention Period after the Effective Date,

specify by deed in relation to the whole or any part of the Trust Fund, a date on which the Retention Period shall end.

- 9.2 The date specified in Clause 9.1 shall not be earlier than the date of execution of such deed or later than the date on which the applicable perpetuity period ends.

10. CONDUCT OF TRUST AND GENERAL MANAGEMENT POWERS

- 10.1 Subject to the other provisions of this Deed, the Trustee shall conduct the affairs of the Trust in such manner as it may consider appropriate in furtherance of the Objects, and may make such arrangements in relation to the administration of the Trust as it considers advisable.
- 10.2 If the Trustee think fit, the Trustee shall apply to be registered as a charitable entity under the Charities Act 2005 and will take such steps and attend to such matters from time to time as may be required to comply with the requirements of that Act and to maintain its registration.

11. ACCOUNTS, RECORDS AND RETURNS

The Trustee shall maintain financial records, and prepare and submit accounts and returns, in accordance with the requirements of the Inland Revenue Department and the Charities Commission.



12. TRUSTEE BENEFIT

- 12.1 Subject to the provisions of Clauses 13 and 14 and to any statutory provisions regarding the receipt of any benefit from the Trust of which it is trustee, no trustee may:
- 12.1.1 receive any benefit in money or kind from the Trust (other than reasonable out of pocket expenses), interest at a reasonable rate on money lent to the Trust and any reasonable fees charged pursuant to Clause 14);
 - 12.1.2 have a financial interest in the supply of goods or services to the Trust;
 - 12.1.3 acquire or hold any interest in property of the Trust (except in order to hold it as trustee of the Trust); or
 - 12.1.4 receive any other financial benefit from the Trust or from any trading company owned by the Trust except in accordance with this Deed.
- 12.2 Clause 12.1 applies to a firm or company, an employee, a consultant or a director of which a trustee is a partner as it applies to a trustee personally, provided that it shall not prevent any payment to a firm or company in which no trustee has more than ten per cent equity interest or shareholding.
- 12.3 Notwithstanding the provisions of Clause 12.1, the Trustee shall not be accountable for any remuneration or other benefit received by the Trustee (whether as director, auditor or other officer or otherwise), from any company in which shares, stocks, debentures or other securities are for the time being held by the Trustee as trustee of the Trust, except to the extent (if any) to which such remuneration or other benefit is received by the Trustee by reason of such shares, stock, debentures or other securities being in the name of the Trustee as trustee of the Trust or held on its behalf in that capacity.
- 12.4 The Trust shall not carry on any business (being simply an investor as a shareholder of the Company) and shall accordingly not derive business income. However, were the Trust, in the carrying on of any business under this Deed, to derive any such income, no benefit, advantage or income shall be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:
- 12.4.1 the nature or amount of that benefit, advantage or income; or
 - 12.4.2 the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.
- 12.5 A person who is in the course of, and as part of the carrying on of his or her business of a professional public practice, shall not, by reason only of him or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of Clause 12.4.

13. INDEMNITY INSURANCE

13.1 The Trustee may arrange for the purchase out of the Trust Fund of insurance designed to indemnify any trustee against any personal liability in respect of any breach of trust or breach of duty committed by it in its capacity as trustee for the Trust but the terms of such insurance must be so framed as to exclude the provision of any indemnity for a person ("P") in respect of:

13.1.1 any liability incurred by P to pay:

- (a) a fine imposed in criminal proceedings; or
- (b) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising);

13.1.2 any liability incurred by P in defending any criminal proceedings in which P is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by P; or

13.1.3 any liability incurred by P to the Trust that arises out of any conduct:

- (a) which P knew (or must reasonably be assumed to have known) was not in the interests of the Trust; or
- (b) in the case of which P did not care whether it was in the best interests of the Trust or not.

13.2 For the purposes of Clause 13.1.2:

13.2.1 the reference to any such conviction is a reference to one that has become final;

13.2.2 a conviction becomes final:

- (a) if not appealed against, at the end of the period for bringing an appeal; or
- (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and

13.2.3 an appeal is disposed of:

- (a) if it is determined and the period for bringing any further appeal has ended; or
- (b) if it is abandoned or otherwise ceases to have effect.

13.3 The Trustee may not purchase insurance under this Clause 13 unless it decides that it is satisfied that it is in the best interests of the Trust for it to do so.



14. TRUSTEE CHARGING AND TRUST EXPENSES

- 14.1 Any trustee shall be entitled to reimbursement of its proper expenses (including expenses incurred in connection with professional or other charges for business done, services rendered or time spent by any firm or member of a firm associated or connected with such trustee) and to such reasonable remuneration for its services as is agreed between the trustee and the Company on the basis that the Company will fund the amount of the remuneration if there are insufficient assets in the Trust Fund to meet the agreed amounts. For the avoidance of doubt, nothing in this Deed, prevents the Trustee agreeing with the parties to this Deed that fees be paid by such other parties to the Trustee for its trustee services under this Deed.
- 14.2 The Company covenants in exoneration of the Trust Fund with the Trustee and any subsequent trustee, to pay them, and each of them, and their personal representatives in respect of all costs properly chargeable by any such trustee to the Trust and expenses properly incurred as a result of their agreeing to act as trustee or in their continuing administration of the Trust Fund or in connection with the performance of their duties as trustee of the Trust or any taxation or other liability incurred by the Trustee or as a result of any action taken by the Trustee under the provisions of this Deed.

15. PROTECTION OF THE TRUSTEE

- 15.1 No trustee shall be liable for any loss to the Trust Fund however arising except as a result of the fraud or dishonesty of such trustee or, in the case of a professional trustee entitled to charge for services as a trustee, for the negligence of such trustee.
- 15.2 No trustee shall be bound to take any proceedings against a co-trustee or former trustee or the personal representatives of a co-trustee or former trustee for any breach or alleged breach of trust committed or suffered by such co-trustee or former trustee.

