

SCANPOWER CUSTOMER TRUST

SCHEDULE VIII

THIS DEED is made on the day of , 1993

BETWEEN SCANPOWER LIMITED a public company at Dannevirke (hereinafter called “the Settlor”)

AND WILLIAM MORGAN BLY of Woodville, Farmer and ALTHEA KALLAS DRUCE of Kumeroa, Woodville, Design Consultant, GRAHAM WALTER CLIFFORD HISLOP of Dannevirke, Retailer, PAMELA GWENDOLINE PRENTER of Dannevirke, Land Sales Person and GRAHAM CLIFTON WILLIAMS of Te Uri, Farmer (hereinafter together with their successors in office called “the Original Trustees”)

WHEREAS

- A. THE Settlor wishes to establish a Customer Trust for the benefit of the customers of Scanpower Limited within the geographical area served from time to time by the Settlor’s energy distribution network.
- B. IN accordance with the terms of the Dannevirke Electric Power Board Establishment Plan and the Share Allocation contained therein approved by the Minister pursuant to Section 27 of the Energy Companies Act 1992, seven million five hundred thousand (7,500,000) ordinary shares in the capital of the Settlor were transferred to the Original Trustees in the numbers set forth in the said Plan to be held by them in terms of this Deed.

1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions: In this Deed, unless the context otherwise requires:

- ❖ “Act” means the Energy Companies Act 1992;
- ❖ “Balance Date” means 31 March or any other date adopted from time to time by the Company as the end of its Financial Year;
- ❖ “Bank” means any bank listed in the register of registered banks referred to in Section 69 of the Reserve Bank of New Zealand Act 1989;
- ❖ “Board” means the Dannevirke Electric Power Board constituted by Section 10 of the Electric Power Boards Act 1925;
- ❖ “Closure of the Poll” means closure of the poll in terms of Rule 2.20 of the Schedule to this Deed;
- ❖ “the Company” means Scanpower Limited and includes any successor company or any company arising out of any reconstruction, amalgamation or merger of the Company.
- ❖ “Customers” and “the Customers” means persons who at any appropriate date or dates designated by the Original Trustees from time to time are primarily liable as account holders with the Settlor for the payment of any amount in respect of connection to or use of the Company’s distribution network.
- ❖ “Declaration of Result” means a declaration of result in terms of Rule 2.24 of the Schedule to this Deed;
- ❖ “this Deed” means this deed and includes the schedule and any amendments;
- ❖ “Distribution Plan” means a plan for the distribution of the shares in the capital of the Company prepared by the Original Trustees in accordance with Clause 4;
- ❖ “Dividends” means, in relation to the Company, any distributions paid in cash or otherwise by the Company to the Original Trustees as holders, under this Deed, of shares in the Company;
- ❖ “Election Date” means an election date in terms of Rule 2.7 in the first schedule to this Deed.
- ❖ “Financial Year” means any year or other accounting period ending on a Balance Date;
- ❖ “Local Authority” means territorial authorities and Regional Councils within the meaning of the Local Government Act 1974;
- ❖ “Meeting” in relation to shareholders of the Company or Subsidiary shall mean any meeting of shareholders including general meetings and extraordinary general meetings.
- ❖ “Member” in relation to a Local Authority means an elected or appointed member and includes Mayors, Chairpersons, and Councillors;
- ❖ “Month” means a calendar month;
- ❖ “Persons” includes Companies, other incorporated and unincorporated bodies, and Local Authorities;

- ❖ “Register of Members” means the Register of Members of the Company or any Subsidiary in which the Original Original (*sic*) Trustees hold shares;
- ❖ “Roll” and “the Roll” means the roll of customers referred to in Rule 2.12 of the schedule to this Deed;
- ❖ “Signatories” in relation to the Trustees of this Deed means the persons who have signed their names as the Original Trustees under this Deed;
- ❖ “Subsidiary Company” and “Subsidiary” includes a subsidiary of the Company as defined by Section 158 of the Companies Act 1955, and also includes any other company in which the Company holds shares.
- ❖ “Termination Date” means the earlier of 1 January 2072 and the date upon which the Trust is wound up in accordance with Clause 16 of this Deed;
- ❖ “the Trust” means the Scanpower Customer Trust established by this Deed;
- ❖ “the Trustees” means the Original Trustees for so long as they remain Trustees and the Trustees for the time being of the Trust;
- ❖ “Trust Fund” means the seven million five hundred thousand (7,500,000) ordinary shares in the capital of the Settlor transferred in (*sic*) the Original Trustees in terms of the Dannevirke Electric Power Board Establishment Plan and Share Allocation, all other property of any nature or kind which may be received or acquired by the Original Trustees from any source and whether by way of gift, bequest, devise, purchase, exchange or otherwise held by the Trustees in terms of this Deed;
- ❖ “Trustee Act” means the Trustee Act 1956;
- ❖ “Vesting Date” means the date appointed by the Governor-General pursuant to Section 47 of the Act in relation to the Board;

1.2 Construction: In this Deed, unless the context otherwise requires:

- ❖ reference(s) 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 this deed;
- ❖ references to clauses are references to Clauses of the Deed and references to schedules are references to Schedules to the Deed;
- ❖ references to a statute include references to regulations, order 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 on the Act but are not defined in this Deed shall have the meaning attributed to them in the Act.

