

SCHEDULE A – ENFORCEABLE UNDERTAKING

**KERRY FINNIGAN, GRAHAM JACKSON, MARCEL LINDALE, TIMOTHY RICH, DENIS THOM,
DAVID WOLFENDEN (*the Directors*)**

**FINANCIAL MARKETS AUTHORITY
(FMA)**

ENFORCEABLE UNDERTAKING

Effective Date: 5 June 2014

PARTIES

**KERRY FINNIGAN, GRAHAM JACKSON, MARCEL LINDALE, TIMOTHY RICH, DENIS THOM,
DAVID WOLFENDEN** (*the Directors*)

FINANCIAL MARKETS AUTHORITY (FMA)

INTRODUCTION

This undertaking is offered to FMA for acceptance under s46 of the Financial Markets Authority Act 2011 by the Directors.

This undertaking forms part of a settlement agreement signed in November 2013 between the parties to this undertaking (the **Settlement Agreement**). This undertaking is to be read consistently with the terms of the Settlement Agreement and any inconsistency is to be resolved in favour of the terms of the Settlement Agreement.

BACKGROUND

- A. From August 1999 until August 2008 Strategic Finance Limited (**Strategic**) carried on the business of providing finance and other financial services, primarily to the property sector. Strategic funded its business through a variety of sources including by the issue of securities to the public.
- B. In August 2008 Strategic placed a trading halt on all its securities, trading of its securities did not resume after the trading halt.
- C. In December 2008 Strategic went into moratorium. In March 2010 Strategic went into Receivership. John Fisk and Colin McCloy of PricewaterhouseCoopers were appointed the receivers of Strategic.
- D. Strategic's failure affected approximately 11,000 investors with a loss of approximately \$383m.
- E. The FMA alleges that it is likely that the Directors of Strategic contravened the Securities Act 1978 (**Act**) by making untrue statements in offer documents, with the consequence that a civil liability event under s55B of the Act has occurred and that the Directors are liable for civil pecuniary penalties under s55C of the Act and to pay compensation under s55G of the Act.
- F. The parties have reached agreement on the resolution of FMA's claim on the terms set out in the Settlement Agreement. The parties have agreed that the terms of the Settlement Agreement shall remain confidential, save that the fact of settlement, the sum paid under the settlement and these undertakings may be disclosed. It is a term of that Agreement that the directors provide enforceable undertakings to FMA under s46 of the Financial Markets Authority Act 2011. This document records the terms of those enforceable undertakings.
- G. FMA is committed to enforcement action that targets conduct which harms or presents the greatest likelihood of harm to the function of fair, efficient and transparent financial markets.

These enforceable undertakings restrict the Directors from being a promoter, director or in any way (directly or indirectly) being involved in the management of a company which is an issuer of securities to the public. Accordingly, the undertaking is consistent with FMA's enforcement policy.

Interpretation provision

The words "promoter" "issuer" and "security" (and its plural "securities") have the meanings set out in sections 2 and 2D of the Securities Act 1978 (or the equivalent terms of any enactment that replaces, or that corresponds to, the Securities Act). A public issuer, for the purposes of this undertaking, means an incorporated or unincorporated body that offers securities to the New Zealand public in terms of section 3 of the Securities Act 1978 (or the equivalent terms of any enactment that replaces, or that corresponds to, the Securities Act), but excludes an overseas company or an incorporated or unincorporated body that does not carry on business in New Zealand.

THE PARTIES AGREE as follows:

ENFORCEABLE UNDERTAKINGS BY THE DIRECTORS

1. Subject to clause 2 below, each of Kerry Finnigan, Marcel Lindale, Graham Jackson, Denis Thom, David Wolfenden, and Timothy Rich severally undertakes that he will not:
 - (a) act as a director or promoter of a public issuer of securities for five years from the date on which the Settlement Agreement becomes unconditional without the prior written approval of FMA or leave of the Court.
 - (b) accept appointment or employment or act as a Chief Executive Officer or Chief Financial Officer (or equivalent position by whatever name called) of a public issuer of securities for three years from the date on which the Settlement Agreement becomes unconditional without the prior written approval of FMA or leave of the Court.
2. Marcel Lindale is entitled to remain a director of Direct Property Investments (No 6) Limited until the earlier of the following:
 - (a) The affairs of the company have been completed and all distributions of assets to investors completed;
 - (b) A receiver, liquidator or a second director is appointed to the company;
 - (c) The second anniversary of the date of execution of the Settlement Agreement.

It is a condition of this clause that Marcel Lindale keep the trustee of the company (Foundation Corporate Trust) informed of all material developments in concluding the affairs of the company.