16. EXERCISE OF POWERS OF THE TRUSTEE

- 16.1 The Trustee may, instead of acting personally, employ and pay at the expense of the income or capital of the Trust Fund any agents in any part of the world (without being responsible for the default of any agent, if employed in good faith) to transact any business in connection or do any act in the execution of these trusts, including (without prejudice to the generality of this Clause) the receipt and payment of money, the execution of documents and the holding of any securities, property or documents.
- 16.2 The Trustee may hold, or allow to remain in the name of, the Trustee, or of any other person or partnership as the nominee of the Trustee, any assets comprised in the Trust Fund, on such terms as the Trustee shall think fit.
- 16.3 The Trustee shall not be required to diversify the investment of the Trust Fund, nor be liable for the consequences of investing, or keeping the Trust Fund invested, in, or in the shares or obligations of, a single business, or a single Entity, or in one asset or one type of asset.



- 16.4 The Trustee shall not be under any obligation to take any action in relation to the Company which would involve the Trustee incurring any expenses or where there is some outstanding expense until the Company has paid the Trustee a sum sufficient to cover such expense or indemnified the Trustee against such expense to its satisfaction before taking such action and the Trustee shall not be responsible for any loss occurring to the Trust Fund as a result of declining to take action.

17. APPOINTMENT OF NEW TRUSTEE

- 17.1 A new trustee or new trustees may be appointed at any time (either by way of replacement or addition), by a resolution of the Trustee(s).
- 17.2 A Trustee shall cease to hold office if it is disqualified from acting as a trustee by the Court or ceases to qualify under section 16 of the Charities Act 2005.
- 17.3 A Trustee may retire as trustee of the Trust at any time without assigning any reason upon giving 90 days' notice in writing to the Company of its intention to do so subject to:
- 17.3.1 if there is only one Trustee, the due appointment of a new trustee or trustee(s); and
 - 17.3.2 the transfer to such existing and/or new trustee(s) (as the case may be) of all the Trust Fund.

18. WINDING UP

- 18.1 Subject to performance of its other obligations under this Deed, the Trustee may wind up the Trust if in its opinion it becomes impossible, impracticable or inexpedient to carry out the Objects set out in Clause 7 or, in the opinion of the Trustee, the Objects have been fulfilled.
- 18.2 On the winding up of the Trust, the Trustee must give or transfer all surplus assets after the payment of costs, debts and liabilities (if any):
- 18.2.1 to some other charitable organisation or body within New Zealand having similar Objects to the Trust; or
 - 18.2.2 for some other charitable purpose or purposes within New Zealand,

and, in such case, such other charitable purposes shall be deemed to be within the Objects. For the avoidance of doubt, the outstanding loans under the Loan Agreement(s) shall be payable in the circumstances described in this Clause once an aggregate total of five million New Zealand dollars (NZ\$5,000,000) has been applied by the Trustee and/or the Company to, or is held separately for the benefit of, the Objects (including the Objects deemed as such by this Clause).

19. NOTICE

- 19.1 Any notice or other communication to be given under this Deed must be in writing addressed to the recipient at the address or facsimile number from time to time notified by that party in writing to each other party.



19.2 Delivery may be effected by hand, or by post with postage prepaid, or by facsimile, or by email. A notice or other communication will be deemed to have been received:

- (a) in the case of hand delivery, at the time of actual delivery to the recipient's address;
- (b) in the case of delivery by pre-paid post, on the 2nd Business Day after posting;
- (c) in the case of delivery by facsimile, at the time of transmission specified in a transmission report from the sending machine which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient;
- (d) in the case of delivery by email, on receiving an active response from the addressee (not being an automatically generated response such as an out of office notification or read receipt).

19.3 However, if a notice or other communication is received or deemed to have been received after 5pm on a Business Day in the place to which it is sent, or on a day which is not a Business Day in that place, it will be deemed not to have been received until the next Business Day in that place.

20. CONTRACTS (PRIVITY) ACT

This Deed will not and is not intended to confer any benefit on any person, or create any obligation to any person, which is enforceable by any person not a party to this Deed.

21. ABILITY TO READ DOWN CLAUSES

If a provision of this Deed is void or voidable or unenforceable or illegal but would not be void or voidable or unenforceable or illegal as aforesaid if it were read down and it is capable of being read down, it shall be read down accordingly.

22. SEVERANCE OF INVALID CLAUSE

Notwithstanding Clause 21, if a provision of this Deed is still void or voidable or unenforceable or illegal:

22.1 if the provision would not be void or voidable or unenforceable or illegal as aforesaid if a word or words (as the case may be) were omitted, that word or those words are hereby severed; and

22.2 in any other case, the whole provision is hereby severed,

and the remainder of this Deed has full force and effect.

23. GOVERNING LAW AND JURISDICTION

23.1 The Trust is established under the laws of New Zealand and the rights of the parties and the Objects under this Deed and the construction of every provision of this Deed shall be determined according to the laws of New Zealand.



23.2 It is hereby declared and agreed that in relation to any legal action or proceedings arising out of or in connection with this Deed the parties hereto submit to the jurisdiction of the New Zealand courts.

24. COUNTERPARTS

This Deed may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

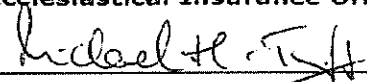
25. DELIVERY

Without limiting any other mode of delivery, this Deed may be delivered by each of the parties to this Deed by:

- (a) physical delivery by that party, its solicitors or any other person authorised by that party, of an original of this Deed, executed by that party, into the custody of the other party or its solicitors; or
- (b) transmission, in electronic form by any means of electronic communication (including facsimile or email of a scanned copy) to the other party or its solicitors, by that party, its solicitors or any other person authorised in writing by that party, of an original of this Deed, executed by that party, and the parties hereby consent to such form of delivery.