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

2. DECLARATION OF TRUST

2.1 The Original Trustees acknowledge that they hold the Trust Fund for the term, purposes and upon the terms and conditions set out in this Deed of Trust.

2.2 Name: The trust established by this Deed as an electric power trust shall be known as the SCANPOWER CUSTOMER TRUST. The name of the Trust may be changed from time to time by unanimous resolution of the Trustees.

3. PURPOSES

THE purposes and objects for which the Trust is established are: -

3.1 Shares in Company: On Vesting Date, to receive shares in the Company vested in the Trustees by Order in Council made in accordance with Section 47 of the Act.

3.2 Acquisition of Further shares: If the Trustees so elect, to subscribe for, purchase or otherwise acquire additional shares in the capital of the Company or any Subsidiary Company.

3.3 Holding Shares: To hold such shares upon trust for the benefit of the Customers subject to the review provisions under Clause 4.

3.4 Proceeds of Sale or Disposition: To hold the proceeds of any sale, transfer or other disposition of the shares or any of them upon the trust for capital in accordance with Clause 6.1.

3.5 Dividends: To receive Dividends and to distribute, pay, apply or appropriate such Dividends to or for the benefit of the Customers in the manner provided in Clause 5.

3.6 Capital: Following the Termination Date to pay, apply and appropriate the capital of the Trust in the manner provided in Clause 6.2.

4. REVIEW PROCEDURE

4.1 Report: Within three (3) years of the Vesting Date, the Original Trustees shall prepare a report considering proposals and available options for the future ownership of the shares. Such report shall contain the following: -

4.1.1 an analysis of the performance of the Trust to the date of the report together with a summary of:

- (a) the advantages and disadvantage of Trust ownership,
- (b) the benefits or otherwise of such ownership to Customers,
- (c) a comparison of the advantages and disadvantages of individual ownership of the shares by customers.

4.1.2 an analysis of other ownership options including, without limitation, share distribution to Customers, sale of shares to the public, sale of shares to institutional investors, compared with retention of ownership by the Trust;

4.1.3 a comparison of the Company's performance with the performance of other companies engaged in energy distribution and/or trading;

4.1.4 the conclusions of the Trustees as to the most appropriate form of ownership together with an indication whether the conclusions are unanimous and, if the decision is not unanimous, a summary of the conclusions of the dissenting Trustees;

- 4.1.5 if a distribution of shares is recommended the matters contained in paragraphs (a), (b) and (c) of clause 4.6;
- 4.1.6 a statement of the view of the Directors of the Company together with an indication whether the conclusions are unanimous and, if the decision is not unanimous, a summary of the conclusions of the dissenting Directors;
- 4.1.7 a statement as to whether or not the Trustees have had regard to any views expressed by the public with respect to ownership;
- 4.1.8 a summary of the professional advice (if any) obtained in respect of the preparation of the report;
- 4.1.9 a statement of the extent to which any proposals require a modification of the Company's Statement of Corporate Intent.
- 4.2 Public Availability: The Trustees shall make the report available to the public in accordance with Clause 14.
- 4.3 Special Consultative Procedure: The Trustees shall no later than 1 month after the date of the report, implement the special consultative procedure contained in Section 716A of the Local Government Act 1974 in respect of the report.
- 4.4 Decision: Following completion of the special consultative procedure, and in any event not later than 42 months after the Vesting Date, the Trustees shall decide (subject to Clause 4.8) whether to:
 - (a) retain the shares in the Trust; or
 - (b) dispose of a portion of the shares and retain the remainder in the Trust; or
 - (c) dispose of all the shares.
- 4.5 Notification of Decision: If the shares are to be retained by the Trust the Trustees shall notify the public in accordance with Clause 14.
- 4.6 Distribution Plan: If the shares or any portion of them are to be distributed the Trustees shall prepare for public consultation a Distribution Plan which shall include the following:
 - (a) to whom and in what numbers the shares are to be distributed;
 - (b) the time and manner in which the shares are to be distributed;
 - (c) whether the shares are to be distributed without consideration, at a concessionary consideration, or for full consideration.
- 4.7 Notification of Distribution Plan: The Distribution Plan shall be notified to the public in accordance with Clause 14, and following notification at a meeting of Customers called in accordance with Clause 13, the Trustees shall be obliged to ensure that the Distribution Plan as approved at such Customers' meeting or as amended thereat, is implemented.
- 4.8 Subsequent Reviews: If following the initial review all or any of the shares are retained by the Trustees, and so long as all or any of the shares are retained by the Trustees, the following provisions shall apply:
 - (a) within five (5) years of the decision of the Trustees on the initial review (referred to in Clause 4.4) the Original Trustees shall initiate a further review, and such review shall be completed in accordance with the preceding review provisions of Clauses 4.1 to 4.7;
 - (b) thereafter the Trustees shall initiate further reviews at intervals not greater than five (5) years after the date of the Trustees' decision on the immediately preceding review, and such

