

DATED THE THIRD DAY OF JUNE 1994

ROTORUA ELECTRICITY LIMITED

AND

STUART BOWDEN BURNS, JOHN RAYNOR COLE, ROMA MIRINGA COOK,
JUDITH ANNE KEANEY, CLIFFORD OWEN LEE, JOHN WILLIAM JAMES
LEPPER

DEED OF TRUST

ROTORUA ENERGY CHARITABLE TRUST

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DEED dated the Third day of June 1994

BETWEEN **ROTORUA ELECTRICITY LIMITED** at Rotorua (the
'Company')

AND **STUART BOWDEN BURNS, JOHN RAYNOR COLE,**
ROMA MIRINGA COOK, JUDITH ANNE KEANEY,
CLIFFORD OWEN LEE and JOHN WILLIAM JAMES
LEPPER (together with their successors in office 'Trustees')

RECITALS

- A 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 to the Trustees upon the terms set out in this Deed.
- B. In order to give effect to the establishment plan the Company wishes to establish a charitable trust for charitable purposes or objects within the District.
- C. It is contemplated that further donations and grants may be made to the Trust.
- D. The Company commends to the Trustees the Company's wish that the Trust Fund be applied for Charitable Purposes which are energy related having regard to the general intention of the establishment plan.

OPERATIVE PART

1. DEFINITIONS AND INTERPRETATION

In this Deed unless the context otherwise requires:

'**Act**' means the Energy Companies Act 1992;

'**Balance Date**' means 31 March or any other date as determined by the Trustees;

'**Chairperson**' means the Trustee elected as chairperson pursuant to rule 4 of Schedule I;

'**Charitable Purposes**' means purposes or objects in the District which are charitable in accordance with the law of New Zealand **PROVIDED HOWEVER** that if by reason of any alteration in the law relating to income tax it is at any time necessary to amend such purposes in order to preserve the right to exemption from income tax of the kind referred to in sections CB4(1)(c) and CB4(1)(e) of the Income Tax Act 1994 such purposes shall thereupon be deemed to be amended to the extent necessary;

'**Chief Executive**' means the person appointed as chief executive pursuant to rule 18 of Schedule I;

'**Company**' means Rotorua Electricity Limited;

'**Deed**' means this deed and includes the Schedules and any amendments;

'Deputy Chairperson' means the Trustee elected as deputy chairperson pursuant to rule 4 of Schedule I;

'District' shall have the meaning ascribed to that term in clause 6;

'Electors' means, at any appropriate date or dates designated by the Trustees from time to time, any person;

- (a) whose name appears on a roll of the electors of a Local Authority the whole or any part of whose district is situated within the District; and
- (b) whose electoral address is within the District;

'Energy Related Charitable Purposes' means Charitable Purposes which relate to some aspect of the beneficial use, application or enjoyment in the District of New Zealand's energy resources including:

- (a) Improvements to the safety of the general public including, by way of example, by removing road and overhead hazards caused by above ground electricity supply support systems in the District;
- (b) Avoiding, remedying or mitigating any adverse effects of energy related activities on the Environment;
- (c) Promoting research into more efficient ways of producing and distributing electrical energy for the benefit of the general public in the District including the awarding of research scholarships or prizes and the funding of research and development projects;

- (d) The provision of financial assistance to charitable organisations in the District to enable them to make better use of energy resources available to them or to subsidise the cost to such charitable organisations of existing supplies of energy;

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

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

'Month' means a calendar month;

'Persons' includes any individual, corporation, partnership, joint venture, association, trust, organisation, government department or local authorities;

'Special Resolution' means a resolution of Trustees passed by a majority of not less than seventy five per cent (75%) of the Trustees in New Zealand and its territories at the time the Special Resolution is passed;

'the Trust' means the Rotorua Energy Charitable Trust established by this Deed;

'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;

'Vesting Date' means the date appointed by the Governor-General pursuant to section 47 of the Act in relation to the Rotorua Area Electricity Authority.

1.2 Construction:

In this Deed, unless the context otherwise requires:

- references to one gender include the other gender;
- references to the singular include the plural and vice versa;
- the headings and the index shall not affect the construction of the Deed;
- references to clauses are references to clauses of the Deed and references to schedules are references to Schedules to this Deed;
- references to a statute include references to regulations, orders or notices made under or pursuant to such statute. References to any statute, regulation, 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;
- words, terms or expressions which are defined in the Act but are not defined in this Deed shall have the meaning attributed to them in the Act.