In witness whereof the parties hereto have executed this instrument as a deed on the date stated at the beginning.

Ecclesiastical Insurance Office Plc by:



Signature of Director

MICHAEL HOWARD TRIPP

Name of Director



Signature of Director

MARK CHRISTOPHER JOHN HEWS

Name of Director



Canterbury Earthquake Church and Heritage Trustee Limited

Signature of Director

Name of Director

Signature of Director

Name of Director

Ansvar Insurance Limited by:



Signature of Director

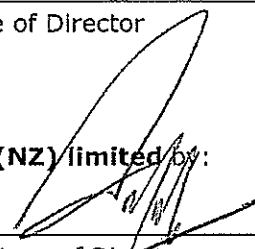
Andrew Mood

Name of Director

Signature of Director

Name of Director

ACS (NZ) limited by:



Signature of Director

Andrew Mood

Name of Director

Signature of Director

Name of Director



Canterbury Earthquake Church and Heritage Trustee Limited

Signature of Director

Name of Director

Signature of Director

Name of Director

Ansvar Insurance Limited by:

Signature of Director

Name of Director

Signature of Director

Name of Director

Wayne Marks Goddall

ACS (NZ) limited by:

Signature of Director


Name of Director

Signature of Director

Name of Director



Canterbury Earthquake Church and Heritage Trustee Limited



Signature of Director

David John Harrison

Name of Director

Signature of Director

Name of Director

Ansvar Insurance Limited by:

Signature of Director

Name of Director

Signature of Director

Name of Director

ACS (NZ) limited by:



Signature of Director

David John Harrison

Name of Director

Signature of Director

Name of Director



Canterbury Earthquake Church and Heritage Trustee Limited


Signature of Director

BRENT AARON PATTISON
Name of Director

Signature of Director

Name of Director

Ansvar Insurance Limited by:

Signature of Director

Name of Director

Signature of Director

Name of Director

ACS (NZ) limited by:

Signature of Director

Name of Director

Signature of Director

Name of Director



Schedule 1

Provisions applicable during the Retention Period

1. INTERPRETATION AND CONSTRUCTION

In this Schedule, where the context admits, the following definitions and rules of construction shall apply:

Creditors' Committee shall mean the committee established to represent the interests of the Scheme Creditors under a Part 15 Scheme;

Initial Scheme Period shall mean the period beginning on the Effective Date and ending on the day before the Trigger Date;

Insurance Contract shall mean any contract or policy of insurance underwritten by the Company as insurer;

Reserving Period shall mean the period beginning on the Trigger Date and ending on the day that a Part 15 Scheme is terminated;

Scheme Claims shall have the meaning ascribed in the relevant Part 15 Scheme documentation;

Scheme Creditors shall mean those creditors of the Company with whom a compromise is made under a Part 15 Scheme and defined as such in that Scheme;

Termination Event shall mean an event which causes a Part 15 Scheme to terminate in accordance with its terms;

Trigger Date shall mean the date and time at which the Trigger Event occurs;

Trigger Event shall mean when the board of the Company concludes that:

- (a) the Company is unable to pay its debts as they fall due; and/or
- (b) on a prudent basis, the value of the Company's assets is less than the value of its liabilities; and/or
- (c) some other event or circumstance has either occurred or is likely to occur,

(or such other conclusion(s) that must be reached as set out in the relevant Scheme), and in any such case that, without the operation of that Scheme, there would be no reasonable prospect that the Company would avoid going into liquidation.

For the avoidance of doubt, where a Part 15 Scheme is put in place which does not have analogous provisions setting out an Initial Scheme Period and a Reserving Period, but has a single period, the provisions of this Schedule shall apply as if such single period were the Reserving Period.



2. **GENERAL**

- 2.1 The Trustee shall have power to do all such lawful acts or things as shall further the attainment of the Objects and shall not conflict with the other Paragraphs (including Paragraph 2.2 and 2.3) contained in this Schedule.
- 2.2 Subject to the provisions of Clause 6, to such restrictions as may be imposed by law or contained in this Schedule (including Paragraph 2.3) and such consents as may be required by law or contained in these this Schedule, the Trustee shall have all the powers of an absolute beneficial owner in relation to the management and administration of the Trust Fund.
- 2.3 Notwithstanding and in priority to any other Paragraph, no discretion or power conferred on the Trustee by this Schedule in respect of the Shares shall be exercisable except insofar as necessary to further the purposes of a Part 15 Scheme. For the avoidance of doubt, such purposes are to enable the Company's liabilities in respect of Scheme Claims to be established, ascertained and paid in the ordinary course until the Trigger Event and to manage payments after the Trigger Event in an orderly manner to reflect the rights of Scheme Creditors in accordance with the Scheme.

3. **MANAGEMENT AND CONTROL OF THE COMPANY**

- 3.1 The Trustee shall be under no obligation to become a director or officer of the Company and shall not interfere in the management or conduct of the business of the Company (without the consent in writing of the Board), nor be required to seek any information about the affairs of the Company or to make any enquiry into the administration of a Part 15 Scheme or as to whether a Part 15 Scheme has terminated and so long as the Trustee has no actual notice of any actual dishonesty or misappropriation by any of the directors or other authorised officers of the Company, the Trustee may leave the conduct of its business (including the payment or non-payment of dividends) wholly to the directors.
- 3.2 This Paragraph 3.2 shall apply from the date of this Deed until the Effective Date.
- 3.2.1 Subject to Paragraphs 3.1 and 3.2.2, the Trustee shall, if permitted by the constitution of the Company, attend and vote at any meeting of the Company as the Trustee thinks fit and the Trustee shall, if permitted by the constitution of the Company, be entitled to appoint a proxy to attend and vote on its behalf at any such meeting in accordance with such direction.
- 3.2.2 The Trustee shall:
- (a) not, nor permit any nominee to, present a petition asking for an order that the Company be wound up by the Court; and
 - (b) ensure, on its own behalf and on behalf of any nominee, that no resolution is passed for the voluntary winding up of the Company,
- except with the prior approval of the Court.



