

Trust Deed

TECT Consumer Trust

*Draft Consumer Trust Deed being the
existing TECT Trust Deed*

*(as at 19 October 2016) and including
proposed edits*

Marked up Version



DEED originally dated _____ 21st day of December _____, 1993

~~BETWEEN TRUSTPOWER LIMITED~~ a duly incorporated company with its registered office at Tauranga (hereinafter called "the Company")

~~AND _____ SHIRLEY MARGARET CROWLEY~~

~~_____ IAN FREDERICK FOOTE~~

~~_____ BARRY WALTER BRAME JENSEN~~

~~_____ NOEL HAYWARD JOHNSON~~

~~_____ NORMAN FREDERICK MAYO~~

~~_____ EDWARD MCGREGOR MURRAY~~

~~_____ NOEL FRANK POPE~~

~~_____ LYN ARTHUR WAHREN~~

~~_____ RUFUS GEORGE WALLINGFORD~~

~~_____ (hereinafter together with their successors in office called "as varied on the Trustees")~~ Effective Date referred to below

WHEREAS

A. **BACKGROUND**

The ~~Tauranga Electric Power Board~~ (the "Board") has formed the Company as a registered public company limited ~~by shares~~ TECT Consumer Trust was originally settled in 1993 by shares in which the sole subscriber is the Board.

B. ~~Pursuant to the Act the Minister of Energy has approved the establishment plan prepared and submitted in respect of the Company which establishment plan provides for the allocation of shares in the Company~~ the legal predecessor to the Trustees.

- ~~A. C. — The Company wishes to establish the Tauranga Energy Consumer Trust~~current Trustpower Limited (company number 565426), to enable the Trustees to acquire the shares in the Company to be shares in that predecessor entity (originally also called Trustpower Limited, but with company number 604040). The shares in that predecessor entity were vested in the Trustees in accordance with the establishment plan approved by the Minister of Energy at the time, under the Energy Companies Act 1992.
- ~~D. — The Trustees will have an ongoing obligation to carry out reviews of their continuing ownership of the Securities involving consultation in accordance with the terms of this Deed.~~
- ~~B. E. — The benefits which Pursuant to a scheme of arrangement in 2016, the original Trustpower Limited (company number 604040) underwent a demerger transaction and its assets and liabilities (other than certain wind and solar assets which were devolved to new company Tilt Renewables Limited) were transferred to the entity now known as Trustpower Limited (company number 565426).~~
- ~~C. — As a consequence of continuing changes in the energy industry affecting the Trust, the Trustees, after undertaking a Consumer Consultative Procedure and obtaining the approval of the High Court, by unanimous resolution amended this Deed and undertook a restructuring of the Trust pursuant to which:~~
- ~~C.1 a portion of the Trust Fund prior to such restructure was resettled in to a new community trust (the TECT Community Trust referred to below) to be held for community purposes within the District or which benefit persons resident in the District and which are charitable at law; and~~
- ~~C.2 the balance of the Trust Fund is to be applied by the Trustees in accordance with the terms of the Trust Deed varied as of and from the date referred to above.~~
- ~~D. Pursuant to the Trust Deed as so varied, the Trustees will:~~
- ~~D.1 apply the Trust Fund (subject to retention of such reserves as the Trustees derive through their ownership determine) by way of loan to the assets TECT Community Trust;~~
- ~~A.1D.2 utilise the net annual income of the Trust Fund will be made available directly or indirectly and the capital of the Trust Fund (as the Trustees in their discretion decidedetermine) for the purposes of paying annual Rebates to Consumers.; and~~
- ~~D.3 upon the future termination or winding up of the Trust, apply the assets remaining in the Trust Fund for the benefit of the TECT Community Trust or entities within its control as further set out herein.~~

1 DEFINITIONS AND CONSTRUCTION

1.1 In this ~~deed~~Deed, unless the context otherwise requires:

~~“Act” means the Energy Companies Act 1992;~~

~~“Annual General Meeting” means a meeting of Trustees specified as the annual general meeting of Trustees in the notice calling the meeting;~~

~~“Balance Date” means 31 March or any other date adopted from time to time by the Company Trust as the end of its Financial Year;~~

~~“Board” Chief Executive means the chief executive of the Tauranga Electric Power Board constituted Trust (or similar most senior officer of the Trust, by the Electric Power Boards Act 1925;~~

~~“Chairperson” means the Trustee elected as chairperson pursuant to rule 4 of schedule 1;~~

~~“Code of Conduct” means a code of conduct to regulate the behaviour and conduct of participants in relation to a Trustee election and which is adopted, amended and issued (whatever name) appointed from time to time by Trustees to the Independent Returning Officer;~~

~~“Code of Practice” means the operating guidelines to promote best practice in energy trust administration adopted or to be adopted by the Trustees in respect of the Trust (as amended or replaced from if at any time ~~to~~ there is no such person appointed, the Chairperson of the Trust at the relevant time);~~

~~“Company” means Scarlett Limited (formerly called Trustpower Limited) (company number 604040) and includes any successor company or any company arising out of any reconstruction, amalgamation or merger of the Company, including (without limitation) Trustpower Limited (company number 565426) but excluding Tilt Renewables Limited (company number 1212113) and any subsidiary companies of Tilt Renewables Limited;~~

"*Confidential Information*" means information which is by express classification or by its nature reasonably intended to be confidential to the Trust and which has not been released into the public domain by reason of:

- (i) ~~(i) — The proper~~the discharge ~~in good faith~~ by a Trustee of duties and obligations created by the Trust, as set out in this Deed;
- (ii) ~~(ii) — The proper~~the discharge ~~in good faith~~ by a Trustee with the express authority or express consent of the Trust of duties and obligations created by the Trust;
- (iii) ~~(iii) — The~~the order or direction of any lawful or regulatory authority; or otherwise as a consequence of the operation of any law or regulation;
- (iv) ~~A~~a request for disclosure pursuant to the Guidelines.

~~"Consumer"~~ means:

- ~~(i) — a person who is named in the records of the Company as being liable to pay the Company any amount for electrical energy supplied or to be supplied to premises situate in the District;~~
- (iv) ~~(ii) — the TECT Charitable Trust as constituted pursuant to a deed of trust dated 27 March 2002; or~~
- ~~(iii) — any other entity wholly owned and/or controlled by TECT and whose beneficiaries and objectives are substantially the same as TECT's;~~
- (v) "other lawful action by a third party;

Consumer has the meaning given to it in clause 4.2;

Consumer Consultative Procedure" means the procedure for consultation set out in ~~schedule III~~Schedule 3;

"*Deed*" means this ~~deed~~Deed and includes the schedules and any amendments;

~~"Deputy Chairperson"~~ means the Trustee elected as deputy chairperson pursuant to rule 4 of schedule 1;

~~"Directors"~~ means the directors from time to time of the Company;

"District" means:

- (i) the territory over which the ~~Board~~ Tauranga Electric Power Board constituted by the Electric Power Boards Act 1925 was authorised to supply electricity ~~immediately prior to the Vesting Date pursuant to the Tauranga Electric Power Board Supply Licence pursuant to a licence granted to the Board under section 20 of the Electricity Act 1968, and immediately prior to the vesting of that Board's undertaking in the predecessor to Trustpower, and the vesting of the shares therein in the Trustees;~~
- (ii) the territory over which Tauranga Electricity Limited was authorised to supply electricity immediately prior to its merger with the ~~Company~~ legal predecessor to Trustpower in 1997 and includes, for the avoidance of doubt, that area comprising the Tauranga City peninsula north of the centreline of 17th Avenue, Tauranga.

~~"Dividends" means, in relation to the Company, any distributions paid in cash by the Company to the Trustees as holders under this Deed of Shares or Other Securities;~~

~~"Environment" shall have the meaning ascribed to that term in the Resource Management Act 1991;~~

~~as shown in the map attached as Schedule 4 to this Deed;~~

~~Effective Date means the date of the unanimous Trustee resolution referred to in Background C of this Deed;~~

~~Financial Statements" means the financial statements of the Trust prepared in accordance with clause 10.29.3(a);~~

~~"Financial Year" means any year or other accounting period ending on a Balance Date;~~

~~"Guidelines" means those "Guidelines for Access to Trust Information by Consumers" (or any similar document) adopted, amended or superseded from time to time by a resolution of Trustees relating to the rights of Consumers to, and procedures relating to the disclosure of, Trust information as referred to in the Code of Practice;~~

~~"Independent Returning Officer" means that person appointed to the office of Independent Returning Officer pursuant to clause 10.5 for the purposes of conducting and supervising any Trustee election held pursuant to clause 3.4 of Schedule 1;~~

~~“Local Authority” means a local authority within the meaning of the local Government Act 1974;~~

~~“Other Securities” means securities (other than the Shares), instruments (including convertible notes and voting debentures) or options convertible to shares or other securities in the Company;~~

~~“persons” includes any individual, corporation, partnership, joint venture, association, trust, organisation, government department or local authorities;~~

~~“Retirement Date” means the date the Secretary declares the names of the candidates elected under rules 3.4(e) or 3.4(k) of schedule I;~~

~~“Secretary” ICP means, in respect of a Consumer, an installation control point (or equivalent) maintained by that Consumer for the delivery of electrical energy;~~

~~Rebates means the annual rebates payable to Consumers in accordance with, and as more extensively described in, clause 5;~~

~~Rebate Policy means the policy set out in Schedule 5 of this Deed;~~

~~Record Date means 28 January 2021;~~

~~Residuary Beneficiary means the person appointed as secretary pursuant to rule 19 of schedule I;~~

~~“Securities” means Shares or other securities, instruments (including convertible notes and voting debentures) or options convertible to Shares or other securities in the Company;~~

~~“Shares” means shares in the capital of the Company held by the TECT Community Trust as part of the constituted pursuant to the TECT Community Trust Fund Deed;~~

~~“Special Resolution” means a resolution of the Trustees passed by a majority of not less than seventy five per cent (75%) of the total number of Trustees in office at the time the Special Resolution is passed;~~

~~“TECT Community Trust means the trust established pursuant to the TECT Community Trust Deed;~~

TECT Community Trust Deed means the deed of trust of the TECT Community Trust dated [●] 2021;

TECT Community Trust Trustees means the trustees for the time being of the TECT Community Trust, and TECT Community Trust Trustee means any one of them;

Termination Date means ~~the earlier of 1 January 2072 and~~ the date upon which the Trustees resolve that the Trust ceases or is otherwise wound up in accordance with applicable law and clause 14 provided however that if the ~~perpetuity period restrictions cease to apply to 13 of this Trust or are amended to permit the Trust to continue beyond 1 January 2073, this definition shall be amended so that the Termination Date shall be the date beyond which the Trust may not continue~~Deed;

Third Party has the meaning given to that term in clause 4.2(a) (including as further interpreted in clause 4.3);

the Trust means the trust established by this Deed;

the Trustees means the trustees for the time being of the Trust and Trustee means any one of them;

Trust Fund means all the funds of the Trust and includes all capital and income for the time being held by the Trustees of the Trust;

~~Trustee Act~~ means the Trustee Act 1956;

~~Vesting Date~~ means the date upon which the Governor General by Order in Council under section 47 of the Act vests the undertaking of the Board in the Company and the Shares in the Trustees.

Trustpower means Trustpower Limited (company number 565426) and includes a company or other entity;

(i) into which Trustpower is amalgamated, or combined pursuant to a scheme of arrangement, in each case in accordance with the provisions of the Companies Act 1993; or

(ii) which acquires Trustpower pursuant to a takeover transaction, whether pursuant to the Takeovers Code or otherwise,

after the Effective Date; and

Trusts Act means the Trusts Act 2019.

1.2 In this Deed, unless the context otherwise requires:

- (a) references to one gender include each other gender;
- (b) references to the singular include the plural and vice versa;
- (c) the headings and the index shall not affect the construction of this Deed;
- (d) references to clauses are references to clauses of this Deed and references to schedules are references to schedules to this Deed;

(e) references to a party, person or entity (other than a company) includes an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality);

(e)(f) references to a statute include references to regulations, orders or notices made under or pursuant to such statute. References to any statute, regulations, order or other statutory instrument or by-law shall be deemed to be references to the statute, regulation, order, instrument or by-law as from time to time amended and includes substituted provisions that substantially correspond to those referred to;

(g) references to *working days* are to days other than weekends and public holidays; and

(f)(h) words, terms or expressions which are defined in the Energy Companies Act 1992 but are not defined in this Deed shall have the meaning attributed to them in ~~the~~that Act.

~~1.1 For the purposes of the Perpetuities Act 1964 the perpetuity period applicable to this Deed shall be the period from the date of execution hereof until the first anniversary of the Termination Date.~~

2 NAME OF THE TRUST

The Trust shall be known as the ~~Tauranga Energy~~ TECT Consumer Trust or such other name as the Trustees may determine from time to time.

3 DECLARATION OF TRUST

The ~~Company hereby declares and directs that the~~ Trustees ~~shall~~ acknowledge and declare that they stand possessed of the Trust Fund, including the sum of \$100 originally settled ~~by~~ on the ~~Company contemporaneously with Trustees on~~ the ~~execution~~ 21st day of ~~this Deed~~ and December 1993, together with all other moneys or property of whatever kind hereafter paid, given, or transferred to, vested in, or purchased or acquired by (or agreed to be transferred to or purchased or acquired by) the Trustees to be held upon the trust hereby declared and any accumulations of income therefrom and all moneys, investments and property of whatever kind from time to time representing the same to be held upon the Trust and for the purposes and with the powers, authorities and discretions set out in this Deed.

4 PURPOSE OF THE TRUST AND PRINCIPAL MEANING OF CONSUMERS

4.1 The purposes and objects for which the Trust is established are:

~~1.2 On Vesting Date, to receive Shares vested in the Trustees by order in council made in accordance with section 47 of the Act.~~

~~1.3 If the Trustees so elect to subscribe for, purchase or otherwise acquire Other Securities in the capital of the Company.~~

~~1.4 To retain and, hold the Shares and Other Securities until such time as the Shares or Other Securities, as the case may be, are sold, transferred or disposed of.~~

~~1.5 In the event of any sale, transfer or other disposition of Shares or Other Securities to hold the proceeds of any such sale, transfer or other disposition upon the trust for capital in accordance with clause 6.1.~~

(a) ~~To receive Dividends and to,~~ distribute, pay, apply or appropriate the ~~Dividends and other~~ income and the capital of the Trust Fund ~~which the Trustees do not resolve to accumulate~~

~~to or for the benefit of the to~~ Consumers in ~~the manner provided in accordance with~~ clause 5 ~~of this Deed.; and~~

(b) Following the Termination Date to pay, apply and appropriate the capital and any retained income of the Trust for the benefit of the Residuary Beneficiary in the manner provided in clause 6.

