TECT

At the heart of our community.



# Trust Deed

# TECT Consumer Trust

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**TRUST DEED**

DEED originally dated 21st day of December 1993 as varied on 1 April 2022 (the **Effective Date**)

**BACKGROUND**

A The TECT Consumer Trust was originally settled in 1993 by the legal predecessor to the current Trustpower Limited (company number 565426), to enable the Trustees to acquire 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.

B 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 determine) by way of loan to the TECT Community Trust;

D.2 utilise the net annual income of the Trust Fund and the capital of the Trust Fund (as the Trustees determine) 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, unless the context otherwise requires:

*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 Trust as the end of its Financial Year;

*Chief Executive* means the chief executive of the Trust (or similar most senior officer of the Trust, by whatever name) appointed from time to time by the Trustees or if at any time there is no such person appointed, the Chairperson of the Trust at the relevant time;

*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) the discharge by a Trustee of duties and obligations created by the Trust, as set out in this Deed;

(ii) the discharge by a Trustee with the express authority or express consent of the Trust of duties and obligations created by the Trust;

(iii) 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 request for disclosure pursuant to the Guidelines; or

(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 3;

*Deed* means this Deed and includes the schedules and any amendments;

*District* means:

(i) the territory over which the Tauranga Electric Power Board constituted by the Electric Power Boards Act 1925 was authorised to supply electricity pursuant to a licence granted under section 20 of the Electricity Act 1968 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 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,

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

*Financial Statements* means the financial statements of the Trust prepared in accordance with clause 9.3(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;

*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 TECT Community Trust as constituted pursuant to the TECT Community Trust 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 8 February 2022;

*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 date upon which the Trust ceases or is otherwise wound up in accordance with applicable law and clause 13 of this 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;

*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);

(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

(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 that Act.

## 2 NAME OF THE TRUST

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

## 3 DECLARATION OF TRUST

The Trustees acknowledge and declare that they stand possessed of the Trust Fund, including the sum of $100 originally settled on the Trustees on the 21st day of 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:

(a) To retain, hold, distribute, pay, apply or appropriate the income and the capital of the Trust Fund to Consumers in accordance with clause 5; 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.

4.3 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 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 (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.

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 each annual period commencing with the annual period ending on 31 December 2022 and each annual period thereafter to 31 December 2030, $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.

5.5 Each Consumer to whom income or capital is paid by the Trustees pursuant to clause 5.2 shall, subject to clause 5.6, as from the date of such payment take an absolute and indefeasibly vested interest in such income or capital.

5.6 All payments made to Consumers unclaimed for one year after having been paid (or attempted to be so paid) may be invested or otherwise made use 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 paid (or attempted to be so paid) or 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.

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.

## 7 APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES

The rules set out in Schedule 2 of this Deed shall govern the appointment, retirement and proceedings of the Trustees and associated matters.

## 8 TRUSTEES' POWERS

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.

8.4 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 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 Trustpower (or any other person) which affect the status of any person as being or not being a Consumer.

## 9 DUTIES OF TRUSTEES

9.1

(a) The Trustees 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.

(b) In addition the Trustees shall have the specific duties set out in this clause 9.

9.2 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.

9.3 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 8 of the Financial Reporting Act 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

(c) make those audited Financial Statements and the auditor's report on those Financial Statements available to all Consumers in accordance with clause 9.9 and shall notify the fact that copies of such documents are so available by announcement on a website maintained by the Trust.

9.4

(a) The Trustees shall in each Financial Year, hold a general meeting of Consumers at which the Consumers appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next general meeting of Consumers.

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

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

(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, employee or agent of the Trust 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 the Trust, references to a director were to a Trustee, references to a board were to the Trustees, references to shareholders were to Consumers, and all other necessary modifications were made.

9.5

(a) The Trustees must give no less than ten (10) working days' notice of the general meeting of Consumers on a website maintained by the Trust.

(b) Every Consumer shall have one vote.

(c) The quorum for that general meeting is 20 Consumers.

(d) No business may be transacted at the general meeting of the Consumers if a quorum is not present.

(e) Proceedings at the general meeting of Consumers shall be determined by the Chairperson of the Trust.