2. NAME OF THE TRUST

The Trust shall be known as the **ROTORUA ENERGY CHARITABLE TRUST** or by such other name as the Trustees may determine from time to time.

3. DECLARATION OF TRUST

The Company hereby declares that the Trustees shall stand possessed of the sum of \$100 settled by the Company upon the Trust contemporaneously with the execution of this Deed and all other monies or property or 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 Trusts hereby declared and any accumulations of income therefrom and all monies, investments and property of whatever kind from time to time representing the same upon the trusts and for the purposes and with the powers, authorities and discretions set out in this Deed.

4. PURPOSE OF THE TRUST

The Company has established the Trust to enable the Trustees to apply the Trust Fund for or towards Charitable Purposes.

5. APPLICATION OF INCOME AND CAPITAL

5.1 The Trustees shall stand possessed of the capital and income of the Trust Fund **UPON TRUST** to apply the same at such time or times as they may in their absolute discretion think fit for all or any one or more of the Charitable Purposes and in particular Energy Related Charitable Purposes and without limitation to the generality of this Clause it is hereby declared that the Trustees may:

- (a) Pay from and out of the income or capital of the Trust Fund all fees costs and disbursements of and incidental to the administration of the Trust Fund.
- (b) In arriving at the nett income of the Trust Fund or deciding what income is available for distribution to or among the Charitable Purposes to deduct or set aside or make such other provision as the Trustees may think necessary for the purposes of repaying or reducing any mortgage or other indebtedness liability or encumbrance incurred or owing or that may in future be incurred or become owing in respect of the Trust Fund or any part thereof or any property comprised therein or by the Trustees hereof and any such amount so set aside deducted or otherwise provided shall if the Trustees shall so decide cease to be regarded as income and shall be deemed to be added to the capital of the Trust Fund. In the like manner the Trustees may set aside and deduct such sum as they may think fit to allow for depreciation of any buildings other erections or any plant machinery or other assets comprised in the Trust Fund and further in the like manner the Trustees may set aside such sums or make such other provision as the Trustees may think fit for a reserve against losses and contingencies and may write off losses from time to time or resort to the reserve fund in mitigation of losses or for any Charitable Purpose. Any deduction setting aside or other provision made by the Trustees under this sub-clause may be made in such manner and on such terms and conditions in all respects as the Trustees may in their absolute

discretion think fit and may be applied to the purposes aforesaid at such times and in such manner as they think fit or if not so applied may be treated as income available for distribution at such times as they may think fit.

6. DISTRICT

For the purposes of this Deed, "District" means:

- (a) the territory over which the Rotorua Area Electricity Authority was authorised to supply electricity as at 31 March 1993 pursuant to the Rotorua Area Electricity Authority Supply Licence 1985; and
- (b) to the extent not within the territory contemplated by paragraph (a) of this clause 6, the area of the Rotorua District Council (being the area delineated on S.O. Plan No. 58044 deposited with the Chief Surveyor of the South Auckland Land District as constituted by the Local Government (Bay of Plenty Region) Reorganisation Order 1989, Gazette 1989, p.2275).

7. APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES

The rules set forth in Schedule I hereto (with such amendments, deletions and additions thereto as may be permitted by this Deed or at law) shall govern the appointment, retirement and proceedings of the Trustees and associated matters.

8. TRUSTEES' POWERS

- 8.1** Subject 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.

8.2 Without limiting the generality of the preceding paragraph and merely by way of example the Trustees shall have the powers set out in Schedule II to this Deed which may be exercised either alone or jointly with any other person.

8.3 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 14, shall at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

8.4 Subject to clause 14 but 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.

9. DUTIES OF THE TRUSTEES

The Trustees shall:

- (a) ensure that full and correct records and accounts of all the financial transactions of the Trust and its assets, liabilities and funds are kept;
- (b) after the end of each Financial Year cause to be prepared for the Trust, for the Financial Year just ended, financial statements (including a statement of financial position, statement of financial performance and notes to those statements) complying with generally accepted accounting practice;
- (c) appoint the first auditor of the Trust Fund and thereafter appoint an auditor at each annual general meeting or whenever a vacancy shall occur in such appointment. The auditor shall be a member of the Institute of Chartered Accountants of New Zealand;
- (d) ensure that the financial statements are audited;
- (e) ensure that the financial statements prepared in accordance with clause 9(b) are available for inspection by Electors at the offices of the Trust not later than 14 days prior to the date of the annual general meeting of the Trust.