4.2 For the purposes of this Deed a Consumer means each person who is named in the records of Trustpower as being liable to pay Trustpower any amount for electrical energy supplied or to be supplied to one or more ICPs situated in the District as at 9am on the Record Date provided that such person:

(a) retains an obligation to pay Trustpower or a third party purchaser of all or a substantial part of Trustpower's business of supplying electrical energy to one or more ICPs in the District (a Third Party), as the case may be, any amount for electrical energy supplied by Trustpower or that Third Party to the Consumer's ICP or ICPs, as the case may be in accordance with the Eligibility Criteria set out in Part 1 of the Rebate Policy; and

(b) otherwise at all times satisfies the Eligibility Criteria set out in Part 1 of the Rebate Policy.

4.24.3 For the purposes of clause 4.2 and each other usage of the term in this Deed, a Third Party shall include a company or other entity:

(a) into which the Third Party has amalgamated or been combined pursuant to a scheme of arrangement, in each case in accordance with the provisions of the Companies Act 1993; and

(b) to which the Third Party has sold all or a substantial part of the business so acquired from Trustpower that relates to the supply of electricity in the District.

5 TRUSTS OF INCOME AND CAPITAL UNTIL ~~DISTRIBUTION~~TERMINATION DATE

The Trustees shall until the Termination Date stand possessed of the income arising from the Trust Fund and the capital of the Trust Fund upon the following trusts and with and subject to the following powers:

5.1 The Trustees shall from the net annual income derived by the Trust Fund (or if required from the capital of the Trust Fund) first pay all the fees, costs and disbursements of and incidental to administering the Trust, including ~~remuneration and allowances payable to Trustees as hereinafter provided and~~ (without limitation) costs incurred by the Trustees in pursuance of their duties and may in addition set aside reserves of

income to provide for any payments or liabilities which the Trustees have power to pay pursuant to this clause 5 or otherwise under this Deed.

~~1.6 The Trustees shall have power in their absolute discretion to accumulate so much of the income of the Trust Fund as they think fit by investing the same so that all such accumulations shall be added to and form part of the capital of the Trust Fund and be held by the Trustees upon the same trusts and with the powers herein declared in respect of such capital but provided that the Trustees may at any time or times resort to such accumulations and pay, apply or appropriate the whole or any part thereof as if the same were income of the Trust Fund arising in the Financial Year in which the same are resorted to.~~

~~1.7 The Trustees shall distribute the balance of the current net annual income by paying applying or appropriating the same in such manner and in such proportions as the Trustees in their absolute and unfettered discretion shall think proper for the benefit of the Consumers and where such distributions comprise Dividends the Trustees may have regard to any report of Directors given pursuant to clause 5.4 AND IT IS DECLARED that distributions of income for the benefit of Consumers may be made in any one or more of the following ways and no such distribution shall be called into question by any Consumer:~~

~~(a) By payment in cash to any one or more of the Consumers to the exclusion of other Consumers in such manner and in such shares and proportions as the Trustees in their absolute and unfettered discretion shall think proper;~~

~~(b) By the provision of goods or services or an entitlement to goods and services to any Consumer or Consumers and generally in such form and at such value as the Trustees shall determine including the giving of an entitlement by voucher or some other form of entitlement (which may be transferable or not transferable as the Trustees decide) to goods and services which the Trustees may have purchased or provided for out of the income of the Trust Fund;~~

~~(c) By carrying out or causing to be carried out works which in the opinion of the Trustees will benefit Consumers such as:~~

~~(i) Improvements to the safety of Consumers by removing road and overhead hazards caused by above ground electricity supply support systems in the District;~~

~~(ii) Avoiding, remedying or mitigating any adverse effects of energy related activities on the Environment;~~

~~(iii) Promoting research into more efficient ways of producing and distributing electrical energy for the benefit of Consumers in the District including the awarding of research scholarships or prizes and the funding of research and development projects;~~

~~(iv) Subsidising the installation of the means of supply of energy to Consumers which would otherwise be uneconomic;~~

~~(d) By carrying out or causing to be carried out or funding in whole or in part (whether by way of Consumer distribution, loan, investment, the underwriting of project liabilities, the giving of financial support or otherwise) the carrying out of projects or other community initiatives which in the opinion of the Trustees will benefit Consumers.~~

5.2 The Trustees shall out of the net annual income derived by the Trust Fund or from the capital of the Trust Fund pay an amount (the Rebate) to or for the benefit of each Consumer in an aggregate amount per annum described in clause 5.3 per ICP of that Consumer.

5.3 The amount of the Rebate payable to each Consumer (for the avoidance of doubt, to the extent to which the net annual income and capital of the Trust Fund is sufficient for such purposes) per ICP of that Consumer shall be:

(a) in the annual period to 31 December 2021 and in each annual period thereafter to 31 December 2030, \$500 (provided that in the annual period to 31 December 2021 the Trustees shall make such adjustment to any payment of Rebates payable after the Effective Date as is appropriate taking into account any other rebates paid to Consumers in that annual period prior to the Effective Date, so as to result in an aggregate payment to Consumers for that annual period of, or as closer as possible to, \$500);

(b) in each annual period thereafter to 31 December 2040, \$600; and

(c) in each annual period thereafter to 31 December 2050, \$700.

5.4 The timing and manner of such payment shall otherwise be in accordance with the Procedures set out in Part 2 of the Rebate Policy.

~~5.21.1~~ Each

~~1.8 The Trustees may request the Directors to produce a report in respect of each Dividend received by the Trustees which report recommends an appropriate allocation of the Dividend amongst the classes of Consumer based on the contribution made by each class of Consumer to the earning of that Dividend and in such report the Directors may classify Consumers in any manner they see fit.~~

~~5.35.5~~ Any of the Consumers to whom or in respect of which income or capital is paid, applied or appropriated by the Trustees pursuant to clause 5.3,2 shall, subject to clause 5.86, as from the date of such payment, application or appropriation take an absolute and indefeasibly vested interest in such income or capital.

~~1.9 The foregoing provisions as to vesting of income shall not operate to vest any part of the corpus of the Trust Fund in any of the Consumers.~~

~~1.10 Each Trustee who is also a Consumer shall notwithstanding the provisions of this Deed or any applicable rule of law or equity, be entitled to receive any benefits as a Consumer which may be distributed to Consumers in accordance with clause 5.3.~~

~~5.45.6~~ All payments made to Consumers ~~or entitlements of Consumers to goods and services~~ unclaimed for one year after having been ~~sent~~paid (or attempted to be so ~~sent~~) or notified to any ~~Consumer~~paid) may be invested or otherwise made use ~~of by or being an entitlement to goods and services disposed~~ of by the Trustees for the benefit of the Trust Fund until claimed and the Trustees shall be entitled to mingle the amounts of any unclaimed payments or money from entitlements with other moneys forming part of the Trust Fund and to credit any income arising in any Financial Year from the investment of such unclaimed payments to the Trust Fund. Any amounts unclaimed on the earlier of the Termination Date or one year after that amount was ~~sent~~paid (or attempted to be so ~~sent~~paid) or ~~notified~~notification thereof was provided to any Consumer (including by notification delivered to the last known address of that Consumer), in each case by or on behalf of the Trustees, shall thereupon be deemed to form part of the Trust Fund.

~~2.~~ TRUSTS OF CAPITAL

~~2.1~~ ~~The Shares and Other Securities or the proceeds of sale or other disposition of the Shares and Other Securities and investments representing the same (the corpus of the Trust Fund) shall be held by the Trustees upon trust to pay, apply or allocate the same, on or before the Termination Date for the benefit of the Consumers in such manner and in such shares as the Trustees in their absolute and unfettered discretion consider fair and equitable PROVIDED THAT the Trustees may at any time or times prior to the Termination Date pay, apply or allocate the corpus of the Trust Fund or any part of parts thereof as the Trustees think fit for the benefit of the Consumers in any of the ways set out in clause 5.3 of this Deed as if the provisions of clause 5.3 and clause 9.3 with any necessary changes were reproduced in this clause 6.1.~~

~~2.2~~ ~~From and after the Termination Date the Trustees shall stand possessed of the corpus of the Trust Fund and the income thereof and any income previously derived by the Trustees that has not been paid, applied or appropriated in accordance with clause 6.1 of this Deed, upon trust to pay, apply or appropriate the same to or for or otherwise howsoever for the benefit of the Consumers in such manner and in such shares (including if permitted by law, by establishing a further trust for the benefit of Consumers to be on the same terms mutatis mutandis as this Trust) as the Trustees shall in their absolute and unfettered discretion consider fair and equitable provided however that if the Trustees have not so paid, applied or appropriated any or all of such Trust Fund and income on the day before the first anniversary of the Termination Date the amount so remaining shall be paid in equal shares to each Consumer as at the first anniversary of the Termination Date.~~

5.7 Each Trustee who is also a Consumer shall, notwithstanding the provisions of this Deed or any applicable rule of law or equity, be entitled to receive any benefits as a Consumer which may be distributed to Consumers in accordance with clause 5.2.

5.8 Subject to clause 5.2, the Trustees shall have power in their absolute discretion to accumulate so much of the net annual income of the Trust Fund as they think fit (where such net annual income is not otherwise required for the payment of Rebates to Consumers) by investing the same so that all such accumulations shall be added to and form part of the capital of the Trust Fund and be held by the Trustees upon the same trusts and with the powers herein declared in respect of such capital.

6 TRUSTS OF CAPITAL AND INCOME ON THE TERMINATION DATE

From and after the Termination Date, the Trustees shall stand possessed of the remaining capital and income of the Trust Fund, upon trust to pay, apply or distribute to the Residuary Beneficiary to be held and applied on and subject to the trusts of the TECT Community Trust Deed.

67 APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES

The rules set forth in schedule 1 hereto (with such amendments, deletions and additions thereto as may lawfully be made) shall upon the execution out in Schedule 2 of this Deed shall govern the appointment, retirement and proceedings of the Trustees and associated matters.

78 GENERAL TRUSTEES' POWERS

~~2.3 The Trustees may exercise the powers, authorities and discretions conferred by this Deed in addition to and not by way of limitation of the powers, authorities and discretions conferred upon the Trustees generally by the Trustee Act (except where otherwise specified in this Deed). For the avoidance of doubt, no Trustee shall have the power, authority or discretion to participate in the management or operation of the Company (other than in the capacity as a Director appointed to the board of the Company and where the Trustee was nominated for that office pursuant to a Special Resolution of the Trustees) and in exercising the powers conferred by this clause and clause 9 the Trustees shall be restricted to exercising their rights as a shareholder subject always to the provisions of this Deed.~~

8.1 The Trustees have the following general powers:

(a) all the powers necessary to manage the Trust property including, in relation to the Trust property, all the powers of an absolute owner of the property; and

(b) all the powers necessary to carry out the Trust, including powers incidental to those in clause 8.1(a).

8.2 Without prejudice to the generality of clause 8.1 or to any of the Trustees' express or implied powers under this Deed and at law, the Trustees have the power to advance by way of loan all of the Trust Fund to the TECT Community Trust Trustees (subject to retention of such reserves as the Trustees determine). Such loan may be on a fixed rate of interest and otherwise on such terms as the Trustees in their discretion may determine, provided that the making of such loan does not preclude the Trustees from making the payment of Rebates contemplated by clause 5.

8.3 The Trustees may exercise their powers from time to time in such manner and on such terms and subject to such conditions as they may in their absolute and uncontrolled discretion determine, provided they do so having regard to their duties in law and under this Deed. Without prejudice to the generality of the foregoing, the Trustees shall ensure that in all dealings they have with the TECT Community Trust, they act in

their capacities as Trustees appointed pursuant this Deed in accordance with their duties described in clause 9 and as further specified in Schedule 1.

~~7.18.4~~ In the exercise of any power, authority or discretion under this Deed the Trustees shall have no obligation to deal with persons other than those who ~~qualify as~~ are Consumers as defined in this Deed and in particular shall not be required to recognise any trust or other arrangement affecting any Consumer nor shall the Trustees be liable in any respect for any inaccuracies in the records of ~~the Company~~ Trustpower (or any other person) which affect the status of any person as being or not being a Consumer.