reviews shall be completed in accordance with the preceding review provisions of Clauses 4.1 to 4.7;

- (c) notwithstanding the foregoing provisions of this Clause 4.8, a majority of the Trustees may requisition a review. If a review is requisitioned in accordance with this sub-clause 4.8(c) the Trustees shall carry out a review in accordance with the review provisions contained in Clauses 4.1 to 4.7;
- (d) any legislative or other governmental requirement or direction that the shares or any of them be distributed, transferred, or otherwise disposed of by the Trustees shall be deemed to be a requisition (regardless of the time that might have elapsed since the previous decision) of the Trustees for the purposes of the preceding sub-clause 4.8(c), and shall immediately give rise to a review which shall be completed in accordance with Clause 4.1 to 4.7.

5. TRUSTS OF INCOME UNTIL DISTRIBUTION DATE

THE Trustees shall stand possessed of the income arising from the Trust Fund upon the following trusts and with and subject to the following powers:

- 5.1 Remuneration and Expenses: The Trustees shall from the net annual income first pay the cost of administering the Trust including remuneration and allowances payable to Trustees as provided by this Deed and expenses incurred in pursuance of their duties.
- 5.2 Discretion as to Income: The Trustees may subject to Clause 5.3 and Clause 5.4 pay, apply or appropriate the whole or any part of the current net annual income derived by or credited to the Trust Fund in any Financial Year to or for or otherwise howsoever for the direct benefit of all the Customers in such manner and in such shares and proportions as the Trustees shall consider proper recognising in such application or appropriation the contribution of Customers using more than 20,000 units of electricity per annum to the assets and profitability of the Company, and the quality of supply received by Customers using less than 20,000 units of electricity per annum. In applying such principles the Trustees shall give due regard to all relevant factors including the following formula: -

Dividend or Share Distribution Formula:

$$\frac{(C\% \times CG) \times D}{CG} + \frac{(U\% \times UG) \times D}{CG}$$

(Customer Based) (Consumption Based)

- Where D = Amount of dividend or number of shares to be distributed
 C% = Dividend or shares allocated on a Customer base and is 50% of total dividend or shares.
 CG% = Group % of total Customers.
 U% = The remaining 50% of dividend or shares after the C% has been chosen is allocated to consumption.
 UG% = Group % of total consumption.
 CG = No. of Customers in group.

- 5.3 Retention of Dividends: The Trustees are authorised to retain any Dividend received for such period as they consider to be proper.
- 5.4 Directors Report: The Trustees shall request the Directors of the Company to produce a report in respect of each Dividend received by the Trustees recommending an appropriate allocation of the Dividend amongst the Customers but the Trustees shall not be bound by such recommendation.

- 5.5 Vesting: All the customers to whom any income is paid, applied or appropriated by the Trustees pursuant to the provisions of Clause 5.2, shall as from the date of such payment, application or appropriation take an absolute and indefeasibly vested interest in such income.
- 5.6 Not to Affect Corpus: The foregoing provisions as to vesting of income shall not operate to vest any part of the corpus of the Trust Fund in any of the Customers.
- 5.7 Accumulation: Subject to the foregoing, so far as any part or parts of the income derived by or credited to or to be derived by or credited to the Trust Fund in any Financial Year is not paid, applied or appropriated to the Customers pursuant to Clause 5.2, the same shall be accumulated by investing the same so that all such accumulations shall be held by the Trustees upon the same trusts and with the powers herein declared in respect of the income of the Trust Fund so that the Trustees may at any time or times resort thereto and pay, apply or appropriate the whole or any part thereof as if it were income of the Trust Fund to or for the direct benefit of the Customers, in the same manner as provided by Clause 5.2 thereof.
- 5.8 Trustees not Disqualified: Each Trustee in his capacity as a Customer shall, notwithstanding the provisions of this Deed or any applicable rule of law or equity, be entitled to receive any benefits as a Customer which may be distributed to Customers in accordance with Clause 5.2.

