



TECT

At the heart of
our community

TECT Charitable Trust Deed

Updated 21 August 2015



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TECT CHARITABLE TRUST

DEED OF TRUST

DATED 27 March 2002

PARTIES

- (1) TAURANGA ENERGY CONSUMER TRUST as established by a Deed of Trust dated 21 December 1993 (“the Settlor”); and
- (2) **MATTHEW HAROLD CAMERON
MICHAEL JAMES COONEY
BRUCE WILLIAM CRONIN
IAN ROBERT HARRIS
KAREN JANE JONES**

(hereinafter together with their successors in office called “the Trustees”)

BACKGROUND

- A. The Settlor has determined to establish a Trust Fund for certain Charitable Purposes.
- B. The Trustees have agreed to act as Trustees of the Trust.
- C. The Settlor and the Trustees have agreed to enter into this Deed for the purposes of establishing the Trust and the trusts and conditions on which the Trust Fund is to be held.

AGREEMENT

1. DEFINITIONS AND CONSTRUCTION

- 1.1 In this deed, unless the context otherwise requires:

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

“**Board**” means the Tauranga Electric Power Board constituted by the Electric Power Boards Act 1925;

“**Chairperson**” means the Trustee appointed as chairperson of the Trust pursuant to clause 7.5 and holding office as such for the time being;

“**Charitable Body**” means any society, association, trust, institution (whether such entities are incorporated or not) or company formed for the purposes of furthering or promoting a Charitable Purpose and which is not carried on for

the private pecuniary profit of any individual unless permitted under the Income Tax Act 1994;

“Charitable Consumers” means each and every Consumer which is a Charitable Body;

“Charitable Purpose” means and includes that term as defined by the Charitable Trusts Act 1957, and also means and includes every charitable purpose (whether religious, educational or otherwise) within New Zealand which shall be regarded as charitable by the law for the time being in New Zealand and as the Trustees shall determine from time to time PROVIDED HOWEVER that any such charitable purpose shall also be regarded as charitable under any statute regulation or ordinance of New Zealand relating to income tax, estate duty, gift duty or any other revenue statute for the time being in force in New Zealand;

“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 time to time);

“Company” means TrustPower Limited and includes any successor company or any company arising out of any reconstruction, amalgamation or merger of the Company;

“Consumer” means 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;

“Deed” means this deed as amended from time to time;

“Deputy Chairperson” means the Trustee appointed as deputy chairperson of the Trust pursuant to clause 7.5 and holding office as such for the time being;

“Directors” means the directors from time to time of the Company;

“District” means:

- (i) the territory over which the Board was authorised to supply electricity immediately prior to the Vesting Date pursuant to the Tauranga Electric Power Board Supply Licence granted to the Board under section 20 of the Electricity Act 1968; and
- (ii) the territory over which Tauranga Electricity Limited was authorised to supply electricity immediately prior to its merger with the Company in 1997 and includes, for the avoidance of doubt, that area comprising the Tauranga City peninsula north of the centreline of 17th Avenue, Tauranga.

“Financial Statements” means the financial statements of the Trust prepared in accordance with clause 8.2;

“Financial Year” means any year or other accounting period ending on a Balance Date;

“Income” means

- (i) all net income being dividends, rent, interest or other income derived from the Trust Fund, as and when the same shall be received; and
- (ii) all net income derived from the activities of the Trust, in accordance with the terms of this Deed or otherwise howsoever, as and when the same shall be received and finally determined for each Financial Year of the Trust,

after payment of all expenses relating to the Trust Fund. Those expenses shall include all expenses and outgoings related to the administration, working, management and maintenance of the Trust Fund and to the affairs of the Trust;

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

“Secretary” means the person appointed as secretary of the Trust pursuant to clause 7.5 and holding office as such for the time being;

“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” means the Tauranga Energy Consumer Trust as established by TECT’s Trust Deed;

“TECT’s Trust Deed” means the Deed of Trust dated 21 December 1993 (as amended from time to time) being the founding document constituting TECT;

“the Trust” means the trust established by this Deed;

“the Trustees” means the trustees for the time being of the Trust;

“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 Energy Companies Act 1992 vested the undertaking of the Board in the Company and the Company’s shares in the trustees of TECT.