9.6

(a) If no auditor is appointed in accordance with clause 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 9.5(b), the Auditor-General shall be the auditor of the Trust.

(b) The Trustees shall, within five (5) working days of clause 9.7(a) becoming applicable, give written notice to the Auditor-General of this fact.

(c) If this clause 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 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.

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

9.8 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 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.

## 10 INFORMATION TO CONSUMERS

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:

(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.

## 11 REMUNERATION OF TRUSTEES

No Trustee shall be entitled in any Financial Year to remuneration for their services as a Trustee.

## 12 VARIATION TO TRUST DEED

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:

(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 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 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 alteration or amendment, the approval of that High Court.

## 13 WINDING UP OF TRUST

13.1 The Trustees shall wind up the Trust on 31 December 2050.

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).

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 in accordance with clause 6.

## 14 LIABILITY AND INDEMNITY

14.1

(a) A Trustee will be liable only for any loss suffered by the Trust Fund attributable to the Trustee's own dishonesty, wilful misconduct or gross negligence.

(b) No Trustee will be liable for any other loss attributable to any breach of trust by the Trustee.

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

## 15 NOTICES

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.

15.2 Any notice or document given pursuant to clause 15.1 shall be deemed to be duly given or made:

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

(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.

## 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 honesty 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

The minimum and maximum numbers of Trustees of the Trust from time to time shall be 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 at any time be those same persons who are validly elected, or appointed, and continuing in the office 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.

(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, and the power to remove Trustees, shall be vested in the TECT Community Trust Trustees.

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

### 3 CHAIRPERSON AND DEPUTY CHAIRPERSON

The persons who are elected as Chairperson and (if applicable) Deputy Chairperson of the TECT Community Trust by the TECT Community Trust Trustees from time to time shall be deemed to be elected as Chairperson and (if applicable) Deputy Chairperson of the Trust for such time.

### 4 MEETINGS OF TRUSTEES

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

(b) Every notice of meeting shall state the place, day, and hour of the meeting and every notice of a meeting summoned pursuant to 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.

## 9 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.

## 10 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.

## 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 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 interested in the transaction.

(b) As soon as a Trustee becomes aware of the fact that they are interested in a transaction or proposed transaction with the Trust, they must disclose to their co-Trustees:

(i) if the monetary value of the Trustee's interest is able to quantified, the nature and monetary value of that interest; 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 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.

(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.

## 12 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.

## 13 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.

## 14 MEETINGS BY TELEPHONE / VIDEO CONFERENCING

(a) Notwithstanding any other provision in 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 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 or by video conferencing.

(b) Minutes of the proceedings at such meeting 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 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.

## 16 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.

## SCHEDULE 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) Place notice of the proposal before a meeting of the Trustees;

(b) Give notice of the proposal to Consumers in accordance with clause 11 of the Deed;

(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) 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 3 is given a reasonable opportunity to be heard by the Trustees;