6. TRUSTS OF CAPITAL

- 6.1 Trusts prior to Termination Date: The shares in the Company or the proceeds of sale of such shares shall be held by the Trustees upon trust to pay, apply or allocate the same or, in the absolute and unfettered discretion of the Trustees, before the Termination Date for the direct benefit of the Customers in such manner and in such shares as the Trustees consider fair and equitable taking into account the contribution of Customers using more than 20,000 units of electricity per annum to the assets and profitability of the Company, and the quality of supply received by Customers using less than 20,000 units of electricity per annum. In applying such principles the Trustees shall give due regard to the formula appearing in Clause 5.2.
- 6.2 Trusts from and after Termination Date: From and after the Termination Date the Trustees shall stand possessed of the corpus of the Trust Fund and the income thereof and any income previously derived by the Trustees that has not been paid, applied or appropriated in accordance with Clause 6.1 hereof, upon trust to pay, apply or appropriate the same to or for or otherwise howsoever for the direct benefit of the Customers in such manner and in such shares as the Trustees shall consider fair and equitable taking into account the contribution of Customers using more than 20,000 units of electricity per annum. In applying such principles the Trustees shall give due regard to all relevant factors including the formula appearing in Clause 5.2 PROVIDED HOWEVER that if the Trustees have not so paid, applied or appropriated all of such Trust Fund and income on or before 1 January, 2073 the amount so remaining shall be paid or applied or appropriated to all Customers existing on 1 January, 2073 in accordance with the formula set in Clause 5.2.
- 6.3 Report from Directors: Before making a distribution to Customers under Clause 6.1 or Clause 6.2 the Trustees shall request the Directors to produce a report recommending an appropriate distribution but the Trustees shall not be bound by such recommendation.
- 6.4 Vesting: All Customers to whom any distribution is made pursuant to Clause 6.1 and/or Clause 6.2 shall as from the date of such distribution take an absolute and indefeasibly vested interest in funds so distributed.
- 6.5 Trustees not Disqualified: Each Trustee in his capacity as a Customer shall, notwithstanding the provisions of this Deed or any applicable rule of law or equity, be entitled to receive any benefits as a Customer which may be distributed to Customers in accordance with Clause 6.2.

7. APPOINTMENT, RETIREMENT AND PROCEEDINGS OF ORIGINAL TRUSTEES
THE Rules set forth in Schedule 1 hereto (with such amendments, deletions and additions thereof as may be permitted by this Deed or at law) shall, upon the execution of this Deed, govern the appointment, retirement and proceedings of the Trustees and associated matters.

8. GENERAL POWERS

EXCEPT where otherwise specified in this Deed, the Original Trustees may exercise the powers, authorities, and discretions conferred by this Deed in addition to and not by way of limitation of the powers, authorities and discretions conferred upon the Trustees generally by the Trustee Act; PROVIDED HOWEVER that the Trustees shall have no power, authority or discretion to act as directors or to participate in the management or operation of the Company or any Subsidiary, and in exercising the powers conferred by this Deed the Trustees shall be restricted to exercising their rights as shareholders in their capacity as Trustees holding shares pursuant to the provisions of this Deed in accordance with their duties under Clause 12.

9. SPECIFIC POWERS

THE Trustees shall have and may exercise either alone or together with any other person or persons the following powers, authorities and discretions:

- 9.1 To appoint Directors: To appoint directors of the Company or of any Subsidiary in which it may hold shares where the Articles of Association of the Company or Subsidiary vest that power in the Trustees as shareholders.
- 9.2 To Employ: To employ and pay any person, firm, company or corporation to do any act of whatever nature relating to the Trust including the receipt and payment of money without being liable for loss incurred thereby.
- 9.3 To Appoint Custodian Trustee: To exercise the powers conferred by Section 50 of the Trustee Act to appoint any corporation to be a custodian Trustee of the Trust Fund.
- 9.4 To Invest: Subject to Clause 10.2, to invest or reinvest in any form of investment authorised by this Deed or by law, all or any part of the Trust Fund, whether income or capital, not immediately required for the purposes of the Trust.
- 9.5 Bank Accounts: To open an account or accounts at any time or times in the name of the Trust at any Bank (and to overdraw any such account with or without giving any security) and, in addition to the powers conferred by Section 81 of the Trustee Act, to make arrangements with any Bank for the Trustees or any two or more of the Trustees named in writing by all of the Trustees to operate upon any account from time to time opened or subsisting at that Bank.
- 9.6 Capital Income and Blended Funds: To determine whether any money for the purposes of this Deed is to be considered as income or capital and what expenses ought to be paid out of income and capital respectively and also to apportion payments and every such determination or apportionment shall be final and binding on all persons beneficially interested in the Trust Fund and income thereof.
- 9.7 Shareholders powers: Subject to the provisions of this Deed, to exercise as the Trustees in their absolute discretion think fit all the voting papers attaching to any shares in the Company forming part of the Trust Fund PROVIDED HOWEVER that in exercising such powers they shall act as Trustees in the best interests of the Trust Fund and of the Customers as beneficiaries.
- 9.8 Determining Questions: To determine all questions and matters of doubt which may arise in the course of the Trusteeship of this Trust.
- 9.9 Reorganisation, reconstruction, merger etc.: To consider any recommendations made by the Directors on any proposal relating to any reconstruction or amalgamation or merger of the Company or any Subsidiary or any modification of the rights of shareholders or any increase or reduction of