~~3. TRUSTEES' POWERS~~

9 SUBJECT DUTIES OF TRUSTEES

9.1

~~3.1 The Trustees to the express terms of this Deed (and without limiting the generality of the foregoing) the Trustees shall have in relation to the Trust Fund and the income arising from the Trust Fund all the same powers as a natural person acting as beneficial owner of the property from time to time comprising the Trust Fund and such powers shall not be restricted by any principle of construction or rule of law except to the extent that such is obligatory.~~

~~(a) Without limiting the generality of the preceding paragraph and merely by way of example have the duties set out in Schedule 1 and will perform those duties having regard to the context of the Trust and the terms of this Deed.~~

~~3.2 In addition the Trustees shall have the powers specific duties set out in schedule II to this Deed which may be exercised either alone or jointly with any other person.~~

~~(a)(b) Notwithstanding clause 9.1, the Trustees shall not dispose (whether legally or beneficially) of any interest in the Shares or any other asset of the Trust Fund (and where more than one asset of the Trust Fund is disposed of in one or more transactions which substantially represent a single disposition of assets those assets shall be regarded as a single asset) unless:~~

~~(a) the disposal has been approved by a Special Resolution of the Trustees;~~

~~(b) Where the disposition is of Securities and the number of Securities proposed to be disposed of:~~

~~(A) is equal to or greater than five (5) percent of the Base Level for Securities; or~~

~~(B) when aggregated with any previous dispositions of Securities which have not been the subject of a Consumer Consultative Procedure, would be equal to or greater than five (5) percent of the Base Level for Securities;~~

the Trustees have first implemented a Consumer Consultative Procedure in respect of the proposed disposal Provided That the following Securities may be disposed of without restriction and the provisions of this clause 9.3(b) shall not apply to such dispositions:

~~(i) any Excess Securities;~~

~~(ii) any Securities so long as contemporaneously therewith:~~

~~(I) Securities are acquired which have voting rights which are at least equal in number to the voting rights attaching to the Securities being disposed of; or~~

~~(II) The Trust enters into an agreement or agreements to acquire Securities having voting rights which are at least equal in number to the voting rights attaching to the Securities being disposed of.~~

~~(c) Where the disposition is of an asset other than Securities which exceeds (or when aggregated with the value of assets other than Securities previously disposed of which were not subject to a Consumer Consultative Procedure exceeds) in value five (5) percent of the value of the Trust Fund, the Trustees have first implemented a Consumer Consultative Procedure in respect of the proposed disposal Provided That the provisions of this clause 9.3(c) shall not apply where, following the disposition, the Trust would still hold a Base Level for Securities or Securities and/or other assets which have voting rights which are at least equal in number to the voting rights attaching to a Base Level for Securities.~~

~~(d) For the purposes of clauses 9.3(b) and (c), the expressions:~~

~~“Base Level for Securities” at any time means 87,466,000 Securities;~~

~~“Excess Securities” at any time means securities in the Company held by the Trust in excess of the Base Level for Securities; and~~

~~“dispose”, “disposed” and “disposition” shall not include the giving of a mortgage (legal or equitable), charge or other encumbrance.~~

~~3.3 Notwithstanding the provisions of section 13C of the Trustee Act 1956 and the likelihood that the Trustees will from time to time include persons whose profession, employment or business is or includes acting as a trustee or investing money on behalf of others, the care diligence and skill to be exercised by the Trustees in exercising any power of investment shall not be that required of such persons by section 13C of the Trustee Act 1956 but, subject always to clause 9.5, shall at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.~~

~~3.4 Notwithstanding anything else in this Deed, no Trustee shall be liable for any breach of trust in respect of any duty to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others or that a prudent person engaged in a profession, employment or business that is or includes acting as a trustee or investing money on behalf of others would exercise in managing the affairs of others merely (in either case) because the investments of the Trust Fund (including, but without limitation, the Securities) are not diversified.~~

~~8.1~~ **DUTIES OF TRUSTEES**

~~8.19.2~~ The Trustees shall ensure that full and correct accounts of all the financial transactions of the Trust and its assets and liabilities and funds are kept.

~~8.29.3~~ The Trustees shall within four months after the end of each Financial Year:

- (a) prepare Financial Statements in accordance with generally accepted accounting practice (within the meaning of section ~~38~~ of the Financial Reporting Act ~~1993~~ 2013, applied as if the Trust was a reporting entity) with respect to the affairs of the Trust for that Financial Year;
- (b) submit those Financial Statements to an auditor for audit; and

~~(a) — make available to the public (which includes all Consumers) in accordance with clause 10.4~~ **make those audited Financial Statements and the auditor's report on those Financial Statements.**

~~3.5 — In addition, available to clause 10.2(a), the Financial Statements of the Trust shall show separately:~~

~~(a) — the total amount of any distribution of income or capital paid to all Consumers by way of general distribution (if applicable) in that Financial Year;~~

~~(b) — the names of persons to whom distributions of income or capital have been approved or paid in that Financial Year other than those referred to in clause 10.3(a) together accordance with the individual amounts approved or paid by way of a payment scheme; clause 9.9 and~~

~~(c) — a statement confirming that the Trustees have complied with all of their obligations under the Code of Practice.~~

~~3.6 — (a) — The Trustees shall make the documents referred to in clause 10.2(c) available to the public (which includes all Consumers) by making copies of them available:~~

~~(i) — for inspection at every office of the Trust or at any other place specified in the notification under clause 10.4(b) (during ordinary office hours) free of charge; and~~

~~(ii) — for purchase at a reasonable price.~~

- (c) ~~The Trustees~~ shall notify the fact that copies of such documents are so available by advertisement in the news section of two separate editions of each newspaper that is widely read by Consumers announcement on a website maintained by the Trust.

~~8.39.4~~

~~3.7 — (a) — The Trustees shall in each Financial Year, hold a General Meeting of Consumers at which the Consumers:~~

~~(i) (in respect of a general meeting of Consumers held in a year where no election of Trustees is required to be held) appoint an Independent Returning Officer to hold office from the conclusion of that meeting until the next general meeting of Consumers to be held in a non-election year;~~

- (a) at which the Consumers appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next ~~annual General Meeting~~general meeting of Consumers; ~~and,~~

~~(ii) if applicable, fix the amount of remuneration payable to Trustees pursuant to clause 12.1(b)(i).~~

- ~~(b) (i) The Trustees may fill any casual vacancy in the office of Independent Returning Officer by appointing an Independent Returning Officer to hold office until the conclusion of the next general meeting of Consumers to be held in a year where no election of Trustees is required to be held (but, while the vacancy remains, the surviving or continuing Independent Returning Officer, if any, may continue to act as Independent Returning Officer).~~

~~If no Independent Returning Officer is appointed in accordance with clause 10.5(a), or a casual vacancy in the office of Independent Returning Officer is not filled within one month of the vacancy occurring in accordance with this clause, the Secretary shall be the Independent Returning Officer who shall hold office until the conclusion of the next general meeting of Consumers to be held in a year where no election of Trustees is required to be held.~~

- (b) The Trustees may fill any casual vacancy in the office of auditor by appointing an auditor to hold office until the conclusion of the next ~~annual~~general meeting of Consumers (but, while the vacancy remains, the surviving or continuing auditor, if any, may continue to act as auditor).

~~(c) (i) The fees and expenses of the Independent Returning Officer must be fixed:~~

~~(A) at the general meeting of Consumers or in the way the Consumers determine at the meeting, if appointed at the general meeting; or~~

~~(B) by the Trustees, if appointed by the Trustees.~~

- (c) The fees and expenses of the auditor must be fixed:

(i) at the ~~annual~~general meeting of Consumers or in the way the Consumers determine at the meeting, if appointed at the ~~annual~~general meeting; or

(ii) by the Trustees, if appointed by the Trustees.

~~(d) (i) The Independent Returning Officer must be a person who, in the opinion of Trustees, is suitably qualified to act as an independent returning officer and who has no material conflict of interest with the Trust or its affairs. For the avoidance of doubt, the Independent Returning Officer cannot be a Trustee, a person who would be deemed to~~

~~be "interested" pursuant to clause 14 of Schedule 1 if that person was in fact a Trustee, a candidate nominated for election pursuant to clause 3.4 of Schedule 1, a Director, employee or agent of the Trust or of the Company, or a Consumer.~~

(d) The auditor of the Trust:

- (i) must be a person who is qualified to act as an auditor under section 199(1) of the Companies Act 1993 and, in selecting an auditor, the Consumers may seek the advice of the Auditor-General; and
- (ii) must not be a Trustee, ~~Director,~~ employee or agent of the Trust ~~or of the Company~~ or otherwise disqualified from being an auditor under section 199(2)(b) and (d) of the Companies Act 1993.

~~(e) (i) The Independent Returning Officer shall be entrusted with the whole conduct of a Trustee election held pursuant to this Trust Deed. The Independent Returning Officer shall have power to and shall:~~

~~(A) appoint such scrutineers and other assistants and delegate to them such powers and duties as it shall see fit;~~

~~(B) provide for the due secrecy, fair conduct and professional nature of any Trustee election process which is to be undertaken in accordance with the relevant provisions of Schedule 1 (as amended from time to time) and the Code of Conduct;~~

~~(C) generally do all things necessary, expedient or advisable in its opinion for the proper conduct of any Trustee election;~~

~~(D) where circumstances arise which create doubt or uncertainty in any Trustee election process, seek, at the Trust's cost, independent advice in the form of a legal opinion on such matters and upon which it may rely in order to resolve or clarify such uncertainties;~~

~~(E) monitor statements which are brought to the attention of the Independent Returning Officer or which are made publicly by incumbent Trustees and/or election candidates in relation to any Trustee election to ensure that such statements are factually correct and not misleading. The Independent Returning Officer shall be entitled to require that person making offending statements to retract or correct such statements and may, if thought appropriate in the circumstances, publicly correct any misstatements or inaccuracies of fact on that persons behalf if they fail to do so in an appropriate manner and within an appropriate period of time and may disqualify a candidate from a Trustee election or take such other action that he/she may think fit in his/her sole discretion in order to meet the purpose and objectives of this Deed and the Code of Conduct in relation to a Trustee election; and~~

~~(E) be entitled to be indemnified against the Trust Fund and be reimbursed for any reasonable expenses incurred by it in the exercise of its duties and powers under this Trust Deed.~~

- (e) In addition, sections 198, 200 and 202 to 207 of the Companies Act 1993 apply in relation to the auditor. These sections of the Companies Act 1993 apply as if references to a company were to the Trust, references to a director were to a Trustee, references to a board were to the Trustees, references to shareholders were to Consumers, ~~references to a subsidiary were to an electricity company owned by the Trust and that company's subsidiaries,~~ and all other necessary modifications were made. ~~In this clause, "electricity company" has the meaning set out in section 3(1) of the Electricity Industry Reform Act 1998.~~

8.49.5

- (a) ~~(a)~~ — The Trustees must give no less than ~~14~~ten (10) working days' notice of the ~~annual~~general meeting of Consumers ~~in on a website maintained by the news section of two separate editions of each newspaper that is widely read by Consumers~~Trust.
- (b) Every Consumer shall have one vote.
- (c) The quorum for ~~the annual~~that general meeting is 20 Consumers.
- (d) No business may be transacted at the ~~annual~~general meeting of the Consumers if a quorum is not present.
- (e) ~~Regulations if issued under section 172C of the Electricity Act 1992 shall govern proceedings~~Proceedings at ~~such annual meetings~~the general meeting of Consumers ~~but if no such Regulations have been issued, then such proceedings shall be determined by the Trustees~~Chairperson of the Trust.

9.6 ~~(a)~~ —

- ~~(f)~~(a) If no auditor is appointed in accordance with clause ~~109.5~~9.5(a) or a casual vacancy in the office of auditor is not filled within one month of the vacancy occurring in accordance with clause ~~109.5~~9.5(b), the Auditor-General shall be the auditor of the Trust.
- ~~(g)~~(b) The Trustees shall, within five ~~(5)~~5 working days of clause ~~109.7~~9.7(a) becoming applicable, give written notice to the Auditor-General of this fact.
- ~~(h)~~(c) If this clause ~~10.79.6~~9.6 applies, the sections and parts of the Public Audit Act 2001 listed in section 19 of that Act shall apply to the Trust until an auditor is appointed at ~~an annual~~a general meeting of Consumers, as if references in those sections to a public entity were references to the Trust and with any other necessary modifications.

~~8.59.7~~ The Trustees shall, from time to time, make a copy of this Deed available to Consumers in accordance with clause ~~11~~10.

~~8.69.8~~ The Trustees shall ~~comply with the provisions of the Code of Practice in effect from time to time.;~~

~~3.8~~ ~~The Trustees shall:~~

- (a) keep confidential all Confidential Information (and its existence) which has been provided to or become available to either the Trust or Trustee(s);
- (b) not disclose or otherwise publish Confidential Information, nor make any copies of, or record any extracts from, Confidential Information and must use their ~~best~~reasonable endeavours to ensure that to the extent possible by law no other person does so; and
- (c) not use Confidential Information other than for the purpose of the proper discharge in good faith of duties and obligations created by the Trust, with the exception of Confidential Information provided in confidence to a professional advisor of the Trust or to a Trustee for the purposes of the obtaining of advice as to the discharge in good faith of duties and obligations created by the Trust and with the further expectation of compliance with any order or determination made by any Court or lawful authority.

The Trustees acknowledge that a breach of Trusteeship dealing with matters of confidentiality and Confidential Information may amount to a breach of trust of such a serious nature as to justify an expectation of resignation by the defaulting Trustee, failing which action by the Trust for removal from office may be proper.

910 **INFORMATION TO CONSUMERS**

~~Subject to clause 10.4, for~~For the purpose of complying with any requirement under this Deed to make any document or information available to Consumers, it shall be sufficient for the Trustees to make such document or information available ~~for inspection at any office of the Trust or any office of the Company or at any other place in the District during normal business hours on any business day.;~~

~~3.9~~ ~~The Trustees shall give not less than three days' notice in a principal newspaper or newspapers circulating in the District of the place at which and the times when such documents or information may be inspected by Consumers.~~

(a) for inspection at every office of the Trust (during ordinary office hours);

(b) at any other place or in any other manner specified by the Trustees and notified to Consumers; or

(c) on a website maintained by the Trust,

in each case free of charge.