- 3.2.3 The Trustee shall not sell, transfer or otherwise dispose of, encumber or create any interest in or deal with the Shares without the prior approval of the Court.
- 3.3 This Paragraph 3.3 shall apply during the Initial Scheme Period.
- Subject to Paragraph 3.3.2, the Trustee shall, if permitted by the constitution of the Company, attend and vote at any meeting of the Company as the Trustee thinks fit and the Trustee shall, if permitted by the constitution of the Company, be entitled to appoint a proxy to attend and vote on its behalf at any such meeting in accordance with such direction.
- 3.4 This Paragraph 3.4 shall apply during the Reserving Period, notwithstanding Paragraph 3.1.
- The Trustee shall exercise all rights and powers to which it is entitled either directly or indirectly through a nominee in relation to the Shares (including, without limitation, to appoint and dismiss directors and to vote at meetings of shareholders) as the Scheme Administrators shall direct in writing; and shall not exercise such rights and powers except at the written direction of the Scheme Administrators.
- 3.5 This Paragraph 3.5 shall apply during the periods specified in Paragraphs 3.3 and 3.4:
- 3.5.1 The Trustee shall:
- (a) not, nor permit any nominee to, present a petition asking for an order that the Company be wound up by the Court; and
 - (b) ensure, on its own behalf and on behalf of any nominee, that no resolution is passed for the voluntary winding up of the Company,
- except for the purposes of complying with Paragraph 3.5.2 or with the prior consent of the Scheme Administrators.
- 3.5.2 If either:
- (a) the Company gives notice to the Trustee of a determination by the Company and the Scheme Administrators, with the agreement of the Creditors' Committee, in accordance with the relevant provisions of a Part 15 Scheme that a Part 15 Scheme is no longer in the best interests of the Scheme Creditors as a whole and the Company should be wound up; or
 - (b) a resolution is passed by the Scheme Creditors in accordance with the provisions of a Part 15 Scheme that it should be terminated and the Company should be wound up,
- the Trustee shall forthwith take such steps as lie within its power to place the Company in voluntary liquidation pursuant to the Act.



- 3.5.3 The Trustee shall not sell, transfer or otherwise dispose of, encumber or create any interest in or deal with the Shares, except with the prior consent of the Scheme Administrators.
- 3.5.4 The Trustee shall have power to do all things which are necessary under a Part 15 Scheme or which are desirable to give effect to such Scheme and shall not incur any liability to any person for acting in accordance with the provisions of a Part 15 Scheme or for not acting where under the provisions of such Scheme the Trustee is not entitled to act or is entitled to act only on receipt of a consent, direction or notice or a resolution which has not been received.
- 3.5.5 Where it is provided in this Deed or in a Part 15 Scheme that the Scheme Administrators shall consult with the Creditors Committee appointed pursuant to such Scheme, the Trustee may assume that such consultation has taken place and shall not be liable to any person for acting with the consent of, or at the direction of, such Scheme Administrators if it has not.

4. COMPANY NOTICES

The Company shall notify the Trustee as soon as practicable in the event of a Trigger Event or a Termination Event.

5. FURTHER PROTECTION OF THE TRUSTEES

- 5.1 No trustee shall be liable for any loss to the Trust Fund or its income arising out of or in connection with the refusal of the Scheme Administrators to direct the Trustee or to consent to the exercise of a power.
- 5.2 The Trustee and the officers, employees and agents of any trustee shall be indemnified out of the Trust Fund against losses liabilities claims costs and expenses in connection with the exercise or the failure by the Scheme Administrators to direct the Trustee or to consent to the exercise of a power.

6. FURTHER POWERS OF THE TRUSTEES

- 6.1 The Trustee may act on any information obtained from the Company or the Scheme Administrators and the Trustee shall not be responsible for any loss occasioned by so acting.
- 6.2 The Trustee shall be entitled to assume that all directions, consents and notices given to it by any person under this Deed in relation to a Part 15 Scheme are given in accordance with the terms of such Scheme and shall not be liable to any person for acting pursuant to such direction, consent or notice.



Schedule 2

General charitable trust administrative powers

1. GENERAL

1.1 Subject to the restrictions in this Deed (including Clause 6 and paragraph 2.3 of Schedule 1) the Trustee shall have power to do all such lawful acts or things as shall further the attainment of the Objects.

1.2 Subject to such restrictions as may be imposed by law or this Deed, or such consents as may be required by law or this Deed, the Trustee shall have all the powers of an absolute beneficial owner in relation to the management and administration of the Trust Fund.

2. ASSISTANCE TO AND SUPPORT OF OTHER CHARITIES

The Trustee may make contributions, as it may think fit, towards, or otherwise assist (and whether out of capital or income), any charitable trust, institution or body having objects similar to the Objects, in circumstances where it could make such contributions towards the Objects under this Deed.

3. TRUSTEE'S RESPONSIBILITY REGARDING MANAGEMENT OF ENTITIES

The Trustee shall not be bound to interfere in the management or conduct of the business of any Entity, any interest in which, or any of the shares or securities of which, comprise the whole or any part of the Trust Fund.

4. BORROWING

Subject to such restrictions imposed on the Trustee by this Deed, the Trustee may borrow and raise money from Ecclesiastical or any Entity nominated by Ecclesiastical either without security or on the security of the Trust Fund, any part of it or any assets comprised in it, for any purpose and may mortgage, charge or pledge the Trust Fund, any part of it or any assets comprised in it, as security for any money so raised.