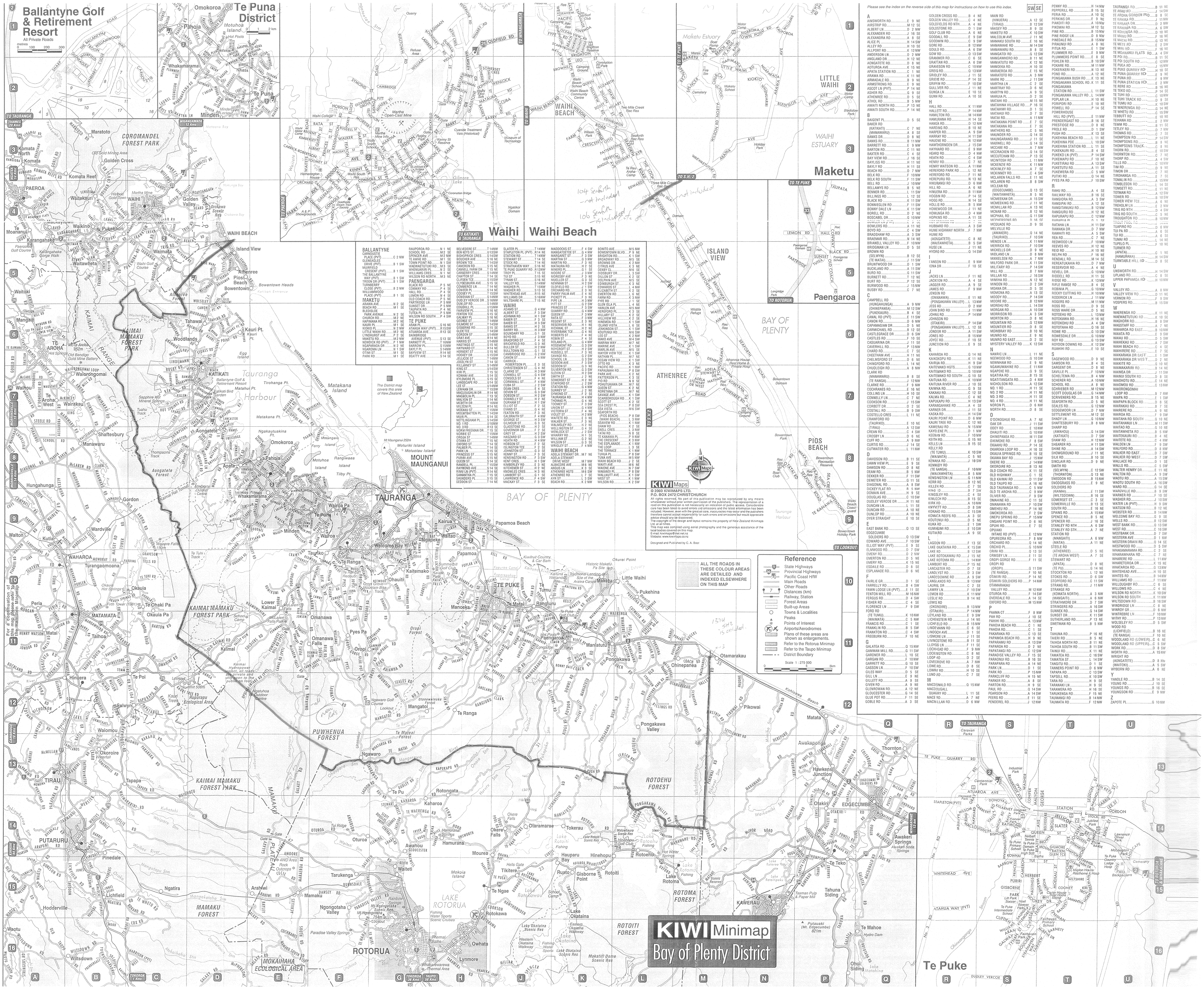
(e) Ensure that every meeting at which submissions are heard are open to Consumers; and

(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


KIWI Minimap
Bay of Plenty District
Ballantyne Golf & Retirement Resort
Te Puna District
Waihi
Waihi Beach
Maketu
Paengaroa
Te Puke
TAURANGA
MOUNT MAUNGANUI
ROTORUA
PUTARURU
MATAMATA
TE AROHA
PAEROA
KATIKATI
EDGECUMBE
KAWERAU
BAY OF PLENTY
Reference
ALL THE ROADS IN THESE COLOUR AREAS ARE DETAILED AND INDEXED ELSEWHERE ON THIS MAP
KAIMAI MAMAKU FOREST PARK
COROMANDEL FOREST PARK
LAKE ROTORUA

## 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 or 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.

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 past 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).