capital or other dealing with such shares and after giving due consideration to the recommendations of the Directors to make a decision in respect of any such proposal as the Trustees may consider in their absolute discretion will be for the benefit of or in the interests of the Trust Fund PROVIDED HOWEVER that if any such recommendation made by the Directors affects or is likely to affect more than ten (10) per centum of the capital of the Company for the time being then the Trustees shall forthwith call a meeting of the customers pursuant to Clause 13 hereof and the Trustees will in that event exercise their vote as a shareholder of the Company in the manner which is determined by the meeting of Customers.

10. POWERS OF INVESTMENT

- 10.1 Exclusion: The power to invest conferred by Trustees by Section 13A(1) of the Trustee Act is hereby excluded.
- 10.2 Authorised Investments: The Trustees may invest all or any of the Trust Fund held by them under this Deed, either alone or in common with any other person or persons, in all or any of the investments:
- (a) shares or other equity securities or debt securities of the Company or any Subsidiary Company;
 - (b) the stock, funds or other securities of the New Zealand Government;
 - (c) interest bearing deposit accounts with any Bank.
- 10.3 Power to Hold Uninvested: Notwithstanding clause 10.2 the Trustees may hold all or any part of the Trust Fund uninvested for any period or periods for the purpose of:
- (a) accumulating sufficient funds for the purpose of investment;
 - or
 - (b) holding sufficient funds to meet payments as they fall due.
- 10.4 Trustees' to Act as Prudent Person of Business: Notwithstanding the provisions of Section 13c of the Trustee Act and the likelihood that the Trustees will from time to time include persons whose profession, employment, or business is or include acting as a Trustee or investing money on behalf of others, it is hereby declared that 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 the said Section 13c, but shall at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.
- 10.5 No Requirements to Diversify: Notwithstanding anything 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 merely because the investments of the Trust Fund are not diversified.

11. ADVICE OF COUNSEL

WITHOUT derogating from the generality of the foregoing powers, the Trustees are hereby further empowered to take and act upon the opinion of any barrister, or barrister and solicitor, of the High Court of New Zealand of not less than seven years' standing whether in relation to the interpretation of this Deed or any other document or statute, as to the administration of the Trust declared and authorised by this Deed or by any other document, without being liable to any person who may claim to be in any way beneficially interested in respect of any act done in accordance with such opinion provided that nothing in this clause shall prohibit the Trustees from applying to the Court should the Trustees think fit.

12 DUTIES OF TRUSTEES

THE Trustees shall:

- 12.1 As shareholders: Act as diligent shareholders and in particular monitor the performance of the Directors of the Company and exercise the rights of shareholders for the benefit of the Trust Fund

and of the customers as beneficiaries. No Trustee shall exercise or attempt to exercise any rights or powers as a shareholder other than in the capacity of a Trustee, and in particular shall not exercise or attempt to exercise beneficial ownership of the shares. In exercising their rights and powers as shareholders the Trustees shall recognise and observe their status as Trustees holding shares in the Company and/or its Subsidiaries, and shall always endeavour to act collectively in the best interests of the Trust Fund and of the Customers as beneficiaries.