1011 REMUNERATION ~~AND EXPENSES~~ OF TRUSTEES

~~(a) — Any~~ No Trustee hereof who shall be employed entitled in connection with the trusts hereof may be paid ~~all such~~ any Financial Year to remuneration for their services as ~~may be normal as if they had been employed in that behalf and had not been a Trustee hereof.~~

~~(a) — (i) — The Trustees (other than a Trustee remunerated pursuant to clause 12.1(a) to the extent that such remuneration covers services to which this clause 12.1(b) applies) shall be entitled in each Financial Year to such remuneration for their services as may be reasonable having regard to their duties and responsibilities as Trustees.~~

~~(i) — No remuneration shall be paid to a Trustee pursuant to clause 12.1(b)(i) unless that remuneration has been authorised by a resolution of Consumers passed at a General Meeting of Consumers held pursuant to clause 10.5(a) provided that the total remuneration (including meeting allowances) payable to Trustees for the financial year ending 31 March 2004 shall be deemed to have been duly authorised by Consumers for the purposes of this clause. Each such resolution shall express Trustees' remuneration as either:~~

~~(A) — a monetary sum per annum payable to all Trustees taken together; or~~

~~(B) — a monetary sum per annum, plus meeting allowances, payable to any person who from time to time holds office as a Trustee or as the Chairperson or as the Deputy Chairperson.~~

~~In the event of an increase in the total number of Trustees holding office, the Trustees may, without the authorisation of a resolution of Consumers, increase the total remuneration by such amount as is necessary to enable the additional Trustee or Trustees to receive remuneration, including provision for meeting allowances, not exceeding the average amount then being paid to each of the other Trustees (excluding the Chairperson).~~

~~(ii) — No resolution which increases the amount fixed pursuant to a previous Consumer resolution shall be passed at a General Meeting of Consumers unless notice of the amount of increase has been given in the notice of meeting.~~

~~(iii) Trustees' remuneration paid pursuant to clause 12.1(a) may be approved by the Trustees without the need for Consumer approval.~~

~~3.10 The Trustees shall be entitled to be indemnified against, and reimbursed for, any expenses incurred by them in the exercise of their powers and duties under this Deed.~~

~~3.11 The payments of remuneration and expenses to the Trustees pursuant to rule 12.1(a), 12.1(b) or rule 12.2 shall be paid out of the Trust Fund or any other fund available for that purpose.~~

~~11.12~~ VARIATION TO TRUST DEED

~~11.12.1~~ The Trustees shall have the power by Special Resolution (of which notice to propose that Special Resolution shall have been given in the notice convening the meeting) to alter or amend the terms of this Deed other than ~~clause 13.2 and the provisions set out in clause 13.2 which shall only be capable of being altered or amended in the manner set out in clause 13.2.;~~

- ~~(a) clause 12.2 and the provisions set out in clause 12.2 which shall only be capable of being altered or amended in the manner set out in clause 12.2; and~~
- ~~(b) the definition of "Residuary Beneficiary", clauses 5.3, 5.4, 6, 7, this clause 12.1(b) and clause 13, which may not be altered or amended by the Trustees.~~

~~12.2~~ The Trustees shall have power ~~on a unanimous resolution of all the Trustees after~~ to alter or amend:

- ~~(a) the definitions of "Consumers", "District", "Rebate" and "Rebate Policy";~~
- ~~(b) clauses 4, 5 (other than clauses 5.3 and 5.4), and 9.3; and~~
- ~~(c) Schedule 5 of this Deed,~~

~~in accordance with the following procedure:~~

- ~~(i) the Trustees ~~have implemented~~ implement a Consumer Consultative Procedure in respect of the proposed alteration or amendment;~~
- ~~(ii) Consumers approve the alteration or amendment by way of poll whereby each Consumer has one vote (regardless for the avoidance of doubt of the number of ICPs attributable to that Consumer) and a majority of not less than seventy five percent (75%) of the votes received are in favour of the alteration or amendment;~~
- ~~(iii) the alteration or amendment is approved by a unanimous resolution of all the Trustees; and~~

~~(+)(iv) if the Trustees consider based on legal advice that the approval of the High Court of New Zealand is necessary or advisable in respect of such proposal to alter or amend: alteration or amendment, the approval of that High Court.~~

~~(a) the definition of "Consumers" or "District"; and~~

~~(b) clauses 4, 5, 6, 9, 3 or 14.~~

~~3.12 Notwithstanding clauses 13.1 and 13.2, no alteration or amendment may be made to this Deed that has the effect of limiting or restricting the obligations or powers of the Trustees under this Deed to:~~

~~(a) review proposals and available options for the ownership of the Shares; or~~

~~(b) sell, transfer or dispose of the Shares in accordance with clause 9.3.~~

12.13 WINDING UP OF TRUST

~~12.13.1~~ 13.1 The Trustees may at any time after first having implemented a Consumer Consultative Procedure resolve by unanimous resolution to shall wind up the Trust: on 31 December 2050.

~~3.13 If the Trust holds less than 5 per cent of the total share capital of the Company and does not hold any debt security issued by the Company the Trustees shall implement a Consumer Consultative Procedure to determine whether to wind up the Trust.~~

~~3.14 If a resolution to wind up the Trust has not been passed by 1 January 2072, the Trustees shall as soon as practical thereafter pass the resolutions requiring the Trust to be wound up. If the resolutions have not been passed by 1 July 2072 the provisions of clause 14.4 shall apply as if the resolutions had been passed.~~

13.2 Notwithstanding clause 13.1, the Trustees may wind up the Trust at any time prior to 31 December 2050, provided that:

(a) the Trustees are of the opinion that the Trust Fund is not sufficient to enable the payment of the Rebate payment (or semi-annual instalment thereof) next falling due to Consumers, after taking into account other liabilities and expenses required to be met out of the Trust Fund; or

(b) the Trustees have otherwise first followed the procedure for altering or amending this Deed set out in clause 12.2 (as if such procedure was expressly stated to apply to a winding up of the Trust).

~~12.2~~13.3 On the winding up of the Trust, all surplus assets after the payment of all costs, debts and liabilities shall be paid, applied or appropriated to or for or otherwise howsoever ~~for the benefit of Consumers~~ in accordance with ~~Clause~~clause 6.2.

13~~14~~ **LIABILITY AND INDEMNITY**

~~14.1~~ No Trustee acting or purporting to act in the execution of the trusts of this Deed shall

~~(a)~~ A Trustee will be liable only for any loss not attributable to that Trustee's own dishonesty or to the wilful commission or omission suffered by that the Trust Fund attributable to the Trustee's own dishonesty, wilful misconduct or gross negligence.

~~(b)~~ No Trustee of an act where such commission or omission is known will be liable for any other loss attributable to any breach of trust by the Trustee to be a.

~~(c)~~ No Trustee will be liable for any loss attributable to any breach of trust by any co-Trustee and in particular nor will any Trustee shall be bound to take, or be liable for failure failing to take, any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.

~~3.15~~ Every Trustee shall be chargeable only for such moneys as shall actually have been received by that Trustee although that Trustee may have joined in any receipt for money received by any other Trustee. No Trustee shall be answerable for the acts or omissions of any other Trustee nor for any loss which may arise by reason of any trust funds being lawfully deposited in the hands of any banker, solicitor or agent or for the sufficiency, insufficiency or deficiency of any security upon which any trust money or any part thereof may be invested or for any loss in the execution of any trust unless the same shall happen through that Trustee's neglect or default.

~~4.~~ **INDEMNITY**

~~Any Trustee, officer or employee of the Trust shall be indemnified out of the assets of the Trust for and in respect of any loss or liability which such Trustee may sustain or incur by reason of the carrying out or omission of any function, duty or power under this Deed and also in respect of any expenses incurred by the Trustee in the management and administration of the Trust Fund unless such loss or liability is attributable to that Trustee's dishonesty or to the wilful commission of an act known by the Trustee to be a breach of trust or to the wilful omission by such Trustee of any act when that omission is known by such Trustee to be a breach of trust.~~

14.2 A Trustee will be entitled to full and complete exoneration, indemnity and reimbursement from the Trust Fund for any and all liability and expense which that Trustee incurs in relation to the Trust (including in defending or prosecuting any proceedings in relation to the Trust) and which is not attributable to that Trustee's own dishonesty, wilful misconduct or gross negligence.

14.3 For the purposes of this clause 14 "gross negligence" in relation to any conduct of a Trustee (including any action or inaction) means conduct that is so unreasonable that no reasonable trustee in the Trustee's position and in the same circumstances would have considered the conduct to be in accordance with the role and duties of a trustee having regard to the following factors:

- (a) the circumstances, nature, and seriousness of the breach of trust;
- (b) the Trustee's knowledge and intentions relating to the breach of trust;
- (c) the Trustee's skills and knowledge that are relevant to the role of trustee;
- (d) the purpose for which the Trustee was appointed;
- (e) any other circumstances, including whether the Trustee has been remunerated for the role, or characteristics of the Trustee that are relevant to the role of trustee;
- (f) the type of trust, including, without limitation, the degree to which the Trust is part of a commercial arrangement, the assets held by the trust, how the assets are used, and how the trust operates;
- (g) the purpose of the Trust, including, without limitation, what the Trust is intended to achieve, and whom the Trust is intended to benefit and in what ways; and
- (h) any other factor a court might consider relevant.

14.4

- (a) The Trustees, in respect of one or more of the Trustees, may take out trustees' liability insurance for such cover (including defence cover) and on such terms as the Trustees think fit.
- (b) Rather than having such insurance arranged by the Trustees, a Trustee may take out personal trustees' liability insurance for such cover and on such terms as that Trustee thinks fit.
- (c) In each case, the reasonable cost of premiums is to be treated as a legitimate expense of the Trust, and may be paid directly from the Trust Fund or by way of reimbursement to the Trustees or Trustee.

14.15 **NOTICES**

14.15.1 Any notices or documents to be given to the Trustees pursuant to this Deed shall be in writing signed by the person giving the notice and served at the office of the Trust.

14.215.2 Any notice or document given pursuant to clause ~~17~~15.1 shall be deemed to be duly given or made:

(a) if delivered by hand, when so delivered;

~~(a) if sent by facsimile, when receipt is confirmed;~~

(b) if sent by post, on the third working day after posting;

(c) if sent by email, on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the Trust as set out on its website).

IN WITNESS WHEREOF this Deed has been executed the day and year first hereinbefore written.

Executed as a Deed

~~THE COMMON SEAL of TRUSTPOWER LIMITED was affixed in the presence of:~~

~~"A Carpenter" "K Tempest"~~

~~Signature of Authorised Person Signature of Authorised Person~~

~~Avon Leavett Carpenter Keith Neville Tempest~~

~~Name of Authorised Person Name of Authorised Person~~

Chairman _____ Secretary _____

Office Held _____ Office Held _____

SIGNED by

~~SHIRLEY MARGARET CROWLEY~~

in the presence of:

"C Bogun" _____ "S.M. Crowley" _____

Signature of Witness _____ Signature of **SHIRLEY MARGARET CROWLEY**

~~C.M. Bogun~~

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

~~IAN FREDERICK FOOTE~~

in the presence of:

~~"C Bogun"~~

~~"I F Foote"~~

~~Signature of Witness~~

~~Signature of IAN FREDERICK FOOTE~~

~~C M Bogun~~

~~Name of Witness~~

~~Secretary~~

~~Occupation of Witness~~

~~Tauranga~~

~~Town of Residence~~

SIGNED by

~~BARRY WALTER BRAME JENSEN~~

in the presence of:

"C Bogun"

"B W B Jensen"

Signature of Witness

Signature of **BARRY WALTER BRAME JENSEN**

C M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

NOEL HAYWARD JOHNSON

in the presence of:

"C Bogun"

"Noel H Johnson"

Signature of Witness

Signature of **NOEL HAYWARD JOHNSON**

C M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

~~NORMAN FREDERICK MAYO~~

in the presence of:

"C Bogun"

"N F Mayo"

Signature of Witness

Signature of ~~NORMAN FREDERICK MAYO~~

C M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

EDWARD McGREGOR MURRAY

in the presence of:

"C Bogun"

"E Murray"

Signature of Witness

Signature of **EDWARD McGREGOR MURRAY**

C-M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

NOEL FRANK POPE

in the presence of:

"C Bogun"

"N.F. Pope"

Signature of Witness

Signature of **NOEL FRANK POPE**

C.M. Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

~~LYN ARTHUR WAHREN~~

in the presence of:

"C Bogun"

"L A Wahren"

Signature of Witness

Signature of ~~LYN ARTHUR WAHREN~~

C M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SIGNED by

~~RUFUS GEORGE WALLINGFORD~~

in the presence of:

"C Bogun"

"R G Wallingford"

Signature of Witness

Signature of ~~RUFUS GEORGE WALLINGFORD~~

C M Bogun

Name of Witness

Secretary

Occupation of Witness

Tauranga

Town of Residence

SCHEDULE I

RULES GOVERNING THE

SCHEDULE 1

TRUSTEES' DUTIES

- 1 **Duty to know the terms of Trust:** A Trustee must know the terms of the Trust.
- 2 **Duty to act in accordance with the terms of Trust:** A Trustee must act in accordance with the terms of the Trust.
- 3 **Duty to act honestly and in good faith:** A Trustee must act honestly and in good faith.
- 4 **Duty to act for benefit of beneficiaries:** A Trustee must hold or deal with the Trust Fund and otherwise act for the benefit of the beneficiaries of the Trust, in accordance with the terms of the Trust.
- 5 **Duty to exercise powers for a proper purpose:** A Trustee must exercise the Trustee's powers for a proper purpose.
- 6 **Duty of care:** In administering the Trust (other than when exercising a discretion to distribute Trust property), a Trustee must exercise the care and skill that is reasonable in the circumstances. However, a Trustee who has, or holds out as having, special knowledge or experience, or who acts in the course of a business or profession, will not be held to a higher (or different) standard than any other Trustee. For the purposes of sections 5(4) and 5(5) of the Trusts Act this clause is to be regarded as a modification of section 29 of the Trusts Act.
- 7 **Duty to invest prudently:** In the exercise of the power of investment of Trust property, a Trustee must exercise the care and skill that a prudent person of business would exercise in managing the affairs of others. A Trustee who has, or holds out as having, special knowledge or experience, or who acts in the course of a business or profession, will not be held to a higher (or different) standard than any other Trustee. For the purposes of sections 5(4) and 5(5) of the Trusts Act this clause is to be regarded as a modification of section 30 of the Trusts Act.
- 8 **Duty not to exercise power for own benefit, duty to avoid conflicts of interest, duty not to profit and duty to act for no reward:** The following duties:
 - (a) the duty in section 31 of the Trusts Act not to exercise a power directly or indirectly for the Trustee's own benefit;
 - (b) the duty in section 34 of the Trusts Act to avoid conflicts of interest;
 - (c) the duty in section 36 that a Trustee must not make a profit from the trusteeship of the Trust; and
 - (d) the duty in section 37 that a Trustee must not take any reward for acting as a Trustee,

are modified pursuant to sections 5(4) and 5(5) of the Trusts Act so that each Trustee may act as a Trustee and still contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity (including without limitation as a TECT Community Trust Trustee) as if he or she had not been appointed as a Trustee and receive reimbursement, remuneration, fees or other profit on and to the extent provided in this Deed and provided the Trustee acts honestly and in good faith, in furtherance of the purposes for which this Trust is maintained and otherwise discharges the duties set out in clauses 1 to 6 of this Schedule.