10. REMUNERATION AND EXPENSES OF TRUSTEES

10.1

- (a) Subject to the proviso and to clause 11 below 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. For the avoidance of doubt,

any Trustee being a lawyer, accountant or other person engaged in any profession, business or trade is entitled to be paid all usual professional, business and trade charges for services provided by that person or that person's employee or partner in connection with the Trust including acts which a Trustee, not being in any profession, business or trade, could have done personally.

- (b) Subject to the proviso and clause 11 below, each Trustee is entitled to such remuneration for services provided as may be reasonable having regard to that Trustee's duties and responsibilities, and to any remuneration paid to that Trustee in accordance with clause 10.1(a) above for those services, and also having regard to the duties, responsibilities and maximum approved annual remuneration (including salary, meeting fees and expenses) payable from time to time to council members of the Rotorua District Council in accordance with The Local Government Elected Members Determination (in effect at the time) (the "Determination") as issued pursuant to Schedule 7 of the Local Government Act 2002. The annual salary of each Trustee shall be no more than the salary approved under the Determination for a councillor of the Rotorua District Council (except for the Chairman whose salary shall be no more than the salary approved under the Determination for the Deputy Mayor of the Rotorua District Council). Each Trustee shall be entitled to a meeting fee for each meeting attended not exceeding the meeting fee approved under the Determination to council members of the Rotorua District Council for each meeting attended provided that the annual meeting fees for all Trustees in aggregate shall not exceed one half of the aggregated approved meeting fees payable under the Determination to council members of the Rotorua District Council from time to time.

PROVIDED THAT no Trustee who is a person referred to in clauses (i) to (iv) inclusive in the second proviso to Section CB4(1)(e) of the Income Tax Act 1994 shall in any way (whether directly or indirectly) materially

influence or determine any income, benefit or advantage that he or she may receive from the business operations of the trust.

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. Any fees, expenses or allowances incurred in relation to meetings of Trustees shall be reimbursed in accordance with the expense rules of the Rotorua District Council.

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

11. RESTRICTIONS ON BENEFIT FROM THE TRUST

11.1 If the Trustees shall carry on any business for the purposes of the trusts hereof no Trustee shall have and no other person shall have power to determine, or to materially influence in any way the determination of, in respect of that business, 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 CC1, subpart CD or sections CE1, CE3, CF1, CG1 and CH3 of the Income Tax Act 1994, (collectively called "Benefits") which may be afforded to, or received, gained, achieved, or derived by any person who falls within a category referred to in the second proviso to section CB4(1)(e) of the Income Tax Act 1994, being Benefits which have the effect that such business income ceases to be exempt income pursuant to section CB4(1)(e) of that Act.

12. VARIATION OF THE TRUST

12.1 The Trustees shall have power on a unanimous resolution of all Trustees to:

- (a) vary the range of objects of the Trust provided no change may be made which would deprive the Trust of its character or nature as a charitable trust with charitable purposes; or
- (b) amend this Deed in any other way necessary to obtain or maintain the general charitable or tax charitable status of the Trust or to correct a manifest error or where in the opinion of the Trustees the proposed amendment: (1) is of a formal, technical or administrative nature only; or (2) is necessary to comply with the Electricity Act 1992 or any other statute or regulation applying to the Trust or Trustees.

12.2 The Trustees shall have the power by Special Resolution of which shall have been given in the notice convening the meeting to:

- (a) enlarge, amend or revoke their powers, authorities and discretions as set forth in clause 8 and Schedule II (subject always to the terms of this Deed and the limitation set out in clause 12.1(a));
- (b) rescind amend or add to the rules set forth in Schedule I provided that no rescission amendment or addition shall conflict with any of the provisions of the Operative Part of this deed or Schedule II; or
- (c) amalgamate and merge the Trust with any other charitable trust created to give effect to an establishment plan under the Act and agree to any changes to the provisions of this Deed necessary or desirable to enable or facilitate such amalgamation and merger. The Trustees may transfer all the property of the Trust to such amalgamated and merged trust and upon such transfer the Trustees

shall be released and discharged from any further obligation as Trustees in respect of the property of the Trust so transferred.