- 12.2 Proxy in Respect of Jointly Held Shares: Notwithstanding any other provision herein the Trustee shall, at meetings of the Company or any subsidiary, collectively exercise their vote in respect of their jointly held shares. To this end, the Trustees shall from time to time deposit, in accordance with the articles of association (or other rules concerning voting) of the Company or Subsidiary, an instrument of proxy appointing a proxy for each Meeting of the Company or Subsidiary in respect of the Trustees' jointly held shares. Such instrument shall direct the proxy as to the way the Trustees' votes are to be cast, or leave the proxy to vote as the proxy thinks fit. The Trustees shall have power to appoint a substitute proxy or proxies to act in the event of death, incapacity, or other inability of the proxy. Unless the Trustees shall otherwise decide, any proxy appointed pursuant to this clause shall be a Trustee. Any proxy shall be appointed in accordance with this clause for specific meetings, or for any period or periods that the Trustees may decide. This clause shall not preclude the Trustees other than the proxy from attending Meetings, but those other Trustees shall not interfere with or defeat, or attempt to interfere with or defeat, the proxy in the exercise of the proxy's powers.
- 12.3 Hold Shares Jointly: Except to the extent necessary to comply with any requirements as to the minimum number of shareholders in a public company, hold all shares in the Company or any Subsidiary in the joint names of the Trustees for the time being.
- 12.4 Automatic Vesting of Shares: Only retain the shares in the Company or any Subsidiary while holding office as a Trustee. Upon retirement as a Trustee, removal from the office as a Trustee for any reason, death, or upon a Trustee for any other reason ceasing to hold office as a Trustee, all the shares held by that Trustee (whether jointly or individually) shall immediately, and without further formality, vest in the successor in office of that Trustee upon and subject to the terms of this Deed. The Secretary, or any other person or persons nominated by the Trustees from time to time, shall be entitled to execute all documents and give all notices to the Company or the Subsidiary that may be necessary to give effect to this clause and to ensure that the Register of Members records the Trustees for the time being as shareholders.
- 12.5 Records: Ensure that full and correct records and accounts of all the financial transactions of the Trust and its assets, liabilities and funds are kept.
- 12.6 Accounts: After the end of each Financial Year cause to be prepared financial statements including a balance sheet, income and expenditure account, and notes to those documents giving a true and fair view of the financial affairs of the Trust for that Financial year.
- 12.7 Auditor: Appoint from time to time, on such terms as they think fit, an auditor of the Trust being a person (not being the auditor of the Company of any Subsidiary) who is either:
- (a) a member of the New Zealand Society of Accountants; or
 - (b) a member, fellow, or associate of an Association of Accountants constituted in some part of the British Commonwealth outside New Zealand and for the time being approved for the purpose of the audit of the company accounts under Section 165(4) of the Companies Act 1955.
- 12.8 Audit: Ensure that the financial statements are audited.

- 12.9 Publication of Financial Statements: Immediately upon completion of the audit of the financial statements, insert a notice in a principal newspaper or newspapers circulating in the District to the effect that the statements are available for inspection by Customers at the office of the Company.
- 12.10 Availability to Customers: Make the financial statements available to the Customers in accordance with Clause 14.
- 12.11 Meetings of Customers: Within four (4) months after the end of each Financial Year of the Trust, hold a meeting of Customers in the District and at that meeting report on the operations of the Trust during the preceding Financial Year and on the financial statements of the Trust for that Financial Year. The Trustees shall give not less than 14 days' notice of such a meeting in principal newspapers circulating in the district.
- 12.12 Comments on Draft Statement of Corporate Intent: In respect of any draft statement of corporate intent delivered to the Trustees by the Company make comments thereon to the Directors of the Company within two (2) months of the commencement of the Financial Year.
- 12.13 Statement of Corporate Intent Available to Customers: Each year make the completed statement of corporate intent available to the Customers in accordance with Clause 14.
- 12.14 Statement in Annual Report: While the Trustees are the majority of the shareholders of the Company, prepare a statement for inclusion in the annual report of the Company commenting on the Company's compliance with its then current statement of corporate intent.
- 12.15 Modification of Statement of Corporate Intent: Exercise, where appropriate, their right to require modifications to the statement of corporate intent in accordance with Section 40(2) of the Act subject always to the requirements of Section 40(3) of the Act.
- 12.16 This Deed Available to Public: Make a copy of this Deed available to the Customers in accordance with Clause 14.
13. MEETINGS OF CUSTOMERS
- 13.1 (a) Customers: At the request of at least fifteen (15) per cent of Customers the Trustees shall summon a meeting of Customers for the purpose of giving directions to the Trustees in relation to the exercise of their powers under this Deed and applicable law or for the purpose of discussing any matter relating to the Trustees' rights, powers, duties and objects or their performance under this Deed or any matter affecting the ownership of the Company. The business to be dealt with at such meeting shall be limited to the specific matters contained in the request to summon such meeting.
- (b) Trustees or Company: At any time either the Trustees or the Company may summon a meeting of Customers to consider such business as shall be specified in the notice calling upon such meeting.
- (c) Other Rules: The Trustees may approve supplemental rules or procedures for meetings of Customers and/or variations to the rules and procedures applying to such meetings set out in schedule 2.
- 13.2 Within four (4) months after the end of each Financial Year, the Trustees shall hold a meeting of the Customers.
- 13.3 All meetings of Customers shall be called and conducted in the manner set forth in Schedule 2.
- 13.4 The Trustees shall exercise their voting rights at Company meetings in accordance with the provisions of Clause 14(b) of Schedule 2.