9 Duty to consider exercise of power: A Trustee must actively and regularly consider whether the Trustee should exercise one or more of the Trustee's powers having regard to the nature of the power, the context of the Trust, the nature of the investments of the Trust and any other matters the Trustee considers relevant. For the purposes of sections 5(4) and 5(5) of the Trusts Act this clause 9 is to be regarded as a modification of section 32 of the Trusts Act.

10 Duty not to bind or commit Trustees to future exercise of discretion: The duty that a Trustee must not bind or commit the Trustees to a future exercise or non-exercise of a discretion is modified to the extent that a Trustee may bind or commit the Trustees to a future exercise or non-exercise of a discretion in relation to any matter relating to the Trust or the Trust Fund, if the Trustee considers it necessary or desirable for carrying out the purposes for which the Trust is maintained or any administrative or other functions of the Trustees and the Trustee acts honestly and in good faith, and otherwise discharges the duties set out in clauses 1 to 5 of this Schedule. For the purposes of sections 5(4) and 5(5) of the Trusts Act this clause 10 is to be regarded as a modification of section 33 of the Trusts Act.

11 Duty to keep Core Trust Documents:

11.1 Each Trustee must keep, so far as is reasonable, the following Core Trust Documents relating to the Trust:

- (a) the Trust Deed and any other document that contains the terms of the Trust;
- (b) any variations made to the Trust Deed or Trust;
- (c) records of the Trust property that identify the assets, liabilities, income, and expenses of the Trust and that are appropriate to the value and complexity of the Trust property;
- (d) any records of Trustee decisions made during the Trustee's trusteeship;
- (e) any written contracts entered into during that Trustee's trusteeship;
- (f) any accounting records and financial statements prepared during that Trustee's trusteeship;

- (g) documents of appointment, removal, and discharge of Trustees (including any court orders appointing or removing Trustees);
- (h) any other documents necessary for the administration of the Trust; and
- (i) any documents referred to in this clause that were kept by a former Trustee during that person's trusteeship and passed on to the current Trustee.

11.2 If each Trustee holds at least:

- (a) the Trust Deed and any other document that contains the terms of the Trust; and
- (b) any variations made to the Trust Deed or Trust or copies of those documents,

the Trustees may agree that one or more of their number holds all other Core Trust Documents in clause 11.1 above, provided the Trustees are satisfied that those documents (or copies of them) will be made available to the other Trustees on request.

11.3 The Core Trust Documents must be kept for the duration of the Trustee's trusteeship. When that trusteeship ends, if the Trust continues, the Trustee must give at least one replacement Trustee or the continuing Trustees the Core Trust Documents held by the Trustee on the date the trusteeship ends.

SCHEDULE 2

APPOINTMENT, RETIREMENT AND PROCEEDINGS OF THE TRUSTEES

1 NUMBER OF TRUSTEES

Until the first Annual General Meeting as provided herein the number of Trustees of the Trust from time to time shall be not less than six (6) nor more than nine (9) and after that date the same as those prescribed for the TECT Community Trust pursuant to the TECT Community Trust Deed.

2 APPOINTMENT AND RETIREMENT

(a) The Trustees of the Trust shall be six (6) ~~PROVIDED THAT~~ if at any time there be those same persons who are less than the minimum number of Trustees validly elected, or appointed, and continuing in the office specified for that period the remaining of a TECT Community Trust Trustee pursuant to the TECT Community Trust Deed at that time.

(b) For the avoidance of doubt, where a person pursuant to the TECT Community Trust Deed:

(i) is validly elected, or appointed, to the office of trustee of the TECT Community Trust;

(ii) resigns or is removed from the office of trustee of the TECT Community Trust; or

(iii) is no longer eligible to hold office as a trustee of the TECT Community Trust,

then such person shall also be, and be deemed to be (without further action being required to be taken), appointed to, resign from, or be removed from the office of Trustee of the Trust.

(a)(c) The Trustees acknowledge and agree that should they retire or be removed as a Trustee of the TECT Community Trust, then they will also retire as or otherwise cease to be a trustee of the Trust and will take all steps and complete all necessary documents to action and confirm the same. If notwithstanding the forgoing provisions of this clause 2 of this Schedule 2, any provision in this clause 2 deeming a Trustee to be elected or appointed to, or resigned or otherwise removed from, the office of Trustee is ineffective, then the statutory power of appointing new or replacement Trustees shall be entitled to act until, and the number of power to remove Trustees is restored to the minimum number and no act or decision of the, shall be vested in the TECT Community Trust Trustees shall be called in to question on such account.

- ~~4.2 — The Trustees who have executed this deed as first trustees shall hold office until the conclusion of the first Annual General Meeting on which date six (6) of the Trustees (and any Trustee who may have been appointed to fill a casual vacancy of any of the first Trustees or a successor to any of the first Trustees) shall retire. The Trustees shall determine who among them shall retire (and, in the case of disagreement, this shall be determined by the drawing of lots).~~
- ~~4.3 — Prior to the first Annual General Meeting three (3) Trustees shall be elected to replace the six (6) Trustees retiring in accordance with rule 1.2 in the manner specified in rule 3.4, such appointment to take effect contemporaneously with the retirement required by rule 1.2. A retiring Trustee shall be eligible for nomination for election subject to the other provisions of this Deed.~~
- ~~4.4 — At the conclusion of the third Annual General Meeting those first Trustees who did not retire pursuant to rule 1.2 (and any Trustee who may have been appointed to fill a casual vacancy of any of the first Trustees or a successor to any of the first Trustees) shall retire.~~
- ~~4.5 — Prior to the third Annual General Meeting three (3) Trustees shall be elected to replace the three (3) Trustees retiring in accordance with rule 1.4 in the manner specified in rule 3.4, such appointment to take effect contemporaneously with the retirement required by rule 1.4. A retiring Trustee shall be eligible for nomination for election subject to the other provisions of this Deed.~~
- ~~4.6 — From and including the fifth Annual General Meeting and at every second Annual General Meeting occurring thereafter, three (3) Trustees shall retire from office. The Trustees to retire at any Annual General Meeting shall firstly be any Trustee(s) (if any) appointed to fill any casual vacancy since the last Trustee election and secondly the required number of elected Trustees (to make the number of retiring Trustees three (3) in total) who have been longest in office since their election. If there are more elected Trustees due to retire than the required number of elected Trustees to retire as determined in accordance with the previous sentence, then the elected Trustees to retire shall be determined by lot. Such retiring Trustees shall retire at the conclusion of the relevant Annual General Meeting.~~

~~Where a casual vacancy is not filled pursuant to clause 1.7 of this Schedule and remains open at the next Annual General Meeting at which an election of Trustees is to take place, then (for the purposes of this clause and in order to determine the required number of elected Trustees to retire) such vacancy shall be deemed to be have been filled.~~

~~The new Trustees who have been elected in accordance with clause 3.4 of this Schedule, who may, subject to the other provisions of this Deed, include Trustees who have retired, shall be appointed at the conclusion of that Annual General Meeting.~~

- ~~4.7 — Any casual vacancy in the number of Trustees:~~

~~(a) — shall, in the case of a vacancy occurring more than 12 months prior to the next scheduled election of Trustees; or~~

~~(b) — may, in any other case,~~

~~be filled within 3 months of that vacancy occurring providing that the new appointee shall, subject to clause 1.6, hold office only for the residue of the term of office of the Trustee whose place is taken.~~

Any new appointee may be chosen at the discretion of the remaining Trustees having regard to the range and nature of skills of the appointee so that such skill set complements those of the remaining Trustees and which will add value to the good decision making by Trustees in their administration of the Trust.

~~5. ELIGIBILITY~~

~~5.1 Subject to rule 2.2, the following persons shall not be eligible for appointment as a Trustee and may not hold office as a Trustee:~~

~~(a) a bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act 1967;~~

~~(b) a person who has been convicted of any offence punishable by a term of imprisonment of two or more years unless that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed upon that person;~~

~~(c) a person who has been sentenced to imprisonment for any offence unless that person has obtained a pardon or has served the sentence;~~

~~(d) a person to whom an order made under section 189 of the Companies Act 1955 applies;~~

~~(e) a person who is mentally disordered within the meaning of the Mental Health Act 1969;~~

~~(f) a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1989;~~

~~(g) a person who is not ordinarily resident in the District;~~

~~(h) a person who is an employee or a Director of the Company (other than a Trustee who has been appointed to the board of the Company as a Director following nomination for that office pursuant to a Special Resolution of the Trustees);~~

~~(i) the Secretary or the Treasurer;~~

~~(j) a person who is not, or who ceases to be, a Consumer.~~

~~(k) a person who is, or becomes, a member of parliament in New Zealand;~~

~~(l) a person who is, or becomes, a councillor or employee of any Local Authority whose territory includes any part of the District;~~

~~(m) a person who is, or becomes, a member (whether elected or appointed) of a Community Board (as that term is defined in the Local Government Act 1974) whose territory includes any part of the District.~~

~~5.2 A person shall not be disqualified from appointment and may continue to hold that office:~~

~~(a) in any case to which rule 2.1(b) applies, until the expiration of the time for appealing against the conviction and, in the event of an appeal against conviction, until the appeal has been determined;~~

~~(b) — in any case to which rule 2.1(c) applies, until the expiration of the time for appealing against the sentence of imprisonment and, in the event of an appeal, until the appeal has been determined;~~

~~(c) — in any case to which rule 2.1(h) applies, until the declaration of the result of the first election of Trustees pursuant to rule 3.4(e) or 3.4(k);~~

~~(d) — in any case to which rule 2.1(h) applies, after the declaration of the result of the first election of Trustees pursuant to rule 3.4(e) or 3.4(k), if the Trustee resigns the office or employment disqualifying that Trustee from holding office as Trustee, which resignation is to have effect within two weeks of appointment as a Trustee.~~

~~6. — TERM OF OFFICE~~

~~6.1 — A Trustee shall cease to hold office if:~~

~~(a) — the Trustee resigns by written notice to the Trustees;~~

~~(b) — the Trustee is ineligible for election or appointment as a Trustee pursuant to rule 2.1;~~

~~(c) — the Trustee dies while holding office as a Trustee;~~

~~(d) — the Trustee is not re-elected pursuant to rule 3.4, when the Trustee shall retire at an Annual General Meeting as specified in rule 3.4(n);~~

~~(e) — the Trustee does not attend 3 consecutive monthly Trustee meetings of which notice has been properly given without the prior consent of the remaining Trustees.~~

~~6.2 — The provisions of rule 2.2 shall apply, mutatis mutandis, to rule 3.1. During any appeal period the Trustee shall be deemed to have taken leave of absence and shall not be capable of acting as a Trustee. If the conviction or sentence of imprisonment (as the case may be) is not upheld the Trustee shall be immediately reinstated. If the conviction or sentence (as the case may be) is upheld the disqualification as Trustee shall take immediate effect.~~

~~6.3 — Upon every appointment, reappointment, retirement or cessation of office of any Trustee the Trustees shall cause an entry thereof to be recorded in the minute book of the Trust.~~

~~6.4 — Other than the first Trustees as set out in rule 1.2 and any casual vacancy Trustee(s) appointed pursuant to rules 1.7 and 5(c), all Trustees shall be elected by the Consumers (determined in accordance with rule 3.4(e) and every reference to "Consumers" in rules 3.4(f), (g) and (i) shall be a reference to those Consumers as so determined) in the following manner, or in such other manner as the Trustees may by Special Resolution determine from time to time:~~

~~(a) — Not later than nine weeks before the proposed date of the election the Independent Returning Officer shall insert a notice in a newspaper or newspapers circulating in the District giving:~~

~~(i) — advice of the proposed election;~~

~~(ii) — the place or places at which nomination forms may be obtained;~~

~~(iii) — where completed nominations may be lodged; and~~

~~(iv) — notice that the nominator, candidate and seconder must be, at the time of making the nomination, Consumers;~~

~~(v) — the day and time nominations close.~~

~~(b) — Every nomination of a candidate shall be in writing. Nomination forms shall be in such form as the Independent Returning Officer decides, but shall include:~~

~~(i) — the full name and address of the candidate;~~

~~(ii) — a statement by the candidate that the candidate is not, and to the best of the candidate's knowledge and belief will not be on the date of the election, disqualified from holding office as a Trustee by reason of any of the matters set out in rule 2.1. If the candidate would be disqualified from holding office because of rule 2.1(h), the candidate shall not be so disqualified if the statement is accompanied by a further statement that should that candidate be elected he or she shall immediately resign that office or employment which causes him or her to be disqualified under rule 2.1(h); and~~

~~(iii) — the signature of the nominator and seconder and the candidate all of whom must be Consumers.~~

~~The Independent Returning Officer shall be entitled to declare any nomination invalid where on reasonable grounds he has good cause to believe that the candidate is ineligible for election in terms of rule 2.1.~~

~~(c) — The nomination of a candidate shall be deemed to have never been made, and the candidate shall be ineligible for election, if the:~~

~~(i) — nominator withdraws the nomination by notice received by the Independent Returning Officer before closure of nominations;~~

~~(ii) — candidate withdraws by notice received by the Independent Returning Officer before a result is declared;~~

~~(iii) — candidate dies before a result is declared;~~

~~(iv) — candidate becomes disqualified by virtue of rule 2.1 before a result is declared.~~

~~(d) — Nominations shall close four weeks after the first notice calling for nominations was given pursuant to rule 3.4(a).~~

~~(e) — If, on the closure of nominations, the number of valid nominations which have been received are equal to or less than the number of vacancies for the office of Trustee the Independent Returning Officer shall declare the candidates duly elected and no election shall be held. If less nominations are received than there are vacancies, the Trustees shall forthwith fill the vacancy or vacancies in accordance with rule 1.7 and a retiring Trustee who has not been nominated shall be eligible to fill a vacancy.~~

~~(f) — Should nominations be received for more than the number of vacancies, the Independent Returning Officer shall conduct an election of Trustees pursuant to this clause 3.4.~~

The Independent Returning Officer may, acting upon an instruction of the Trustees, use any of the following voting methods:

- ~~(i) the method of voting commonly known as booth voting;~~
- ~~(ii) the method of voting commonly known as postal voting;~~
- ~~(iii) any form of electronic voting;~~
- ~~(iv) any method of voting involving a combination of more than one of the methods referred to in subparagraphs (i) to (iii) above; or~~
- ~~(v) any other method of voting, howsoever described.~~

~~The Independent Returning Officer shall give, not less than three weeks prior to the date on and the time at which voting is to close (in this clause 3.4, "Voting Period"), to the Consumers, in such manner as the Independent Returning Officer shall deem fit, a postal and/or electronic ballot paper which shall contain:~~

- ~~(vi) the names of all candidates validly nominated in alphabetical order of their surnames and appropriate provision for recording the Consumer's vote;~~
- ~~(vii) if postal voting is to be used, a pre-paid envelope in which the ballot paper is to be placed and returned to the Independent Returning Officer; and~~
- ~~(viii) a written explanation of the method for recording the Consumer's vote, the manner in which the ballot paper is to be returned, and the date and time at which the Voting Period is to close.~~

Biographical and other details of the candidates may, if the Trustees approve, be included in the information given to Consumers.