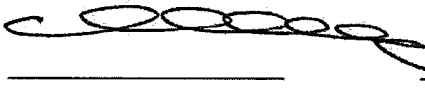
NO ADMISSION OF LIABILITY

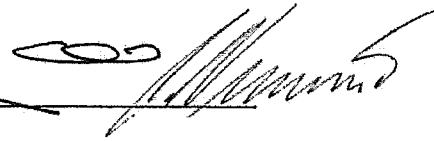
3. The parties give this undertaking without any admission of liability. While the Directors do not admit liability, FMA remains of the view that it is likely that the Directors breached their disclosure obligations required by the Securities Act during the relevant period and that the claims raised by FMA were justified.

M

Signed by **MARCEL LINDALE:**

In the presence of:





Name: **SARAH NIMMO**
Occupation: **PERSONAL ASSISTANT**
Address: **AUCKLAND**

Signed by **KERRY FINNIGAN:**

In the presence of:

Name:
Occupation:
Address:

Signed by **GRAHAM JACKSON:**

In the presence of:

Name:
Occupation:
Address:

Signed by **TIMOTHY RICH:**

In the presence of:

Name:
Occupation:
Address:

Signed by **DENIS THOM:**

In the presence of:

Name:
Occupation:

Signed by MARCEL LINDALE:

In the presence of:

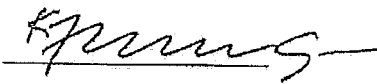
Name:

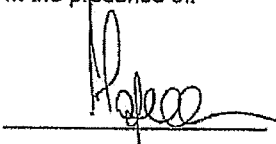
Occupation:

Address:

Signed by KERRY FINNIGAN:

In the presence of:





Name:

Occupation:

Address:

Signed by GRAHAM JACKSON:

In the presence of:

Name:

Occupation:

Address:

Signed by TIMOTHY RICH:

In the presence of:

Name:

Occupation:

Address:

Signed by DENIS THOM:

In the presence of:

Name:

Occupation:

Signed by **MARCEL LINDALE:**

In the presence of:

Name:

Occupation:

Address:

Signed by **KERRY FINNIGAN:**

In the presence of:

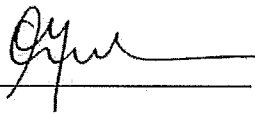
Name:

Occupation:

Address:

Signed by **GRAHAM JACKSON:**

In the presence of:





Name: **SARAH NIMMO**
Occupation: **PERSONAL ASSISTANT**
Address: **AUCKLAND**

Address:

Signed by **TIMOTHY RICH:**

In the presence of:

Name:

Occupation:

Address:

Signed by **DENIS THOM:**

In the presence of:

Name:

Occupation:

Signed by MARCEL LINDALE:

In the presence of:

Name:

Occupation:

Address:

Signed by KERRY FINNIGAN:

In the presence of:

Name:

Occupation:

Address:

Signed by GRAHAM JACKSON:

In the presence of:

Name:

Occupation:

Address:

Signed by TIMOTHY RICH:

In the presence of:





Name: Rune Henriksen

Occupation: Accountant

Address: 21 KISSING POINT ROAD
TURREAMURRA NSW 2074

Signed by DENIS THOM:

In the presence of:

Name:

Occupation:

Signed by MARCEL LINDALE:

In the presence of:

Name:

Occupation:

Address:

Signed by KERRY FINNIGAN:

In the presence of:

Name:

Occupation:

Address:

Signed by GRAHAM JACKSON:

In the presence of:

Name:

Occupation:

Address:

Signed by TIMOTHY RICH:

In the presence of:

Name: CHRISTINE BAKER

Occupation: CORPORATE RECEPTIONIST

Address: AUCKLAND

Signed by DENIS THOM:

In the presence of:





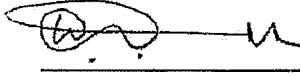
Name:

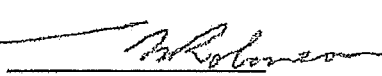
Occupation:

Address:

Signed by DAVID WOLFENDEN:

In the presence of:





Name: NIGEL ROBINSON
Occupation: Co. Director
Address: 3A/80 AOTEA ST
AUCKLAND 1071

Accepted by FMA pursuant to section 46 of the Financial Markets Authority Act 2011 by its authorised delegate

Name:

Occupation:

Address:

Address:

Signed by **DAVID WOLFENDEN:**

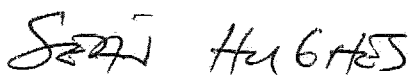
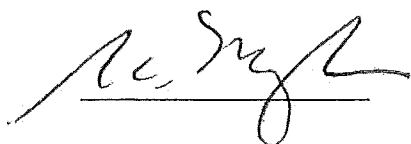
In the presence of:

Name:

Occupation:

Address:

Accepted by FMA pursuant to section 46 of the Financial Markets Authority Act 2011 by its authorised delegate



Name: CEO

Occupation: FINANCIAL MARKETS AUTHORITY

Address: AUCKLAND