14. INFORMATION TO THE CUSTOMERS

- 14.1 Inspection: For the purpose of complying with any requirement under this Deed to make any document or information available to the Customers, it shall be sufficient for the Trustees to make such document or information available for inspection on any business day at the office of the Company or a subsidiary or at any other place in the District during normal business hours.
- 14.2 Notice: The Trustees shall give public notice in a principal newspaper or newspapers circulating in the District of the place at which and the time or times when such documents or information may be inspected by the Customers.

15. VARIATION TO THE TRUST DEED

- (i) The following provisions of this Deed may not be altered or amended except by a Court of competent jurisdiction, namely: -
- * The definition of "Customers" and "the Customers" in Clause 1.1 hereof, and
 - * Clauses 5 and 6 hereof, and
 - * this sub-clause
- (ii) Subject to the provisions of the sub-clause (i) of this Deed, this Deed may be altered or amended only by resolution of the Customers that has received the affirmative vote of not less than seventy-five (75) per cent in number of the Customers present or by proxy at a meeting held in accordance with clause 13.

16. WINDING UP OF TRUST

- 16.1 Resolution: If the Trust no longer holds any equity security or debt security issued by the Company or a subsidiary Company or a resolution to wind up the Trust has not been passed by 1 January 2072, the Trustees shall pass the necessary resolutions for the trust to be wound up. If such resolutions have not been passed by 1 July 2072 the provisions of Clause 16.2 shall apply as if the resolutions had been passed.
- 16.2 Distribution: On winding up of the Trust, all surplus assets after the payment of all costs, debts and liabilities shall be paid, applied or appropriated to or for or otherwise howsoever for the benefit of the Customers in accordance with Clause 6.2.

17. INTERESTED TRUSTEES

- 17.1 Disclosure: A Trustee who in any way, whether directly or indirectly, has a material interest in any way contract or proposed contract or arrangement or dealing with the Trust (other than as a Customer or as a member, officer, or employee of any firm, Company or organisation that is a Customer) 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.
- 17.2 Voting: A Trustee required to disclose an interest by Clause 16.1 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
- 17.3 Questions as to Materiality of Interest: 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 his or her ruling in relation to any such Trustee shall be final and conclusive except in a case where the nature or extent of the interests of the Trustee concerned have not been fairly disclosed.

18. LIABILITY

18.1 Limitation on Liability: No Trustee acting or purporting to act in the execution of the trusts of this Deed (*sic*) 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 the Trustees 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.

18.2 Moneys Received: 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.

19. 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.

20. NOTICES

20.1 Any notice to Customers shall be in writing and may be signed by or on behalf of the Company or an officer, employee, agent, attorney or solicitor thereof, or by the Trustee and shall be given by prepaid letter addressed to the address of the customer which accounts of the Company are sent.

20.2 Notices given pursuant to this clause shall be deemed to have been made or given on the second day following the date of posting.

EXECUTED as a Deed

THE COMMON SEAL of)
SCANPOWER LIMITED)
was hereunto affixed in the presence)
of: -)

..... Director

..... Director

SIGNED by the abovenamed)
WILLIAM MORGAN BLY)
in the presence of: -)

SIGNED by the abovenamed)
ALTHEA KALLAS DRUCE)
in the presence of: -)

SIGNED by the abovenamed)
GRAHAM WALTER ERNEST HISLOP)
in the presence of: -)

SIGNED by the abovenamed)
PAMELA GEWNDOLINE PRENTER)
in the presence of: -)

SIGNED by the abovenamed)
GRAHAME CLIFTON WILLIAMS)
in the presence of: -)

SCHEDULE 1RULES GOVERNING THE APPOINTMENT, RETIREMENT
AND PROCEEDINGS OF THE TRUSTEES.

1. INTERPRETATION

These are the Rules referred to in Clause 7 of the Deed, and accordingly:

- 1.1 Terms in these Rules to which are ascribed special meanings in the Deed have the meanings so ascribed to them unless otherwise provided or the context otherwise requires.
- 1.2 These Rules shall be construed subject to the provisions of the Deed, and in the case of conflict between the provisions of these Rules and those of the Deed the provisions of the Deed shall prevail.