5. RESERVES

The Trustee shall have power to establish funds for particular purposes or to maintain reserves.

6. GRANTS ADVISORY COMMITTEE

The Trustee shall establish a Grants Advisory Committee of not more than 5 persons consisting of persons nominated by the Board of the Company to advise it on the level of any grants to be paid in each year and to nominate recipients for grants to be used for charitable purposes

7. DELEGATION

The Trustee may delegate such of its powers of management and administration as the Trustee may from time to time decide to committees, consisting of such other persons as the Trustee may appoint, and may make regulations for the conduct of such committees and from time to time amend such regulations. All acts and proceedings of any such committee shall be reported as soon as possible to the Trustee and no-such committee shall incur expenditure on behalf of the Trust except in accordance with a budget which has been approved by the Trustee.

8. CUSTODIANS AND NOMINEES

- 8.1 The Trustee may hold all or any part of the Trust Fund in the name of any corporation or any other person (being, if individuals, at least two in number) as nominee for the Trustee on such terms as the Trustee thinks fit.
- 8.2 The Trustee shall have power to appoint as custodian trustee any corporation empowered so to act, upon such terms as it shall think fit, and may transfer the whole or any part of the Trust Fund to or so as to be under the control of such custodian trustee, provided that the remuneration payable to such corporation shall in no case exceed what is provided for in Paragraph 8.3.
- 8.3 Any trustee, being a corporation appointed to act as a custodian trustee, may act on its published terms and conditions in force from time to time, provided that this shall not authorise payment for any act done or services rendered by any director or other officer of such corporation in a personal capacity, and provided further that such a corporation acting as a custodian trustee shall not be permitted to charge in excess of the remuneration chargeable for the time being by the Public Trust for acting as custodian trustee.

9. POWER TO EMPLOY STAFF AND PAY FOR SERVICES

The Trustee may:

- 9.1 employ any person or firm, not being a trustee, to manage or assist in managing the day-to-day running of the Trust Fund; and
- 9.2 employ or engage the services of a secretary and such other persons, not being a trustee, as the Trustee may in its discretion from time to time determine; in either case upon such terms and at such remuneration as the Trustee thinks fit.

10. REGULATIONS

The Trustee may make provisions for the management of the Trust and for the conduct of the business of the Trustee and may, from time to time, amend such provisions.

11. BANK ACCOUNTS

- 11.1 The Trustee may open and maintain in the name of the Trust, or in such other name as the Trustee may think fit, bank accounts at such banks as the Trustee may from time to time decide, and at any time may pay any money forming part of the Trust



Fund or its income to the credit of any such account or place the same on deposit with any bank.

- 11.2 The Trustee may from time to time make such arrangements as the Trustee shall think fit for the operation of any bank account in the name of the Trust or under the control of the Trustee.

12. **POWER TO PAY FOR AUDIT**

The Trustee may arrange for the accounts of the Trust to be audited annually by a qualified accountant at the expense of the Trust Fund where required by law.

13. **RECEIPTS**

When making grants of any funds to any charitable organisation or charitable institution, the Trustee may accept as a good discharge in respect of any such funds the receipt of the person purporting to be treasurer, secretary or other authorised officer for the time being of such charitable organisation or charitable institution.

14. **TRUSTEE LIABILITY**

No trustee shall be liable for any loss to the Trust Fund arising by reason of the negligence or fraud of any agent employed by the Trustee in good faith, although the employment of such agent was not strictly necessary or expedient (provided reasonable supervision shall have been exercised).

15. **CHANGE OF NAME**

The Trustee may alter the name of the Trust by deed, with the prior written consent of the Company.

16. **POWER OF VARIATION**

- 16.1 Subject to the provisions of Paragraphs 16.2 and 16.3, the Trustee shall have power to vary this Deed with the consent in writing of the board of directors of the parties to it, by deed which shall be expressed to be supplemental to this Deed. From and after the date of any such supplemental deed, this Deed shall be read and construed as if the provisions of such supplemental deed were incorporated in this Deed.

- 16.2 The Trustee may, with the consent in writing of the board of directors of the other parties to this Deed, vary this Deed, by deed which shall be expressed to be supplemental to this Deed, in such manner from time to time as may, in its opinion, be required to ensure that the Trust may register as a charitable entity under the Charities Act 2005, and maintain such registration. From and after the date of any such supplemental deed, this Deed shall be read and construed as if the provisions of such supplemental deed were incorporated in this Deed.

- 16.3 No variation shall be made that shall cause the trusts declared by this Deed to cease to be charitable under the law of New Zealand.

- 16.4 No variation shall be made to this Paragraph 16 or to Clauses 4, 6 and 7 save as the Trustee determines under Paragraph 16.2.



Schedule 3
Loan Agreement



Dated

15 May 2012

(1) ECCLESIASTICAL INSURANCE OFFICE PLC

**(2) CANTERBURY EARTHQUAKE CHURCH AND HERITAGE
TRUSTEE LIMITED TRUST**

LOAN AGREEMENT

relating to the Canterbury Earthquake Church and Heritage Trust

Speechly Bircham LLP
6 New Street Square
London
EC4A 3LX
Tel: +44 (0)20 7427 6400
Fax: +44 (0)20 7427 6600



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THIS AGREEMENT is made the 15th day of May 2012

BETWEEN:

- (1) **ECCLESIASTICAL INSURANCE OFFICE PLC** a company incorporated and registered in England and Wales with company number 00024869, whose registered office is at Beaufort House, Brunswick Road, Gloucester GL1 1JZ (the **Lender**); and
- (2) **CANTERBURY EARTHQUAKE CHURCH AND HERITAGE TRUSTEE LIMITED** a company incorporated in New Zealand, whose registered office is at Level 6, 396 Queen Street, Auckland, New Zealand, in its capacity as trustee of the Canterbury Earthquake Church and Heritage Trust (the **Borrower**).