13. WINDING UP

13.1 The Trust may be wound up on a unanimous resolution of all the Trustees at a meeting of the Trustees called for that purpose on not less than thirty days prior written notice.

13.2 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 Charitable Purposes.

14. LIABILITY

14.1 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 the Trustee of an act not known by that Trustee to be a breach of trust. 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.

14.2 Each Trustee shall be chargeable only for such moneys as shall have actually 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 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 his or her neglect or default.

15. 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 of the Trustees 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 such Trustee's dishonesty or to the wilful commission by such Trustee 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.

16. NOTICES

16.1 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.

16.2 Any notice or document given pursuant to clause or 16.1 shall be deemed to be duly given or made:

- (i) if delivered by hand, when so delivered;
- (ii) if sent by facsimile, when receipt is confirmed;
- (iii) if sent by post, on the third working day after posting.

EXECUTED as a deed

**THE COMMON SEAL of ROTORUA
ELECTRICITY LIMITED** was affixed
in the presence of:

Signature of Authorised Person

Signature of Authorised Person

Name of Authorised Person

Name of Authorised Person

Office Held

Office Held

SIGNED by **STUART BOWDEN BURNS** in the presence of:

Signature of Witness

Signature of **STUART BOWDEN BURNS**

Name of Witness

Occupation of Witness

Town of Residence

SIGNED by **JOHN RAYNOR COLE** in the presence of:

Signature of Witness

Signature of **JOHN RAYNOR COLE**

Name of Witness

Occupation of Witness

Town of Residence

SIGNED by **ROMA MIRINGA COOK**
in the presence of:

Signature of Witness

Signature of ROMA MIRINGA COOK

Name of Witness

Occupation of Witness

Town of Residence

SIGNED by **JUDITH ANNE KEANEY**
in the presence of:

Signature of Witness

Signature of JUDITH ANNE KEANEY

Name of Witness

Occupation of Witness

Town of Residence

SIGNED by **CLIFFORD OWEN LEE**
in the presence of:

Signature of Witness

Signature of CLIFFORD OWEN LEE

Name of Witness

Occupation of Witness

Town of Residence

SIGNED by **JOHN WILLIAM JAMES
LEPPER** in the presence of:

Signature of Witness

Signature of JOHN WILLIAM JAMES
LEPPER

Name of Witness

Occupation of Witness

Town of Residence

SCHEDULE I

RULES GOVERNING THE APPOINTMENT, RETIREMENT AND PROCEEDINGS OF THE TRUSTEES

1. NUMBER OF TRUSTEES

1.1 The number of Trustees shall be not less than four (4) nor more than six (6) **PROVIDED THAT** if at any time there are less than four (4) Trustees in office the remaining Trustees shall be entitled to act until the number of Trustees is restored to the minimum number and no act or decision of the Trustees shall be called in to question on such account.

1.2 The first Trustees shall be the six (6) persons signing this deed as Trustees.

1.3 Subject to rule 1.4, the Trustees shall be elected by the Electors in the manner specified in rule 3.4.

1.4 Any vacancy in the number of Trustees may be filled by Special Resolution of the continuing Trustees but the new appointee shall hold office only for the residue of the term of office of the Trustee whose place is taken.

2. ELIGIBILITY

2.1 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 135 of the Companies Act 1993 applies;
- (e) a person who is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992;
- (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.

2.2 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.

3. TERM OF OFFICE

3.1 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 by Electors pursuant to rule 3.4.

3.2 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.

3.3 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.

3.4 Other than the first Trustees as set out in rule 1.2, all Trustees shall be elected by the Electors at any time within six weeks of the holding of the election of members of the Local Authorities, any part of whose district is situated within the District, in such manner as the Trustees may from time to time by Special Resolution determine. The previously elected Trustees shall continue in office until the declaration of the result of the election.

3.5 A retiring Trustee is eligible for re-appointment.

4. CHAIRPERSON AND DEPUTY CHAIRPERSON

The Trustees shall elect from amongst themselves a Chairperson and Deputy Chairperson at the first meeting of the Trustees after each election of Trustees (pursuant to rule 3.4 above), and at any other time when either position becomes vacant or a clear majority of the Trustees resolves to remove the Chairperson and/or Deputy Chairperson as the case may be.

5. QUORUM

A quorum at meetings of the Trustees shall comprise a majority of Trustees in office.

6. 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.

7. 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.