1.2 In this Deed, unless the context otherwise requires:

- (a) references to one gender include the 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
- (e) 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.

2. **NAME OF TRUST**

- 2.1 The Trust shall be known as the "TECT Charitable Trust" or such other name as the Trustees may determine from time to time with the written consent of TECT.

3. **DECLARATION OF TRUST**

- 3.1 The Trustees hereby acknowledge and declare that they shall stand possessed of the sum of \$100 settled on the Trust by TECT contemporaneously with the execution of this Deed and all 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 are to be held upon the trusts hereby declared and the capital and any accumulations of Income therefrom and all moneys, investments and property of whatever kind from time to time representing the same are also to be held upon the trusts hereby declared and for the purposes and with the powers, authorities and discretions set out in this Deed.

4. **PURPOSES OF THE TRUST**

- 4.1 Subject to clause 4.2, the Trust is established for Charitable Purposes for the benefit of Charitable Consumers.
- 4.2 If by reason of any alteration in the law relating to income tax, it is at any time necessary to amend the objects and purposes of the Trust in order to preserve the right to exemption from income tax of the kind referred to in paragraphs CB 4(1)(c) and (e) of the Income Tax Act 1994, the objects and purposes of the Trust shall thereupon be deemed to be amended to the extent necessary.
- 4.3 All the objects and purposes of the Trust are to be carried out exclusively within New Zealand.

4A. **TRUSTS OF INCOME AND CAPITAL**

- 4A.1 The Trustees shall, until the Trust is wound up under clause 12, stand possessed of the capital and income arising from the Trust Fund upon the following trusts and with and subject to the following powers:
- (a) The Trustees shall from the net annual income derived by 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 costs incurred 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 4A.
 - (b) 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.
 - (c) The Trustees shall have the power to distribute the balance of the current net annual income and/or capital of the Trust 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 or towards the purposes of the Trust set out in clause 4.

5. POWERS OF TRUSTEES

- 5.1 Subject to any express terms of this Deed, the Trustees shall have in relation to the Trust Fund and the Income arising from the Trust Fund all the same powers as natural persons 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.
- 5.2 Without limiting the generality of clause 5.1 and merely by way of example, the Trustees shall have all those same powers as described in Schedule II to TECT's Trust Deed (in this clause 5.2, "the provisions") which may be exercised either alone or jointly with any other person. For the purposes of interpretation in relation to the provisions, clause 7.5(b) shall apply.
- 5.3 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 Charitable 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 which affect the status of any person as being or not being a Consumer.

- 5.4 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 5.5, shall at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.
- 5.5 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 are not diversified.

6. TRUSTEES' INDEMNITY AND LIMITATION OF LIABILITY

- 6.1 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, officer or employee 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 Trustees in the management and administration of the Trust Fund unless such loss or liability is attributable to that person's dishonesty or to the wilful commission of an act known by that person to be a breach of trust or to the wilful omission by that person of any act when that omission is known by that person to be a breach of trust. This indemnity is in addition to and not in limitation of any other rights, indemnities or limitations or liabilities that may be available to the Trustees or to trustees in general.
- 6.2 No Trustee acting or purporting to act in the execution of the trusts of this Deed shall be liable for any loss not attributable to that Trustee's own dishonesty or to the wilful commission or omission by that Trustee of an act where such commission or omission is known by the Trustee to be a breach of trust and in particular no Trustee shall be bound to take or be liable for failure to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.
- 6.3 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.

7. APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES

- 7.1 (a) The statutory power of appointing new or replacement Trustees at any time shall be vested in TECT.
- (b) The power to remove Trustees at any time shall be vested in TECT.
- (c) The statutory power of appointing Trustees and the power to remove Trustees shall be exercised by TECT in accordance with clause 7.2(c). Written notice of any such appointment and/or removal by TECT shall be promptly given to the Trust and to the Trustee(s) concerned. Any such appointment and/or removal shall be effective from the date of the relevant notice.
- 7.2 (a) The minimum and maximum numbers of Trustees of the Trust from time to time shall be the same as those prescribed for TECT pursuant to TECT's Trust Deed.
- (b) The initial Trustees of the Trust at the date of execution of this Deed shall be the Trustees party to this Deed. All of the initial Trustees confirm that they are existing trustees of TECT.
- (c) (i) Thereafter, the Trustees of the Trust shall be those same persons who are validly elected, or appointed, and continuing in the office of trustee of TECT pursuant to TECT's Trust Deed.
- (ii) For the avoidance of doubt, where a person pursuant to TECT's Trust Deed:
- (A) is validly elected, or appointed, to the office of trustee of TECT;
- (B) resigns from the office of trustee of TECT; or
- (C) is no longer eligible to hold office as a trustee of TECT,
- then such person shall also be appointed to, resign from, or be removed from the office of Trustee of the Trust and TECT by its execution of this Deed confirms that it shall exercise its statutory power of appointment and its power to remove Trustees pursuant to clause 7.1 accordingly to give effect to the intention of this clause.
- 7.3 The Trustees acknowledge and agree that should they retire as a Trustee of the Trust, then they will also retire as a trustee of TECT and vice versa.
- 7.4 Upon every change of trustees, the Trust Fund shall be vested in the Trustees for the time being in office.

- 7.5 (a) To the extent not being inconsistent with any other express provision of this Deed, the provisions set out in Schedule I to TECT's Trust Deed (but excluding clauses 1 and 3.4 thereof) (in this clause 7.5, "the provisions") in effect from time to time shall govern the proceedings of Trustees and associated matters.
- (b) (i) Where defined expressions are used in such provisions and where no meaning has been ascribed to them in clause 1.1 of this Deed, then the meanings given to such defined expressions in clause 1.1 of TECT's Trust Deed shall apply with all amendments and modifications thereto which are necessary to give effect to the intent of this clause.
- (ii) For the avoidance of doubt, those provisions shall apply as if references to the Trust are references to this Trust and as if references to Trustees, Annual General Meetings, the Chairperson, the Deputy Chairperson and the Secretary are references to the Trustees, Annual General Meetings, the Chairperson, Deputy Chairperson and Secretary of this Trust with all amendments or modifications thereto which are necessary to give effect to the intent of this clause.

8. DUTIES OF TRUSTEES

- 8.1 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.
- 8.2 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 3 of the Financial Reporting Act 1993, 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
- (c) make available to the public (which includes all Consumers) in accordance with clause 8.4 those audited Financial Statements and the auditor's report on those Financial Statements.
- 8.3 In addition to clause 8.2(a), the Financial Statements of the Trust shall show separately:
- (a) the total amount of any distribution of Income or capital paid to Charitable 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 8.3(a) together with the individual amounts approved or paid by way of a payment scheme; and
 - (c) a statement confirming that the Trustees have complied with all of their obligations under the Code of Practice.
- 8.4
 - (a) The Trustees shall make the documents referred to in clause 8.2(c) available to the public (which includes all Consumers) by making copies of them available:
 - (i) for inspection at any office of the Trust or at any other place specified in the notification under clause 8.4(b) (during ordinary office hours) free of charge; and
 - (ii) for purchase at a reasonable price.
 - (b) 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.
- 8.5
 - (a) The Trustees shall in each Financial Year, hold a General Meeting of Consumers at which the Consumers:
 - (i) appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual General Meeting of Consumers; and
 - (ii) if applicable, fix the amount of remuneration payable to Trustees pursuant to clause 10.1(b)(i).
 - (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 meeting of Consumers (but, while the vacancy remains, the surviving or continuing auditor, if any, may continue to act as auditor).
 - (c) The fees and expenses of the auditor must be fixed:
 - (i) at the annual meeting of Consumers or in the way the Consumers determine at the meeting, if appointed at the annual meeting; or
 - (ii) by the Trustees, if appointed by the Trustees.
 - (d) The auditor:
 - (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, TECT or of the Company or otherwise disqualified from being an auditor under section 199(2)(b) and (d) of the Companies Act 1993.
- (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 a 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.
- 8.6 (a) The Trustees must give no less than 14 days' notice of the annual meeting of Consumers in the news section of two separate editions of each newspaper that is widely read by Consumers.
- (b) Every Consumer shall have one vote.
- (c) The quorum for the annual meeting is 20 Consumers.
- (d) No business may be transacted at the annual meeting if a quorum is not present.
- (e) The regulations under section 172C of the Electricity Act 1992 (if any) may govern proceedings at such annual meeting of Consumers.
- 8.7 (a) If no auditor is appointed in accordance with clause 8.5(a) or a casual vacancy in the office of auditor is not filled within one month of the vacancy occurring in accordance with clause 8.5(b), the Auditor-General must be the auditor of the Trust.
- (b) The Trustees shall, within five working days of clause 8.7(a) becoming applicable, give written notice to the Auditor-General of this fact.
- (c) If this clause 8.7 applies, the sections and Parts of the Public Audit Act 2001 listed in section 19 of that Act apply to the Trust, until an auditor is appointed at an annual meeting of Consumers, as if references in those sections to a public entity were references to the Trust and with any other necessary modifications.
- 8.8 The Trustees shall, from time to time, make a copy of this Deed available to Consumers in accordance with clause 9.