~~(g) The following provisions shall apply with respect to votes:~~

- ~~(i) each Consumer shall be distributed one voting paper (which may be in electronic format) and each Consumer shall only be entitled to one vote;~~
- ~~(ii) in respect of joint Consumers the person whose name appears on the records of the Company first shall exercise the vote for that joint holding to the exclusion of the other joint holders;~~
- ~~(iii) Consumers may not vote for the appointment of more Trustees than there are vacancies;~~
- ~~(iv) Ballot papers (whether or not in electronic format) received by the Independent Returning Officer after the date and time stated in the notice to Consumers as the date and time at which the Voting Period is to close shall not be counted.~~

~~(h) The Independent Returning Officer shall, after close of the Voting Period, count the number of valid votes cast for each candidate and ascertain the candidates elected. The Independent Returning Officer is permitted and may in its discretion commence the counting of votes and the processing of ballot papers received prior to the expiry of the Voting Period.~~

~~(i) A vote is invalid and shall not be counted if:~~

- ~~(i) the Consumer votes for more candidates than there are Trustees to be elected; or~~

- ~~(ii) — in the opinion of the Independent Returning Officer, the ballot paper does not clearly indicate the candidate or candidates for whom the Consumer intended to vote.~~

- ~~(j) — Where, because two (2) or more candidates have received the same number of valid votes, the Independent Returning Officer cannot determine which of them has been elected, the Independent Returning Officer shall decide which of them is elected by lot drawn by those candidates in the presence of the Independent Returning Officer and such other person or persons (if any) as the Independent Returning Officer may decide.~~

- ~~(k) — Forthwith after ascertaining which candidates have been elected, the Independent Returning Officer shall declare the names of the candidates so elected, and shall publish those names in one or more principal newspapers circulating in the District. The candidates elected shall be appointed Trustees at the conclusion of the relevant Annual General Meeting as specified in rules 1.3, 1.5 and 1.6.~~

- ~~(l) — After declaring the result of the election the Independent Returning Officer shall decide when to destroy the voting papers and/ or to permanently delete any computer records or files relating to votes cast electronically.~~

- ~~(m) — The Independent Returning Officer and every person assisting the Independent Returning Officer shall faithfully and impartially perform their duties and shall not, directly or indirectly:
 - ~~(i) — before the declaration of the result of the election make known the state of the vote, or give or pretend to give any information by which the state of the vote might be known;~~

 - ~~(ii) — make known for which candidate or candidates any person has voted; or~~

 - ~~(iii) — give any person any information likely to defeat the secrecy of the election.~~~~

- ~~(n) — Notwithstanding any other provision in the Deed or these rules, the retiring Trustees shall remain in office until the conclusion of the Annual General Meeting at which they are to retire as specified in rules 1.3, 1.5 and 1.6. Forthwith upon the conclusion of the relevant Annual General Meeting the candidates declared elected pursuant to rule 3.4(e) or 3.4(k) shall assume office in place of the retiring Trustees.~~

- ~~(o) — The Consumers who shall be entitled to vote for the appointment of Trustees shall be those persons who are Consumers on the date nominations for candidates close as specified in accordance with rule 3.4(a)(v).~~

- (d) Upon every change of trustees, the Trust Fund shall be vested in the Trustees for the time being in office.

23 CHAIRPERSON AND DEPUTY CHAIRPERSON

The ~~Trustees shall elect a persons who are elected as~~ Chairperson and ~~(if applicable) Deputy Chairperson, who shall also~~ of the TECT Community Trust by the TECT Community Trust Trustees from time to time shall be Trustees, at the first meeting of Trustees after the Annual General Meeting in each year deemed to be elected as Chairperson and at any other time when either position becomes vacant.

~~7.~~ QUORUM

~~(a) A quorum at meetings of the Trustees shall comprise four (4) Trustees.~~

~~(a) Notwithstanding rule 1.1, no business may be transacted at a meeting of Trustees if a quorum is not present.~~

~~(b) Notwithstanding rule 5(b), where the number of Trustees in office at any relevant time is less than the number of Trustees required to form a quorum, then the remaining Trustees may convene a meeting (if applicable) Deputy Chairperson of the Trust for the sole purpose of appointing additional Trustee(s) so that there are at all times at least the minimum number of Trustees in office required to form a quorum.~~

~~(c) Any new Trustee(s) appointed pursuant to rule 5(c) shall hold office for the period from the date of their appointment until the next Annual General Meeting at which a Trustee election is held. Such new Trustee(s) shall retire at that next Annual General Meeting as if they had been appointed to fill a casual vacancy in terms of rule 1.6.~~

~~(d) Any new Trustee appointed pursuant to rule 5(c) shall have all the powers and responsibilities of a Trustee as if elected to that office pursuant to rule 3.4 and no act or decision of the remaining Trustees pursuant to this rule 5 or of the new Trustee(s) pursuant to this Deed shall be called into question on such account.~~

~~31~~ VALIDITY OF PROCEEDINGS

~~7.2 All acts done by any meeting of Trustees or of a committee of Trustees or by any person acting as a Trustee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting as aforesaid or that they or any of them were for any reason disqualified, be as valid as if such person had been duly appointed and was qualified to be a Trustee.~~

~~8.~~ RESCISSION OR VARIATION OF RESOLUTIONS

Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees at any subsequent meeting by the same majority as was necessary to pass the resolution being rescinded or varied.

4 MEETINGS OF TRUSTEES

~~8.1 The Trustees shall hold an Annual General Meeting no later than by 30 November in each calendar year.~~

~~8.2 The Secretary shall give no less than thirty (30) days notice of the annual general meeting to the Trustees such notice to specify the date, time and place of the annual general meeting.~~

~~8.3 (a) The business to be transacted at the Annual General Meeting of Trustees shall be the receipt of the annual report (including a report on the performance of the Trust against its annual plan objectives for the relevant year), the annual plan and the audited Financial Statements and the setting of the remuneration (if any) of Trustees. Any other business shall be deemed special business and shall be dealt with in accordance with rule 8.4.~~

~~(a) At the conclusion of the Annual General Meeting of Trustees or at such other time as the Trustees shall decide, the annual meeting of Consumers shall be convened pursuant, **subject to clause 10.5** and the Code of Practice for the purposes (among other things if the Trustees so decide) of appointing an Independent Returning Officer for the next Trustee election (in the case of a general meeting of Consumers held in a non Trustee election year), fixing the Independent Returning Officer's fees and expenses, appointing an auditor for the Trust, fixing the auditor's fees and expenses and, if applicable, fixing the amount of remuneration payable to Trustees pursuant to clause 12.1(b)(i).~~

~~8.4 Notice in writing of any special business shall be given to the Secretary no less than twenty one (21) days prior to the annual general meeting. The Secretary shall circulate an agenda, including all special business, to the Trustees no later than fourteen (14) days prior to the annual general meeting and shall also give to Consumers not less than fourteen (14) days prior written notice of the time, place, date and agenda of the annual general meeting by an advertisement placed in a newspaper or newspapers circulating in all the areas of the District.~~

~~8.5 Consumers shall be entitled to attend and speak at the annual general meeting but shall not be entitled to vote at such meetings.~~

(a) ~~The Trustees shall otherwise~~7 of this Schedule 2, meet at such times and places as they may agree to dispatch the business of the Trust. The Trustees shall be entitled from time to time to develop protocols and standing orders for the management of Trustee behaviour and for the orderly conduct of Trustee meetings, and any such protocols and / or standing orders so adopted shall bind Trustees in their administration of the Trust.

(b) ~~Other than a meeting of Trustees called pursuant to rule 5(c), any~~Any three (3) or more Trustees may at any time summon a meeting of Trustees.

5 NOTICE OF MEETINGS

(a) Notice in writing of every meeting shall be sent by such method of delivery (whether electronic or otherwise) as is determined by the Trustees from time to time to each Trustee by the ~~Secretary~~Chief Executive or other person acting under the direction of the Trustees. ~~or of the Chief Executive.~~

In the case of a meeting summoned pursuant to ~~rule 8.7~~clause 4(b) of this Schedule 2, the Trustees, Chief Executive, persons summoning ~~it or the secretary~~meeting or other person acting under the direction of the Trustees or Chief Executive, as the case may be, shall give at least ~~seven (7)~~five (5) working ~~days~~days' notice of that meeting. No notice shall be necessary for adjourned meetings except to Trustees not present when the meeting was adjourned.

~~The expression "working days" in this clause shall exclude weekends and public holidays and such notice period shall exclude the date of the notice and the date of the relevant meeting.~~

~~9. ADJOURNMENT~~

~~If a quorum is not present within thirty minutes after the time appointed for any meeting the Trustee or Trustees present may adjourn the meeting. Any meeting may be adjourned by the Chairperson upon the adoption of a resolution for its adjournment.~~

~~10. CONTENT OF NOTICE~~

- (b) Every notice of meeting shall state the place, day, and hour of the meeting and every notice of a meeting summoned pursuant to ~~rule 8.7~~clause 4(b) of this Schedule 2 shall state the matters to be discussed at that meeting. Notice of any meeting may be abridged or waived if all the Trustees who are for the time being in New Zealand consent in writing to such abridgement or waiver.

6 QUORUM FOR TRUSTEE MEETINGS

- ~~(a) A quorum at meetings of the Trustees shall comprise four (4) Trustees.~~
- ~~(b) No business may be transacted at a meeting of Trustees if a quorum is not present, and the meeting shall be adjourned in accordance with clause 8 of this Schedule 2.~~

7 ANNUAL GENERAL MEETING OF TRUSTEES

~~The Trustees shall hold an Annual General Meeting of Trustees no later than by 30 November in each calendar year. The following provisions shall apply with respect to that Annual General Meeting:~~

- ~~(a) The Chief Executive shall give no less than twenty (20) working days' notice of the Annual General Meeting to the Trustees such notice to specify the date, time and place of the Annual General Meeting.~~
- ~~(b) The business to be transacted at the Annual General Meeting of Trustees shall be the receipt of the annual report (including a report on the performance of the Trust against its annual plan objectives for the relevant~~

year), the annual plan and the audited Financial Statements. Any other business shall be deemed special business and shall be dealt with in accordance with clause 7(c) of this Schedule 2.

(c) Notice in writing of any special business shall be given to the Chief Executive no less than fifteen (15) working days prior to the Annual General Meeting. The Chief Executive shall circulate an agenda, including all special business, to the Trustees no later than ten (10) working days prior to the Annual General Meeting and shall also give to Consumers not less than ten (10) working days' prior written notice of the time, place, date and agenda of the Annual General Meeting by notice on a website maintained by the Trust.

8 ADJOURNMENT OF TRUSTEE MEETINGS

(a) If a quorum is not present within thirty minutes after the time appointed for any meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as all Trustees who are entitled to vote may agree and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Trustees present will constitute a quorum.

(b) The Chief Executive will give written notice of a meeting which is adjourned pursuant to clause 8(a) of this Schedule 2 to all Trustees, which must be accompanied by the agenda for the adjourned meeting and any Trustee papers reasonably required to assist the Trustees to assess the matters due for consideration at the adjourned meeting.

(c) Any meeting may be adjourned by the Chairperson upon the adoption of a resolution for its adjournment.

69 COMMITTEES

The Trustees may from time to time appoint any one or more Trustees to be a committee for making any inquiry, for considering supervising or transacting any business of the Trust, for the investment and management of the Trust Funds or any part thereof, or for the performance of any duty or function which in the opinion of the Trustees will further the purposes and objects of the Trust. Subject to these rules and to any directions from time to time given by the Trustees every such committee may regulate its own procedure but so that a quorum at any meeting of the committee will be a majority of its members for the time being.

710 VOTING

(a) Except as otherwise provided in this Deed and subject to the quorum requirements as to meetings, the Trustees shall exercise their powers and discretions by a simple majority vote of the Trustees present.

- (b) The Chairperson or Deputy Chairperson acting as the chairperson of a meeting of Trustees shall have a second and casting vote in addition to his or her deliberative vote provided that such casting vote may only be exercised in the case of Trustee deadlock when voting on any particular issue ~~and where such casting vote is made for continuance of the status quo.~~

~~11. INTERESTED TRUSTEES~~

11 DISCLOSURE OF INTERESTS

- (a) A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:
- (i) is a party to, or will derive a material financial benefit from that transaction;
 - (ii) has a material financial interest in another party to the transaction;
 - (iii) is a director, officer or trustee of another party to, or person who in any way, whether will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;
 - (iv) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the transaction; or
 - (v) is otherwise directly or indirectly, has a material interest in any contract interested in the transaction.
- (b) As soon as a Trustee becomes aware of the fact that they are interested in a transaction or proposed contract or arrangement or dealing transaction with the Trust (other than as a Consumer or as a member, officer, or employee of any firm, company or organisation that is a Consumer) shall, they must disclose to their co-Trustees:
- (i) if the monetary value of the Trustee's interest is able to be quantified, the nature and monetary value of that interest at a meeting; or
 - (ii) if the monetary value of the Trustee's interest cannot be quantified, the nature and extent of that interest.
- (c) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust. The Trustees shall record or cause to be recorded in the minute book of the Trust a disclosure of interests on behalf of all Trustees from time to time for such time as the Trustees of the Trust are the same persons as the trustees of the TECT Community Trust, and such disclosure shall be recorded in the minutes of the meeting. A trustee who holds beneficially (directly or indirectly) less than 20,000 shares in the Company shall not be required to disclose that shareholding deemed to relate to, and be satisfactory for, all transactions or other dealings between the Trust and the TECT Community Trust or any entity controlled by the TECT Community Trust.