WHEREAS:

- (A) By a trust deed dated 15 May 2012 (the **Trust Deed**), the Lender established the Canterbury Earthquake Church and Heritage Trust (the **Trust**).
- (B) The Borrower is the present trustee of the Trust.
- (C) The Lender has agreed to provide the Borrower in its capacity as trustee of the Trust with the Loan on the following terms and conditions.

NOW THIS AGREEMENT WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following definitions apply:

Business Day: a day (excluding Saturdays and Sundays) on which banks are open for business in England and Wales.

Loan: the indebtedness of the Borrower to the Lender referred to in clause 2 as that indebtedness may be reduced from time to time by any repayment permitted or required under this Agreement.

Share: a fully paid ordinary share in the capital of ACS (NZ) Limited (**ACS**) (company no. 115156) whose registered office is at Level 6, 396 Queen Street, Auckland, New Zealand.

Subscription Letter: a letter in the form annexed to this Agreement (Annex 1) whereby the Borrower agrees to subscribe for and ACS agrees to issue ordinary shares at par fully paid on receipt of the Subscription Letter.

- 1.2 Terms defined in the Trust Deed shall have the same meanings when used in this Agreement, unless the context requires otherwise.



- 1.3 A reference to a **person** includes any individual, company, body corporate or unincorporated association.
- 1.4 The words **Borrower** and **Lender** shall include their respective successors and assigns, and any person deriving title under them.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender includes a reference to the other genders.
- 1.7 A reference to a party to this Agreement includes that party's personal representatives, successors, permitted assigns and, in the case of the Borrower, any replacement or successor trustee of the Trust.

2. LOAN

- 2.1 In consideration of the Borrower entering into this Agreement, the Lender agrees to lend to the Borrower in its capacity as trustee of the Trust amounts up to a maximum amount in aggregate of fourteen million New Zealand dollars (NZ\$14,000,000) or such greater amount as the Lender may decide in its absolute discretion, subject to the terms and conditions of this Agreement.
- 2.2 Unless the Lender otherwise permits by notice in writing to the Borrower, the Borrower may apply the Loan only for the purpose of subscribing for new Shares using the annexed Subscription Letter or another letter to the same effect, to be held by the Borrower (or a nominee appointed by the Borrower) under the terms of the Trust Deed.

3. INTEREST

This Loan is not interest bearing.

4. SECURITY

This Loan is unsecured.

5. DRAWDOWN OF THE LOAN

- 5.1 The Loan shall be available in one or more tranches on 30 June 2012 or such earlier or later date or dates as the Lender shall advise the Borrower, by electronic funds transfer to the Borrower's bank account or in accordance with the Borrower's instructions.

6. REPAYMENT OF THE LOAN

- 6.1 The Loan repayment shall become due and payable only:
 - 6.1.1 if an aggregate total of at least five million New Zealand dollars (NZ\$5,000,000) has been applied by the Borrower and/or ACS to, or



is held separately for the benefit of, the Objects contained in the Trust Deed; and

- 6.1.2 then to the extent that the Borrower has at any time or times sufficient net assets from which to repay the Loan in accordance with clause 6.3 without recourse to any amount held pursuant to clause 6.1.1 for the benefit of the Objects.
- 6.2 For the purposes of this clause 6, "net assets" means:
 - 6.2.1 the assets of the Trust, excluding any Shares; less
 - 6.2.2 the liabilities of the Trust (excluding the Loan or any other similar loan between the parties used to fund subscriptions for ordinary share capital in ACS).
- 6.3 Where the condition in 6.1.1 has been met, the Borrower shall calculate monthly the amount of the Loan which may be repaid and shall repay the Loan or relevant part of the Loan from out of its net assets within 5 Business Days of the month end. The amount to be repaid shall equal the lesser of (i) the amount of the Loan still outstanding and (ii) the amount of the net assets, but where the Borrower has entered into similar agreements to this agreement with the Lender in order to fund subscriptions for ordinary share capital in ACS, then the Loan and all such loans shall rank *pari passu* and the Borrower shall repay the same proportion of the amounts that are outstanding under the Loan and each similar loan.

7. TAXES AND OTHER DEDUCTIONS

- 7.1 All sums payable by the Borrower under this Agreement shall be paid in full, without set-off or counterclaim or any restriction or condition and free of any tax or other deductions or withholdings of any nature.
- 7.2 If the Borrower is required to make any deduction or withholding (on account of such tax or otherwise) from any payment by any law or regulation, the Borrower shall, together with such payment, pay such additional amount as will ensure that the Lender receives (free of any such tax or other deductions or withholdings) the full amount which it would have received if no such deduction or withholding had been required.

8. EXPENSES

The Lender shall be responsible for its own costs, charges and expenses (including legal and other fees) that it incurs in connection with the negotiation, preparation and execution of this Agreement and any other documentation required in connection with the Loan.

9. LIMITATION ON RECOVERY FROM THE BORROWER

- 9.1 The parties hereby expressly agree that:



- 9.1.1 except in the case of fraud, gross misconduct, negligence, breach of trust or breach of this Agreement, the Lender shall have no recourse to any assets held by the Borrower in any capacity other than as trustee of the Trust, or which the Borrower would need to apply to the Objects in priority to the Lender's claims to satisfy the priority recorded in clause 6.1.1;
- 9.1.2 except in the case of fraud, gross misconduct, negligence, breach of trust or breach of this Agreement, no member, officer, agent or employee of the Borrower shall ever incur any personal liability under or in connection with this Agreement.