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

9. INFORMATION TO CONSUMERS

9.1 Subject to clause 8.4, 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 at any other place in the District during normal business hours on any business day.

9.2 The Trustees shall give not less than 3 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.

10. REMUNERATION AND EXPENSES OF TRUSTEES

10.1 (a) Any Trustee hereof who shall be employed in connection with the trusts hereof may be paid all such remuneration for their services as may be normal as if they had been employed in that behalf and had not been a Trustee hereof.

(b)

(i) The Trustees (other than a Trustee remunerated pursuant to clause 10.1(a) to the extent that such remuneration covers services to which this clause 10.1(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.

(ii) No remuneration shall be paid to a Trustee pursuant to clause 10.1(b)(i) unless that remuneration has been authorised by a resolution of Consumers passed at a General Meeting of Consumers held pursuant to clause 8.5(a). 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).

- (iii) 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.
- (iv) Trustees' remuneration paid pursuant to clause 10.1(a) may be approved by the Trustees without the need for Consumer approval.

10.2 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.

10.3 The payments of remuneration and expenses to the Trustees pursuant to clauses 10.1(a) , 10.1(b) or clause 10.2 shall be paid out of the Trust Fund or any other fund available for that purpose.

10.4 No Trustee receiving any remuneration referred to in clause 10.1(a) shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall that Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid. Any such remuneration must be approved in writing by TECT.

11. **VARIATION, REVOCATION OR ADDITION TO TRUST DEED**

11.1 Subject to the prior written approval of TECT, 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 (including for the avoidance of doubt, the expression of the objects, purposes and proposed activities of the Trust set out in clause 4) PROVIDED THAT the approval of TECT shall not be required in respect of any amendment that is certified by the Trustees as being necessary in order for the Trust to obtain or maintain approval from the Inland Revenue Department as a Charitable Body for tax purposes, and PROVIDED FURTHER THAT no alteration, addition, rescission or other amendment shall be made which shall permit the Trust Fund to be applied for any purpose that is not a Charitable Purpose, and no alteration to the second proviso to this clause 11.1 shall be permitted.

11.2 The parties to this Deed agree that TECT shall not be permitted to give its consent to any proposed amendment to the definition of "Consumer" or "District", or to any proposed amendment to this clause 11.2, until TECT shall have first complied with the provisions of clause 13.2 of TECT's Trust Deed.

12. WINDING UP OF TRUST

12.1 If at any time:

- (a) a resolution of TECT (or of the Trustees) that the Trust be wound up has been passed and has come into effect; or
- (b) the objects of the Trust shall fail; or
- (c) for any other reason the purposes hereof shall become wholly frustrated and incapable of being carried out; or
- (d) TECT shall cease to exist or a resolution that TECT be wound up in accordance with clauses 14.3 and 14.4 of TECT's Trust Deed has been passed and has come into effect,

the Trustees shall proceed to wind up the Trust.