~~11.1 A Trustee required to disclose an interest by rule 14.1 may be counted in a quorum present at a meeting but shall not vote in respect of the matter in which the Trustee is interested (and if the Trustee does so vote the vote shall not be counted) provided that the Trustee may be expressly permitted to vote by a unanimous vote of the other Trustees present given after the disclosure of the interest.~~

~~11.2 If any question shall arise at any meeting as to the materiality of a Trustee's interest or as to the entitlement of any Trustee to vote and such question is not resolved by the Trustee voluntarily agreeing to abstain from voting, such question shall be referred to the Chairperson of the meeting and the Chairperson's ruling in relation to any such Trustee shall be final and conclusive except in a case where the nature or extent of the interest of the Trustee concerned has not been fairly disclosed.~~

(d) Although a Trustee who is interested in a transaction entered into or to be entered into by the Trust may not vote on a matter relating to the transaction, nor be included among the Trustees present at the meeting for the purpose of determining a quorum under clause 4 of this Schedule 2 the Trustee may:

(i) attend a meeting of Trustees at which a matter relating to the transaction arises;

(ii) sign a document relating to the transaction on behalf of the Trust; and

(iii) do anything else as a Trustee in relation to the implementation of the transaction, as if he or she were not interested in the transaction.

812 MINUTES

- (a) A minute book shall be provided and kept by the Trustees and all proceedings of the Trustees shall be entered in the minute book. The minute book may be kept in physical or electronic form.
- (b) Minutes signed by the chairperson of the meeting at which the proceedings were transacted or by the chairperson of the next succeeding meeting shall be evidence of the proceedings.
- (c) Where minutes of the proceedings at any meeting of Trustees have been made in accordance with the provisions of these rules then, until the contrary is proved, the meeting shall be deemed duly held and convened and all proceedings at that meeting to have been duly conducted.

913 RESOLUTIONS IN WRITING

Notwithstanding any other provisions in the Deed or these rules, a resolution in writing signed by all the Trustees or (as the case may be) by all the members of a committee, shall be as effective for all purposes as a resolution passed at a meeting of the Trustees or of such committee (as the case may be) duly convened, held and constituted. Such resolution may consist of several documents in the same form, each signed by one or more of the Trustees or members of the committee, (as the case may be); including by affixing of an electronic signature to a document.

1014 MEETINGS BY TELEPHONE / VIDEO CONFERENCING

(a) Notwithstanding any other provision in ~~the~~this Deed or these rules, the contemporaneous linking together of a number of the Trustees or members of a committee (~~(the participants)~~) being not less than a quorum, together with the ~~Secretary or a~~ person acting as a secretary, shall be deemed to constitute a meeting and all the provisions in these rules as to meetings shall apply to such meetings by telephone ~~so long as the following conditions are met:~~or by video conferencing.

~~(a) — All the participants for the time being entitled to receive notice of a meeting shall be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of such meeting may be given by telephone;~~

~~(b) — Each of the participants taking part in the meeting by telephone, and the Secretary or person acting as a secretary, must be able to hear each of the others taking part at the commencement of the meeting;~~

~~(c) — At the commencement of the meeting each participant must acknowledge his or her presence for the purpose of such meeting to all the others taking part;~~

~~(d) — A participant may not leave the meeting by disconnecting his or her telephone without having previously obtained the express consent of the chairperson of the meeting and shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless having obtained the express consent of the chairperson to leave the meeting as aforesaid.~~

(b) Minutes of the proceedings at such meeting ~~by telephone~~ shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting or by ~~the Secretary or a~~ person acting as a secretary.

15 VALIDITY OF PROCEEDINGS

All acts done by any meeting of Trustees or of a committee of Trustees or by any person acting as a Trustee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting as aforesaid or that they or any of them were for any reason disqualified,

be as valid as if such person had been duly appointed and was qualified to be a Trustee.

1116 **EXECUTION OF DOCUMENTS**

All documents required to be executed by the Trustees shall be deemed to be validly executed and binding on the Trust if these documents have been entered into and executed by the authority of the Trustees previously given and signed by at least two (2) Trustees or any other person approved by the Trustees for the purpose.

~~12. SECRETARY AND TREASURER~~

~~12.1 The Trustees shall appoint from time to time a Secretary and a Treasurer who may be the same person.~~

~~12.2 It shall be the duty of the Secretary to keep usual records of the business of the Trust and to notify Trustees of intended meetings and the business to be transacted at such meetings.~~

~~12.3 It shall be the duty of the Treasurer to keep usual and proper books of account and other financial records of the business to report to the Trustees from time to time on the finances of the Trust Fund to present annual statements of account for audit and for consideration by the Trustees and to prepare and file from time to time with the Inland Revenue Department all necessary tax accounts.~~

**SCHEDULE II
TRUSTEES' SPECIFIC POWERS**

Subject to any express terms in this Deed limiting or restricting such powers, the Trustees shall have the power to:

- ~~(a) Invest the Trust Fund or any portion thereof, notwithstanding that it may be subject to any liability, in any property whether in New Zealand or overseas.~~
- ~~(b) Sell all or any part of the property comprising the Trust Fund at such price on such terms and subject to such conditions as they in their absolute discretion think fit with power to allow the whole or any part of the purchase money to remain owing as a debt to the Trust.~~
- ~~(c) Retain property forming part of the Trust Fund.~~
- ~~(d) Borrow or raise moneys on such terms and subject to such conditions as the Trustees think fit, including giving such security as the Trustees think fit over all or any of the Trust Fund and its undertaking.~~
- ~~(e) Lease or to take on lease or licence any property on such terms and subject to such conditions as they think fit and to accept or effect such surrenders of leases and licences as they think fit.~~
- ~~(f) Lend moneys on such terms and subject to such conditions as the Trustees think fit~~
- ~~(g) Maintain manage repair improve and develop any property which or an interest in which for the time being forms part of the Trust Fund in such manner as the Trustees shall think fit.~~
- ~~(h) Employ and pay any person (including any Trustee) to do any act of whatever nature relating to the Trust including the receipt and payment of money.~~
- ~~(i) Open an account or accounts at any time or times in any name or names and either on their own behalf or jointly with another at any bank and to overdraw any such account with or~~

~~without giving security and in addition to the powers conferred by section 81 of the Trustee Act 1956 to make arrangements with any Bank for any one or more of the following, namely, the Trustees and/or any delegate or delegates named in writing by all the Trustees to operate upon any account at that Bank. All sums of money received on account of the Trust shall be forthwith paid into the credit of such account or accounts unless otherwise expressly ordered by the Trustees. All negotiable instruments and all receipts for money paid to the Trust shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Trustees from time to time determine.~~

- ~~(j) — Insure against loss or damage by any cause whatsoever any insurable property to any amount not exceeding the full insurable value thereof or the full replacement value thereof as the Trustees may in their absolute discretion from time to time think fit.~~
- ~~(k) — Enter into contracts of any nature whatsoever for the purpose of protecting maintaining or enhancing the value of all or any assets acquired or held by the Trustees or which the Trustees have the right to acquire or hold.~~
- ~~(l) — Delegate any of the powers and duties to any committee or committees consisting of such of the Trustees (or such other persons) as they may appoint for such purpose.~~
- ~~(m) — Subject to the provisions of this Deed, to exercise as the Trustees in their absolute discretion think fit all the voting powers attaching to any Shares forming part of the Trust Fund including to consider any recommendations made by the directors of the Company on any proposal relating to any reconstruction or amalgamation or merger of the Company or any Subsidiary or any modification of the rights of shareholders or any increase or reduction of capital or other dealing with the shares and after giving due consideration to the recommendations of the directors to make a decision in respect of any such proposal as the Trustees may consider in their absolute discretion will be for the benefit of or in the interests of the Trust Fund.~~
- ~~(n) — To appoint Directors in the manner provided by the Articles of Association of the Company provided however that the Trustees be satisfied that any person to be so appointed will be a person who has business acumen, sufficient time to devote to the affairs of the Company and the expertise to enable the Company to operate as a successful business.~~
- ~~(o) — To determine whether any money for the purposes of this Deed is to be considered as income or capital and what expenses ought to be paid out of income and capital respectively and also to apportion payments and every such determination or apportionment shall be final and binding on all persons beneficially interested in the Trust Fund and income thereof.~~
- ~~(p) — To determine all questions and matters of doubt which may arise in the course of the trusteeship of this Trust.~~
- ~~(q) — Do such other acts and things as the Trustees may in their absolute discretion consider incidental or conducive to the attainment of the general purposes of the Trust.~~
- ~~(r) — Effect insurance for a Trustee in respect of:~~

- ~~(i) liability, not being criminal liability, for any act or omission in his or her capacity as a trustee of the Trust;~~
- ~~(ii) costs incurred by that Trustee in defending or settling any claim or proceedings relating to any such liability; and~~
- ~~(iii) costs incurred by that Trustee in defending any criminal proceedings in which he or she is acquitted.~~

In this clause the expressions:

~~“Trustee” includes a former trustee; and~~

~~“Effect insurance” includes paying, whether directly or indirectly, the costs of such insurance.~~

draft

SCHEDULE III

3

CONSUMER CONSULTATIVE PROCEDURE

In respect of any provision of this Deed which requires the Trustees to implement a Consumer Consultative Procedure, the Trustees shall:

- (a) ~~(a)~~—Place notice of the proposal before a meeting of the Trustees;
- (b) ~~(b)~~—Give notice of the proposal to Consumers in accordance with clause 11 of the Deed;
- (c) ~~(c)~~—In every notice given under paragraph (b) of this schedule, specify a period within which Consumers interested in the proposal may make submissions on the proposal to the Trustees;
- (d) ~~(d)~~—Ensure that any Consumer who makes written submissions on the proposal within the period specified in the notice given under paragraph (b) of this ~~schedule~~Schedule 3 is given a reasonable opportunity to be heard by the Trustees;
- (e) ~~(e)~~—Ensure that every meeting at which submissions are heard are open to Consumers; and
- (f) ~~(f)~~—Make all written submissions on the proposal (excluding address details of the submitters if so determined by the Trustees) available to Consumers.

The period specified pursuant to paragraph (c) above shall be not less than one month and no more than three months.

SCHEDULE 4

MAP OF DISTRICT

[Attached]

draft

SCHEDULE 5

REBATE POLICY

Part 1 - ELIGIBILITY CRITERIA

1 General eligibility

To be eligible to receive a Rebate, Consumers must meet the following criteria:

(a) Initial general eligibility

- (i) To be eligible to receive a Rebate, a person must be a Consumer. A person is a Consumer if the person is named in the records of Trustpower as being liable to pay Trustpower any amount for electrical energy supplied to one or more ICPs situated in the District as at 9am on the Record Date.
- (ii) The number of eligible ICPs (which must, for the avoidance of doubt, be ICPs in the District) for each Consumer will be determined as at 9am on the Record Date and may only increase thereafter by up to five (5) ICPs (but will for the avoidance of doubt decrease if the criteria for eligibility set out in this Rebate Policy of this Deed are not met for any reason).

(b) Ongoing general eligibility

- (i) A person who is a Consumer as at 9am on the Record Date shall remain a Consumer (and therefore remain eligible to receive a Rebate in accordance with, and subject to, this Rebate Policy) for such time as the person retains an obligation to pay Trustpower or the Third Party, as the case may be, any amount for electrical energy supplied by Trustpower or that Third Party to the Consumer's ICP or ICPs, as the case may be, subject to the other conditions and criteria set out in Part 1 of this Rebate Policy.
- (ii) The Trustees may review a Consumer's eligibility to receive a Rebate in respect of one or more ICPs if the Trustees reasonably believe that the number of ICPs of that Consumer has been increased by means of an arrangement entered into by or on behalf of that Consumer for a purpose of increasing the aggregate Rebate payments receivable by that Consumer. If the Trustees in their discretion (acting reasonably) consider such an arrangement has been entered into they may make such adjustment to the entitlement of that Consumer to receive Rebates as they deem appropriate.

2 Eligibility for payments of Rebate instalments

- (a) To be eligible to receive a Rebate instalment in July of each year, a Consumer must have had a power account described in paragraph 1 above for the preceding 1 October to 31 March period.

(b) To be eligible to receive a Rebate instalment in December of each year, a Consumer must have had a power account described in paragraph 1 above for the preceding 1 April to 30 September period.

(c) A Consumer who moves property within the District remains a Consumer and eligible for a Rebate provided that the Consumer reconnects their electrical energy supply at the person's new property with Trustpower or the Third Party (as the case may be) within the District less than 30 days after disconnecting their electrical supply at their previous property.

3 Account name changes

If a Consumer changes the name on their Trustpower or Third Party (as the case may be) electrical energy supply account the Consumer shall from that date no longer be eligible for a Rebate and shall cease to be a Consumer.

4 Rebate eligibility queries

Consumers have 12 months from the date of the previous distribution to query their entitlement to a Rebate.

5 Cessation of, and requalification for, eligibility

Notwithstanding anything to the contrary in this Rebate Policy, a person who previously qualified as a Consumer, but who has ceased to be a Consumer for any reason, shall requalify as a Consumer if that person meets the eligibility criteria in this Rebate Policy within 18 months of the date upon which that person first ceased to be a Consumer. In such circumstances the person shall be entitled to receive future Rebate instalments commencing with the first Rebate instalment payable in July or December (as the case may be) after that person has been a Consumer again for the entirety of the six (6) month period to which such Rebate instalment relates, as described in paragraph 8 below.

6 Eligibility under exceptional circumstances

Without prejudice to the generality of clause 5 of this Rebate Policy above, the Trustees shall consider paying a Rebate to a Consumer deemed ineligible by this Rebate Policy where such Consumer provides evidence of exceptional circumstances affecting the Consumer which resulted in the Consumer from otherwise remaining eligible to receive Rebates. Any such exemption shall be granted in the absolute discretion of the Trustees, and the Trustees' decision in such matters shall be final. When considering an exemption request, Trustees shall consider any precedent being created by this exemption. Evidence to be presented to Trustees must include the following information:

- A written explanation of the request for an exemption from the Consumer outlining the circumstances affecting the Consumer and explaining how those circumstances impacted on the Consumer's otherwise existing eligibility for Rebates.
- Details around the account changes affecting the Consumer including date and name changes if applicable, verified by Trustpower or the Third Party as the case may be.