**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**

| TYPE | DESCRIPTION | EXAMPLES OF ACCOUNT NAME CHANGES |
|---|---|---|
| A. Sole Trader | 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.<br><br>*eg WhizzyDo Administrative Services is operated by Pip Mills.* | i. *WhizzyDo Administrative Services* changes account to *Pip Mills* – **Eligible as evidence exists that Pip was financially liable for both accounts**<br>ii. *WhizzyDo Administrative Services* changes account to *Pip Mills & Paul Watson* – **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.** |
| B. Partnership | 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.<br><br>Partners are liable for debts incurred by other partners in connection with the business. Individual assets may be at risk.<br><br>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. | i. *Sunshine Partnership* changes account to *Kelly Wells & Pete Hargrave*. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Sunshine Partnership -**Eligible**<br>ii. *Sunshine Partnership* changes account to *Kelly Wells*. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Sunshine Partnership - **Not Eligible**<br>iii. *Kelly Wells & Pete Hargrave Partnership* changes account to *Kelly Wells & Pete Hargrave*. Partnership agreement shows Kelly Wells & Pete Hargrave as 50/50 partners of Kelly Wells & Pete Hargrave Partnership - **Eligible** |
| C. Company | 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' | i. *Sunshine Sheds Ltd* changes account name to *James Darwin* - **Not Eligible** as these are separate legal entities |

| | | |
|---|---|---|
| | 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)).<br><br>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. | ii. *Suzie Goldsmith Hair Design Ltd* changes account name to *Suzie Goldsmith* - **Not Eligible** as these are separate legal entities<br><br>iii. Sunshine Sheds Ltd changes company name to Sunshine Sheds & Awnings Ltd but remains same company (same company number) **- Eligible**<br><br>iv. Sunshine Sheds & Awnings Ltd changes name to Sunshine Sheds Ltd (existing Consumer) but is a separate company (different Company number) **Not Eligible** |
| D. Trading Trust Family Trust | Business trading as a trust. Trustees have the power to carry on the business of the trust and hold investments.<br><br>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. | i. *The Craig Family Trust* changes account name to *Bill Craig* - **Not Eligible**<br><br>ii. *The Craig Family Trust* changes account name to *Felicity & John Craig* – **Not Eligible** as these are separate legal entities<br><br>iii. *Felicity & John Craig* changes account to *The Craig Family Trust* – **Not Eligible** as these are separate legal entities.<br><br>iv. *John Craig* resigns as Trustee on *The Craig Family Trust*. *Bill Craig* becomes a Trustee. *The Craig Family Trust* is still eligible. |
| E. Other/Trading Name | Non-entities - Orchards / lifestyle blocks etc where owners make up an identifying name for their property. | i. *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 Eligible. The other two neighbours are also not eligible** as they were not named on the account.<br><br>ii. *Willow Creek* changes account to *Susan Daily* – **Eligible if evidence exists that Susan was financially liable for both accounts.** |

**2. Individual, Couple & Flatting Accounts**

| TYPE | DESCRIPTION | EXAMPLES OF ACCOUNT NAME CHANGES |
|---|---|---|
| A. Individuals.<br>(Individual people, couples and flatmates are named on a power account for a property) | • Joint Account to individual accounts | i. *Scott Smith & Carina Jones* changes account name to *Scott & Carina Smith* after getting married– **Eligible**<br>ii. *Mr 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)<br>iii. *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<br>iv. |
| | • Individual Account to Joint Account | i. *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. |
| | • Flat Accounts | i. *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.<br>ii. 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.<br>iii. 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.<br>iv. If Jason Brown opens a new account in the name of *Mr Jason Brown & Miss 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. |

| | | |
|---|---|---|
| | • Change of name on account | i. *Mr Frank Smythe* changes account name to *Mrs Jane Smythe* after Franks 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.<br>ii. *Mr Frank Smythe* changes account name to *Mrs Jane Smythe* – **Not Eligible** as Mrs Jane Smythe was not name on original account.<br>iii. *James Tasker* changes name on account to *Kelly Tasker* (Daughter) – **Not Eligible** as child has no financial obligation for parent's debt.<br>iv. *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** |
| B. Change in number of ICP's | • Additional ICP's can be made eligible after Record Date (up to a maximum of five (5) per eligible Consumer) | i. *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).<br>ii. *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. .<br>iii. *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.<br>iv. *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 ten ICP's. They will receive six (6) Rebates only (one plus an additional five (5)).<br>v. *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). |

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| C. Closure of account | • Closes own account, but pays for another | i. *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.<br>*Camilla Gregory* - **Not Eligible** unless she reopens an account in her name.<br>ii. *Shane & Stephanie Scott* - **Eligible** as their names remain on their account regardless of who is paying for it (they remain financially liable). |