12.2 Upon a winding up for any reason, the surplus assets and funds of the Trust after payment of all liabilities shall be paid, applied or appropriated to or for the benefit of Charitable Consumers as may be determined by the Trustees or in default of such determination as may be directed by the High Court of New Zealand.

13. INCORPORATION

13.1 The Trustees may at any time and at the expense of the Trust incorporate the Trustees as a Board under the provisions of Part II of the Charitable Trusts Act 1957.

14. NOTICES

14.1 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.

14.2 Any notice or document given pursuant to clause 14.1 shall be deemed to be duly given or made:

- (a) if delivered by hand, when so delivered;
- (b) if sent by facsimile, when receipt is confirmed; or
- (c) if sent by post, on the third working day after posting.

15. RESTRICTIONS ON CHARITABLE BENEFITS FROM THE TRUST

15.1 All provisions of this Deed are to be interpreted as being subject to clause 4.1, and to the requirement that the Trust Fund may only be applied for the Charitable Purposes of Charitable Consumers. In particular, nothing

expressed or implied in this Deed shall permit the activities of the Trustees, or any business carried on by or on behalf of the Trustees, or any part of the Trust Fund to be applied so as to confer a private pecuniary profit on any individual or group of individuals, except to the extent that this Deed authorises the payment of a reasonable market remuneration to any individual (including a Trustee) for services actually rendered to the Trust.

- 15.2 Clauses 4.1, 4.2, 4.3, 10.4, 11.1, 12.2, and this clause 15 shall apply notwithstanding any other provision in this Deed to the contrary.
- 15.3 Notwithstanding anything contained or implied in this Deed, where the Trustees carry on or engage in any business by or on behalf of or for the benefit of the Trustees upon the trusts of this Deed, no person defined in section CB 4(1)(e)(i) to (iv) of the Income Tax Act 1994 shall, by virtue of that capacity and within the ambit and scope of section CB 4(1)(e)(v) to (viii), and with the exceptions therein contained, in any way (whether directly or indirectly) determine, or materially influence in any way the determination of:
- (a) the nature or the amount of any benefit or advantage (whether or not convertible into money) or any income of any of the kinds referred to in section CC 1, sub-part CD, sections CE 1, CE 3, CF 1, CG 1, and CH3 of the Income Tax Act 1994 able to be received, gained, achieved, afforded or derived by that person from that business; or
 - (b) the circumstances in which that benefit or advantage or income is or is to be so received, gained, achieved, afforded or derived.
- 15.4 Nothing in this Deed shall authorise the derivation of income to which section CB 4(1)(e) of the Income Tax Act 1994 applies and which is excluded from exemption from income tax by the said section CB 4(1)(e).

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

EXECUTED AS A DEED

SIGNED for and on behalf of)
TAURANGA ENERGY CONSUMER)
TRUST as Settlor in the presence of:)

Witness

Trustee/Authorised Signatory

Signature:

Name (full):

Trustee/Authorised Signatory

Occupation:

Address:

SIGNED by MATTHEW HAROLD)
CAMERON as Trustee in the presence)
of:)

Signature of M H Cameron

Witness

Signature: _____

Name (full): _____

Occupation: _____

Address: _____

SIGNED by MICHAEL JAMES)
COONEY as Trustee in the presence)
of:)

Signature of M J Cooney

Witness

Signature: _____

Name (full): _____

Occupation: _____

Address: _____

SIGNED by **BRUCE WILLIAM**)
CRONIN as Trustee in the presence)
of:

Signature of B W Cronin

Witness

Signature: _____

Name (full): _____

Occupation: _____

Address: _____

SIGNED by **IAN ROBERT HARRIS** as)
Trustee in the presence of:)

Signature of I R Harris

Witness

Signature: _____

Name (full): _____

Occupation: _____

Address: _____

SIGNED by **KAREN JANE JONES** as)
Trustee in the presence of:)

signature of K J Jones

Witness

Signature: _____

Name (full): _____

Occupation: _____

Address: _____