8. MEETINGS OF TRUSTEES

- 8.1** Within four (4) months of the end of each Financial Year the Trustees shall hold an annual general meeting.
- 8.2** The Chief Executive 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** The business is to be transacted at the annual general meeting shall be the receipt of the annual report, accounts, appointment of the auditor 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.
- 8.4** Notice in writing of any special business shall be given to the Chief Executive no less than twenty one (21) days prior to the annual general meeting. The Chief Executive 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 Electors 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** Electors shall be entitled to attend and speak at the annual general meeting but shall not be entitled to vote at such meetings.
- 8.6** The **Trustees** shall otherwise meet at such times and places as they may agree to dispatch the business of the Trust. The Trustees shall be entitled to develop standing orders for the conduct of such meetings.

- 8.7** Any two (2) or more Trustees may at any time summon a meeting of Trustees.

9. NOTICE OF MEETINGS

Notice in writing of every meeting shall be delivered or sent by post or facsimile to each Trustee by the Chief Executive or other person acting under the direction of the Trustees. In the case of a meeting summoned pursuant to rule 8.7, the Trustees, persons summoning it or the Chief Executive or other person acting under the direction of the Trustees shall give at least seven (7) working days notice of that meeting. No notice shall be necessary for adjourned meetings except to Trustees not present when the meeting was adjourned.

10. CONTENT OF NOTICE

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 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.

11. 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.

12. VOTING

12.1 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 and entitled to vote on the matter under consideration.

12.2 Neither the Chairperson nor the Deputy Chairperson shall have a casting vote in addition to his or her deliberative vote.

13. INTERESTED TRUSTEES

A Trustee who in any way, whether directly or indirectly, has a material interest in any contract or proposed contract or arrangement or dealing with the Trust shall disclose the nature of that interest at a meeting of the Trustees and such disclosure shall be recorded in the minutes of the meeting.

13.1 A Trustee required to disclose an interest by clause 13.1 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.

13.2 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.

14. MINUTES

14.1 A minute book shall be provided and kept by the Trustees and all proceedings of the Trustees shall be entered in the minute book.

14.2 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.

14.3 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.

15. 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).

16. MEETINGS BY TELEPHONE

16.1 Notwithstanding any other provision in the 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 Chief Executive or a person acting as a Chief Executive, 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:

- (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 Chief Executive or person acting as a Chief Executive, 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.

16.2 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 Chief Executive or person acting as a Chief Executive.

17. 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.

18. CHIEF EXECUTIVE

The Trustees shall appoint from time to time a Chief Executive, and any such person holding such position may not also be a Trustee. The Chief Executive shall:

- 18.1** effectively manage the Trust's daily operations in line with the Trust's policies and strategic plan;
- 18.2** keep usual records of the business of the Trust and notify Trustees of intended meetings of Trustees and the business to be transacted or discussed at such meetings; and
- 18.3** keep usual and proper books of account and other financial records of the business to report to 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 to allow the Trust to retain its charitable tax status.

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 moneys on such terms and subject to such conditions as the Trustees think fit.
- (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

PROVIDED THAT the trustees shall not exercise the powers in sub-clauses (d), (e) or (f) to borrow money, lend money nor lease property or assets at less than current commercial rates, having regard to the nature and term of the loan or lease, to any person (as detailed in section CB4(1)(e) of the Income Tax Act 1994):

- (i) who is a Trustee of the trust; or
 - (i) who is a shareholder or director of any company by which any business of the trust is carried on; or
 - (ii) who is a settlor or trustee of a trust that is a shareholder or any company by which any business of the trust is carried on; or
 - (iii) if that person or that company and the settlor or trustee or shareholder or director referred to in any of the foregoing paragraphs of this proviso are associated persons (as that term is defined in the Income Tax Act 1994).
- (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 **PROVIDED THAT** any Trustee hereof who shall be employed in connection with the trusts hereof may be paid all such remuneration for his services as may be normal as if he had been employed in that behalf and had not been a trustee hereof **PROVIDED THAT** no trustee who is a person referred to in clauses (i) to (iv) inclusive in the second proviso to section CB4(1)(e) of the Income Tax Act 1994 shall in any way (whether directly or indirectly) materially influence or determine any income, benefit or advantage that he may received from the business operations of the trust.
- (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.

- (n) 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.

- (o) Apply for incorporation as a Charitable Trust Board under the Charitable Trusts Act 1957.