10. UNDERTAKINGS OF THE LENDER AND THE BORROWER

- 10.1 The Lender will not:
 - 10.1.1 purport to retain or set-off at any time any amount payable by it to the Borrower against any amount of the Loan except to the extent that payment of such amount of the Loan would be permitted at such time by this Agreement, and the Lender shall immediately pay an amount equal to any retention or set-off in breach of this provision to the Borrower and such retention or set-off shall be deemed not to have occurred;
 - 10.1.2 attempt to obtain repayment of any part of the Loan otherwise than in accordance with the terms of this Agreement.
- 10.2 The Borrower covenants with the Lender that, as from the date of this Agreement until all its liabilities under this Agreement have been discharged that it will observe the covenants set out in Annex 2.

11. NOTICES

- 11.1 Any notice, request, instruction or other document (each, a **Notice**) delivered hereunder must be in writing. Writing includes email. All Notices must be sent to the address of the relevant party as stated below, unless another address has been notified in writing to the other parties in accordance with the terms hereof:

- 11.1.1 **The Lender**

Ecclesiastical Insurance Office plc
Beaufort House
Brunswick Road
Gloucester
GL1 1JZ

Attention: The Company Secretary
Email: rachael.hall@ecclesiastical.com

**11.1.2 The Borrower**

Canterbury Earthquake Church and Heritage Trustee Limited

Attention: Chairman

Email: david.harrison@xtra.co.nz

- 11.2 For the purposes of this Agreement, a Notice shall be deemed to have been served:

11.2.1 At the time of delivery, if it has been delivered by hand during business hours;

11.2.2 48 hours after posting, if it has been sent by fast post; or

11.2.3 24 hours after receipt of an electronic confirmation of successful transmission, if it has been sent by email.

- 11.3 If a Notice is delivered on any day other than a Business Day or after business hours, the delivery shall be deemed to have occurred on the next Business Day.

12. DOCUMENTATION

This Agreement forms the entire agreement as to the Loan. If there are any other terms relating to the Loan existing at the date of this Agreement and not comprised in it such terms shall be of no further force and effect. No variation of or amendment to this Agreement shall be of any effect unless it is in writing signed by all parties.

13. LAW AND JURISDICTION

This Agreement is governed by New Zealand law and, each of the Borrower and the Lender irrevocably submits to the jurisdiction of the New Zealand Courts. Such jurisdiction shall be non-exclusive except to the extent that such non-exclusivity prejudices the submission to such jurisdiction.

Ecclesiastical Insurance Office Plc by:

Signature of Director

Name of Director



Canterbury Earthquake Church and Heritage Trustee Limited

Signature of Director

Name of Director

**Annex 1 to the Loan Agreement****Subscription Letter****[ACS (NZ) LIMITED LETTERHEAD]**

Canterbury Earthquake Church and Heritage Trustee Limited, whose registered office is at Level 6, 396 Queen Street, Auckland, New Zealand, as the trustee of the Canterbury Earthquake Church and Heritage Trust

Attention: David Harrison

OFFER OF SHARES IN ACS (NZ) LIMITED

- 1 ACS (NZ) Limited is pleased to offer Canterbury Earthquake Church and Heritage Trustee Limited as the trustee of the Canterbury Earthquake Church and Heritage Trust ordinary shares in ACS (NZ) Limited on the terms set out in this letter.

DEFINITIONS AND CONSTRUCTION**Defined terms**

- 2 In this letter, the following definitions apply unless the context requires otherwise:

ACS means ACS (NZ) Limited;

Contribution means any amount contributed to the Trustee as trustee of the Trust on the basis it is applied towards subscribing for Shares, including for the avoidance of doubt, the \$10 million contributed to the Trustee pursuant to clause 5.2 of the Trust's trust deed;

Ecclesiastical means Ecclesiastical Insurance Office plc;

Loan Agreement means the agreement dated 15 May 2012 between Ecclesiastical and Trustee under which Ecclesiastical is providing a loan of up to NZ\$14 million or such greater amount as Ecclesiastical may decide in its absolute discretion, the proceeds of which are to be used in the purchase of the Shares;

Loan Amount means the amount(s) received by the Trustee from Ecclesiastical under the Loan Agreement.

Parties means the parties to this letter, being Trustee and ACS, whichever the context requires;

Shares means the ordinary shares in ACS being offered by ACS to the Trustee on the terms of this letter, the number of which shall be determined on the basis of one



share for every dollar of the Loan Amount or Contribution being applied to subscribe for Shares, as the case may be;

Subscription Date means in relation to any tranche of Shares, the subscription date for the Shares, being the date of receipt by the Trustee or its nominee of the proceeds of all or part of the Loan Amount or a Contribution, or such other date as the ACS and the Trustee may agree upon in writing;

Trust means the Canterbury Earthquake Church and Heritage Trust;

Trustee means Canterbury Earthquake Church and Heritage Trustee Limited as the trustee of the Trust.

3 In the construction of this Agreement, unless the context requires otherwise:

- 3.1 *Background, clauses, Schedules and Appendices:* references to Background, clauses, Schedules and Appendices are to background and clauses of, and schedules and appendices to, this Letter and, unless stated otherwise, a reference in a schedule to a clause is a reference to a clause in that schedule;
- 3.2 *Business Days:* anything required by this Letter to be done on a day which is not a Business Day may be done effectually on the next Business Day;
- 3.3 *Currency:* a reference to any monetary amount is to New Zealand currency;
- 3.4 *Headings:* headings appear as a matter of convenience and do not affect the construction of this Letter;
- 3.5 *Parties:* references to a party to this Letter or any other document includes that party's personal representatives/successors and permitted assigns;
- 3.6 *Person:* a reference to a person includes a reference to a body corporate and to an unincorporated body of persons;
- 3.7 *Singular, Plural and Gender:* the singular includes the plural and vice versa, and words importing one gender include the other genders;
- 3.8 *Writing:* a reference to "written" or "in writing" includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form.