- TECT management assessment of the circumstances affecting the Consumer and including comment on the extent of any precedent which may be established if the exemption is granted.

7 Examples

Examples of the application of the above principles are set out in the table annexed to this Schedule 5.

Part 2 - PROCEDURES

8 Payment method

Consumers will be offered three payment options:

- (a) Rebate paid direct into nominated bank account;
- (b) Rebate credited to electrical energy account; and
- (c) Rebate donated to the Acorn Foundation Vital Impact Fund (or such other charitable fund maintained by the Acorn Foundation, or other charitable entity, as the Trustees may in each case determine in the event that such fund, or such foundation, no longer exists).

Other payment methods (e.g.: cheque or transfer to a third party) are not available.

9 Payment Frequency

Rebates shall be paid by semi-annual instalments as follows:

- (a) 50% of each Rebate shall be paid in July, being that portion of the Rebate applicable to the preceding 1 October to 31 March period; and
- (b) 50% of each Rebate shall be paid in December, being that portion of the Rebate applicable to the preceding 1 April to 30 September period,

with such adjustment as the Trustees determine necessary or appropriate with respect to the annual period to 31 December 2021.

10 Tax Implications

(a) Tax status of payment

The intention of the Trustees is that Rebates shall, to the extent possible, be paid from the capital of the Trust or from tax paid income and therefore for most beneficiaries should not be subject to further income tax or need to be included in most Consumers' tax returns. Consumers however will need to satisfy themselves of the tax status of Rebates based on their own circumstances and changes in law from time to time.

(b) Rates Rebates/Work & Income

The intention of the Trustees is that Rebates shall will not need to be declared by Consumers as income when applying for a Council Rates Rebate or when applying for assistance through Work and Income, however Trustees can make no representations to Consumers in this regard and Consumers will need to satisfy themselves of their obligations points from time to time. The Trustees may from time to time publish their understanding of the law in this respect to assist Consumers.

11 Early Release of Rebates

Consumers may not receive a Rebate any earlier than the bulk processing date of that Rebate.

12 Recouping costs associated with the Rebate distribution

TECT may, from time to time charge Consumers for requests to provide information on prior Rebate payments, where there is considerable staff time and/or cost involved in doing so (as determined by the Trustees). TECT may charge up to the following levels:

- Information requested in respect of the previous two years shall incur no charge.
- Information requested in respect of the last five years shall incur a charge of \$100 per information request.
- Information requested in respect of the past 10 years shall incur a charge of \$150 per information request.
- Information requested in respect of any earlier period shall incur a charge of \$200 per information request.

13 Rejected direct credits

TECT will request the relevant registrar to advise Trustpower or the Third Party (as the case may be) and TECT of any rejected direct credits and to forward the dollar value of these to Trustpower or the Third Party (as the case may be) for crediting to the electrical energy account of the relevant Consumer.

14 Missing Direct Credits

Where a Consumer cannot see the credit appear in the Consumer's nominated bank account and that Consumer notifies TECT of this, TECT will request the relevant registrar to request a payment trace with the applicable bank.

Process: The Consumer will be advised of the outcome. Where the applicable bank advises the funds have been credited to an account not owned by the Consumer, TECT may request the relevant registrar to pay the Consumer the Consumer's Rebate amount as soon as practicable and seek reimbursement from the bank concerned.

15 Missing credits to accounts

Credits to electrical energy accounts may take two billing cycles to appear on such accounts.

16 Rebates returned as a donation to TECT

Any Rebates returned to TECT to be used for charitable purposes will be deposited into TECT's fund with the Acorn Foundation (or such other charitable entity established for similar purposes as the Trustees may determine in the event that the Acorn Foundation no longer exists).

draft

Annex to Schedule 5: Rebate Policy Eligibility Criteria Examples

REBATE POLICY

Description of entities and eligibility where account name changes.

1. Businesses, Trusts, Companies and Trading Names

<u>TYPE</u>	<u>DESCRIPTION</u>	<u>EXAMPLES OF ACCOUNT NAME CHANGES</u>
<u>A. Sole Trader</u>	<p>Business which is not a separate legal entity from owner. Individual is responsible for all taxes and debts. Business income taxed at individual tax rates. Personal assets (e.g. home) may be at risk if business debts can't be repaid.</p> <p><i>eg WhizzyDo Administrative Services is operated by Pip Mills.</i></p>	<p>i. <i>WhizzyDo Administrative Services</i> changes account to <i>Pip Mills</i> – <u>Eligible as evidence exists that Pip was financially liable for both accounts</u></p> <p>ii. <i>WhizzyDo Administrative Services</i> changes account to <i>Pip Mills & Paul Watson</i> – <u>Eligible as Pip's name is on both accounts. If subsequently Pip and Paul split, Paul cannot be eligible under an account opened in his own name, whereas Pip can as her name was on the original account at Record Date.</u></p>
<u>B. Partnership</u>	<p>Two or more people run a business together, share assets/liabilities. No formal register. Unlimited liability business agreement between partners rather than a business that is a separate legal entity.</p> <p>Partners are liable for debts incurred by other partners in connection with the business. Individual assets may be at risk.</p> <p>Partnership agreement typically outlines the partnership share (eg: 50/50). Partners include their share of profit/loss in individual tax return and satisfy own tax liability.</p>	<p>i. <i>Sunshine Partnership</i> changes account to <i>Kelly Wells & Pete Hargrave</i>. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Sunshine Partnership - <u>Eligible</u></p> <p>ii. <i>Sunshine Partnership</i> changes account to <i>Kelly Wells</i>. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Sunshine Partnership - <u>Not Eligible</u></p> <p>iii. <i>Kelly Wells & Pete Hargrave Partnership</i> changes account to <i>Kelly Wells & Pete Hargrave</i>. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Kelly Wells & Pete Hargrave Partnership - <u>Eligible</u></p>

TECT CONSUMER TRUST

<p><u>C. Company</u></p>	<p><u>Separate legal entity from individual shareholders. Registered with the Companies Office, shareholders hold the ownership interests in the company and have a financial interest in its business. Shareholders' liability is limited to the capital contributed (or if shares are not paid up, liable to be contributed) for their shares (i.e. for a limited liability company (Ltd)).</u></p> <p><u>Income tax ordinarily paid by the company and post tax profits distributed to shareholders, shareholders may have additional tax liability (paid by withholding at company level) if their personal tax rate is higher than the company tax rate.</u></p>	<p>i. <u>Sunshine Sheds Ltd changes account name to James Darwin - Not Eligible as these are separate legal entities</u></p> <p>ii. <u>Suzie Goldsmith Hair Design Ltd changes account name to Suzie Goldsmith - Not Eligible as these are separate legal entities</u></p> <p>iii. <u>Sunshine Sheds Ltd changes company name to Sunshine Sheds & Awnings Ltd but remains same company (same company number) - Eligible</u></p> <p>v. <u>Sunshine Sheds & Awnings Ltd changes name to Sunshine Sheds Ltd (existing Consumer) but is a separate company (different Company number) Not Eligible</u></p>
<p><u>D. Trading Trust Family Trust</u></p>	<p><u>Business trading as a trust. Trustees have the power to carry on the business of the trust and hold investments.</u></p> <p><u>Current income distributed to beneficiaries is taxed at beneficiaries' marginal tax rates; income not distributed is taxed at trustee tax rate. Tax losses can be carried forward by trustees but cannot be passed on to beneficiaries.</u></p>	<p>i. <u>The Craig Family Trust changes account name to Bill Craig - Not Eligible</u></p> <p>ii. <u>The Craig Family Trust changes account name to Felicity & John Craig - Not Eligible as these are separate legal entities</u></p> <p>iii. <u>Felicity & John Craig changes account to The Craig Family Trust - Not Eligible as these are separate legal entities.</u></p> <p>iv. <u>John Craig resigns as Trustee on The Craig Family Trust. Bill Craig becomes a Trustee. The Craig Family Trust is still eligible.</u></p>
<p><u>E. Other/Trading Name</u></p>	<p><u>Non-entities - Orchards / lifestyle blocks etc where owners make up an identifying name for their property.</u></p>	<p>i. <u>Willow Creek is the name on the account for the water bore/pump which services 3 properties on Willow Creek Lane. The water bore/pump is on Susan Daily's property and she owns the power account. The other two property owners pay Susan 1/3 of each month's power bill. Susan moves house and closes the water bore/pump power account. Peter Smythe moves into Susan's property and opens a new account for the water bore/pump under the name Willow Creek. Not</u></p>

		<p><u>Eligible. The other two neighbours are also not eligible as they were not named on the account.</u></p> <p>ii. <u>Willow Creek changes account to Susan Daily – Eligible if evidence exists that Susan was financially liable for both accounts.</u></p>
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2. Individual, Couple & Flatting Accounts

<u>TYPE</u>	<u>DESCRIPTION</u>	<u>EXAMPLES OF ACCOUNT NAME CHANGES</u>
<p>A. <u>Individuals.</u> (<u>Individual people, couples and flatmates are named on a power account for a property</u>)</p>	<ul style="list-style-type: none"> <u>Joint Account to individual accounts</u> 	<p>i. <u>Scott Smith & Carina Jones changes account name to Scott & Carina Smith after getting married– Eligible</u></p> <p>ii. <u>Mrs Scott & Mrs Carina Smith changes account to Carina Jones (Maiden Name) – Eligible as Carina’s name was on original accounts (need to provide marriage cert to show married/maiden names)</u></p> <p>iii. <u>Karen & John Brown closes joint account and either Karen Brown or John Brown opens a new account in their individual name – Eligible as their names were both on the original joint account at Record Date</u></p> <p>v.</p>
	<ul style="list-style-type: none"> <u>Individual Account to Joint Account</u> 	<p>i. <u>Bruce Arnott changes account to Bruce Arnott & Sharon Kingi – Eligible as Bruce’s name is on both accounts so he provides continuance. If subsequently Bruce & Sharon split, Sharon cannot be eligible under another account opened in her name as her name wasn’t on the account at Record Date.</u></p>

	<ul style="list-style-type: none"> <u>Flat Accounts</u> 	<p>i. <u>Sam Lee, Jason Brown & Sally Field changes account to Sam Lee, Sally Field & Carl Harrison- Eligible as Sam and Sally's names were both on the original account.</u></p> <p>ii. <u>After above change - if Jason Brown opens a new account in his name - Eligible as his name was on the account that was eligible at Record Date.</u></p> <p>iii. <u>If Carl Harrison subsequently takes his name off the account with Sam Lee and Sally Field, and opens his own account he cannot be eligible for that new account as his name wasn't on the original account at Record Date.</u></p> <p>v. <u>If Jason Brown opens a new account in the name of Mr Jason Brown & Mrs Grace Collier - Eligible. If subsequently Jason & Grace split, Grace cannot be eligible under another account opened in her name as her name wasn't on the original account at Record Date.</u></p>
	<ul style="list-style-type: none"> <u>Change of name on account</u> 	<p>i. <u>Mr Frank Smythe changes account name to Mrs Jane Smythe after Frank's death - Eligible (if death cert shows Jane Smythe as surviving spouse). If Jane Smythe is daughter or daughter in law - Not Eligible as eligibility cannot be passed to child or child-in-law, as child has no financial obligation for parents' debt.</u></p> <p>ii. <u>Mr Frank Smythe changes account name to Mrs Jane Smythe - Not Eligible as Mrs Jane Smythe was not name on original account.</u></p> <p>iii. <u>James Tasker changes name on account to Kelly Tasker (Daughter) - Not Eligible as child has no financial obligation for parent's debt.</u></p> <p>v. <u>Karen & John Leach (joint account). John & Karen split, and John moves out but joint account remains active, John moves into another property and opens a new account in just his name - Not Eligible as original account under which John is eligible remains an active account. Original account remains Eligible</u></p>

<p><u>B. Change in number of ICP's</u></p>	<ul style="list-style-type: none"> <u>Additional ICP's can be made eligible after Record Date (up to a maximum of five (5) per eligible Consumer)</u> 	<p>i. <u>Richard & Donna Friend have an account at 410 No1. Road, Te Puke which has two ICP's and receive a Rebate for each ICP. They move to 31 Boucher Ave, Te Puke which has only one ICP. In future they will only receive 1 Rebate but are still eligible for a Rebates on an additional five (5) ICPs (their original two (2) ICPs and a maximum of five (5) additional ICP's).</u></p> <p>ii. <u>Richard & Donna Friend have an account at 31 Boucher Ave, Te Puke which has only one ICP for which they receive a Rebate. They move to 410 No1. Road, Te Puke which has two ICP's – one for the dwelling and one for the shed. They will receive two (2) Rebates. .</u></p> <p>iii. <u>Richard & Donna Friend have an account at 410 No1. Road, Te Puke which has two ICP's and receive a Rebate for each ICP. They move to 671 Te Matai Road, Te Puke which has two ICP's. They continue to receive two (2) Rebates.</u></p> <p>iv. <u>Richard & Donna Friend have an account at 410 No1. Road, Te Puke which has one ICP. They move to 671 Te Matai Road, Te Puke which has two ICP's. They will receive six (6) Rebates only (one plus an additional five (5)).</u></p> <p>v. <u>Richard & Donna Friend have an account at 410 No1. Road, Te Puke which has one ICP and receive a Rebate for that ICP. They acquire a bach in Tay Street which they add to their existing account. In future they will receive two (2) Rebates but are still eligible for a Rebate on an additional four (4) ICPs (i.e. up to six (6) ICPs).</u></p>
<p><u>C. Closure of account</u></p>	<ul style="list-style-type: none"> <u>Closes own account, but pays for another</u> 	<p>i. <u>Camilla Gregory closes her account when she moves out of her flat and house sits for Shane & Stephanie Scott while they are away, agreeing to pay their power account for that period. Camilla Gregory - Not Eligible unless she reopens an account in her name.</u></p> <p>ii. <u>Shane & Stephanie Scott - Eligible as their names remain on their account regardless of who is paying for it (they remain financially liable).</u></p>