CONDITION

4 The obligation of the Trustee to subscribe and pay for the Shares is conditional upon:

- 4.1 the Trustee's receipt of the relevant part of the Loan Amount pursuant to the terms of the Loan Agreement or the Contribution pursuant to the Trust Deed, as the case may be; and



- 4.2 in the case of subscriptions using all or any part of the Loan Amount, the Loan Agreement being entered into by Ecclesiastical and the Trustee,.

SUBSCRIPTION

Agreement to subscribe

- 5 The Trustee will subscribe for the Shares, and ACS will issue the Shares to the Trustee as fully paid and enter the name of the Canterbury Earthquake Church and Heritage Trustee Limited in the register of ACS's shareholders, as holder of the Shares upon the receipt of the consideration and on the terms and conditions set out in this Letter.

Terms of the Shares

- 6 The Shares will be issued on terms identical to, and will rank pari passu with, all of the existing ordinary shares in ACS.

The Consideration

- 7 The total consideration payable by the Trustee for the Shares shall be the proceeds of the loan received under the Loan Agreement or the Contribution received by the Trustee (as the case may be) in respect of the Shares.

Payment

- 8 The Trustee will pay for the Shares the proceeds of the loan made in respect of the Shares under the Loan Agreement or the Contribution (as the case may be) to ACS in full on the Subscription Date in cleared funds immediately available for disbursement, free of any form of withholding, deduction or set off.

Company's obligations

- 9 On the Subscription Date, ACS will enter the Canterbury Earthquake Church and Heritage Trustee Limited as the holder of the relevant Shares in ACS's share register.

NOTICES

Written notice

- 10 Any notice produced under this Letter shall be in writing addressed to the Party to whom it is to be sent at the address or facsimile number from time to time designated by that Party in writing to the other Party.
- 11 Until any other designation is given the address and facsimile number of each Party is as follows:

The Canterbury Earthquake Church and Heritage Trustee Limited

396 Queen Street
Auckland
New Zealand
Phone: (09) 300 3132
Facsimile: (09)366 6107

**ACS**

Level 6
396 Queen Street
Auckland
New Zealand
Phone: (09) 300 3132
Facsimile: (09)366 6107

Delivery

- 12 Delivery may be effected by hand, by fastpost or airmail with postage prepaid, or by facsimile.

Deemed receipt

- 13 Any notice given under this Letter shall be deemed to have been received:
- 13.1 at the time of delivery, if delivered by hand;
 - 13.2 on the 2nd Business Day after the date of mailing, if sent by fastpost or airmail with postage prepaid;
 - 13.3 on the day on which the transmission is sent, if sent by facsimile or email. However, if the date of transmission is not a Business Day or the transmission is sent after 4pm on a Business Day then the notice will be deemed to have been received on the next Business Day after the date of transmission. If there is any dispute or difference between the Parties over the fact of transmission in any particular case, production by the sender of a confirmation of clear transmission shall be conclusive evidence of transmission and shall bind the Parties accordingly.

MISCELLANEOUS CLAUSES**Amendment**

- 14 This Letter may be amended only by another letter or agreement executed by the parties who may be affected by the amendment.

No merger

- 15 The agreements, obligations, warranties and undertakings of the Parties shall not merge with the subscription for, and issue of, the Shares but (to the extent that they have not been completed by performance at the Subscription Date) shall remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.

Further assurances

- 16 Each of the Parties agrees to execute and deliver any documents, including transfers of title, and to do all things as may reasonably be required by the other Party or Parties to obtain the full benefit of this Letter according to its true intent. This



obligation continues after the Subscription Date and survives the termination of this Letter.

No waiver

- 17 No failure, delay or indulgence by any Party in exercising any power or right conferred on that Party by this Letter shall operate as a waiver of such power or right. Nor shall a single exercise of any such power or right preclude further exercises of that power or right or the exercise of any other power or right under this Letter.

No assignment

- 18 No Party shall transfer, assign, or create any Encumbrance over or deal in any manner with the benefit or burden of this Letter without first obtaining the written consent of the other Party or Parties.

Severability

- 19 If any part of this Letter is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Letter which shall remain in full force.

Entire agreement

- 20 This Letter constitutes the entire agreement between the Parties on the subscription for, and issue of, the Shares; it supersedes and extinguishes all earlier negotiations, understandings and agreements, whether oral or written, between the Parties relating to the subscription for, and issue of, the Shares.

Governing law/jurisdiction

- 21 This Letter shall be governed by, and construed in accordance with, the laws of New Zealand. The Parties submit to the non-exclusive jurisdiction of the courts of New Zealand in relation to all disputes arising out of or in connection with this Letter.

Counterparts

- 22 This Letter may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

Costs

- 23 Except as otherwise provided in this Letter, the Parties will meet their own costs relating to the negotiation, preparation and implementation of this Letter.
- 24 If you wish to accept this offer, please sign the acceptance endorsement below.

Yours faithfully

ACS (NZ) Limited



Acceptance Endorsement

Canterbury Earthquake Church and Heritage Trustee Limited as trustee of the Canterbury Earthquake Church and Heritage Trust hereby accepts the offer, and agrees to be bound by the terms and conditions contained in this Letter.

Director

Date:



Annex 2 to the Loan Agreement

1. To deliver to the Lender such financial or other information as the Lender may, from time to time, request relating to the Borrower or ACS.
2. Not to permit any increase in the amount of ACS's issued share capital, the grant of any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, the redemption or purchase by ACS of any of its own shares or effect any other reorganisation of ACS's share capital, except for any further subscriptions by the Borrower for shares in the capital of ACS pursuant to this Agreement or any subsequent agreement entered into between the Borrower and the Lender.
3. To have regard to, and use reasonable endeavours not to prejudice, the repayment of the Loan, when making any decision as shareholder of the Company.