PART I - CONSTITUTION OF TRUSTEES

2. APPOINTMENT AND ELECTION OF TRUSTEES

- 2.1 Number: The number of Trustees shall be five (5). If at any time the number of Trustees shall fall below five (5) the remaining Trustees shall forthwith appoint a person or persons to fill the vacancy or vacancies and for this purpose the number of Trustees for the time being shall constitute a quorum.
- 2.2 Eligibility: The following persons shall not be eligible for election or appointment as a Trustee and may not hold office as an Trustee:
- (a) Bankrupt: 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) Conviction: 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) Imprisonment: a person who has been sentenced to imprisonment for any offence unless that person has obtained a pardon or has served the sentence;
 - (d) Restraining Order: a person to whom an order made under Section 189 of the Companies Act 1955 applies;
 - (e) Mentally Disordered: a person who is mentally disordered within the meaning of the Mental Health Act 1969;
 - (f) Property Order: a person who is subject to a property order made under Section 30 or Section 31 of the Protection of Personal and Property Rights Act 1989;
 - (g) Director or Employee of Company/Subsidiary: a person who currently holds office as a director of the Company or any subsidiary or is employed by the Company or any subsidiary;
 - (h) Member of Parliament, Tararua District Council or Community Board: A member of Parliament or a member of the Tararua District Council or of a Community Board of that Council.
 - (i) Not a Customer: a person who is not a Customer or spouse of a Customer.

- (j) Seeking more than three (3) consecutive terms: a person seeking to serve more than three (3) consecutive terms of office in contravention of Rule 3.

2.3 The Disqualification from Trusteeship shall not Take Effect Until:

- (a) In any case to which Rule 2.2(b) applies the expiration of the time for appealing against conviction, and in event of an appeal against conviction, until the appeal has been determined;
- (b) In any case to which Rule 2.2(c) applies 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.

2.4 Trustees: The Trustees of the Trust shall be the persons signing the Deed as Trustees. Such Trustees shall retire from Office on 1 April, 1994.

2.5 Election of Trustees: Subject to Rule 2.4 and Rule 2.5 all subsequent Trustees shall be elected by the Customers pursuant to the following Rules.

2.6 Election Date: The election date for the first election of Trustees shall be held in the month of April 1994 on a date, place and time determined by the Trustees and thereafter tri-annually in the month of April. Reference in these Rules to "Election Date" shall mean the date appointed by the Trustees in the relevant election year.

2.8 Returning Officer: There shall be a Returning Officer for each election. The Returning Officer shall be appointed by the Original Trustees not less than five (5) month before Election Date and may be an employee of the Company. A Trustee or Director of the Company or any subsidiary may not be a Returning Officer. In the event of the Trustees failing to appoint a Returning Officer as required by this Rule the Directors of the Company may appoint a Returning Officer.

2.9 Substitute Returning Officer: In the event of the death or incapacity of the Returning Officer a replacement Returning Officer may be appointed in the manner provided in Rule 2.8.

2.10 Functions of Returning Officer: The Returning Officer shall conduct the election of Trustees. Where no procedure is prescribed by these Rules the returning Officer shall be entitled to specify the procedure and act accordingly. The Returning Officer shall be entitled to utilise the services of such persons and companies as the Returning Officer deems appropriate, and to arrange payment for such services from the Trust Fund. In the event of doubt or dispute as to any matter affecting the election, the Returning Officer shall be entitled to resolve such doubt or dispute and the decision of the Returning Office (*sic*) shall be final and conclusive.

2.11 Payment of Returning Officer: The Returning Officer shall be entitled to receive such reasonable remuneration and payment of expenses as the Trustees shall determine after consultation with the Returning Officer. In the event that it is necessary for the Directors of the Company to appoint a Returning Officer pursuant to Rule 2.8, the Directors of the Company shall be entitled to fix and pay the remuneration and expenses of the Returning Officer, and to forthwith recover the same, together with any additional expenses incurred by the Company or the Directors, from the Trust Fund.

2.12 Preparation of Roll of Customers: The Returning Officer shall establish a Roll of customers by obtaining from the Company (and if necessary any subsidiary) a list or lists of the names and addresses of all Customers as at a date (to be decided by the Company) as close as practicable to the date on which the request is made. Such date shall be deemed to be a date designated by the Trustees. The Returning Officer shall accept the lists provided as accurate and correct, but shall be entitled to add names and addresses to the Roll if satisfied that the name or address of any Customer has been left off the Roll. The decision of the Returning Officer as to the addition or not of name or

address to the Roll shall be final and conclusive. The list or lists of Customers provided (subject to any addition that the Returning Officer may make) shall be deemed, for all purposes relating to the election, to be the roll of Customers ("the Roll").

- 2.13 Advertising of Elections and Calling for Nominations: Not later than three (3) months before Election Date the Returning Officer shall insert appropriate notice in at least one principal newspaper circulating within the district giving:
- (a) a general indication of the nature of the election;
 - (b) the place or places at which nomination forms may be obtained;
 - (c) the day and time nominations close;
 - (d) the day and time the poll closes;
- 2.14 Nominations: Every nomination of a candidate shall be in writing. All candidates shall be nominated, and signed by a person on the Roll. Nomination forms shall be in such form as the Returning Officer may decide, but shall include:
- (a) the full name and address of candidate;
 - (b) a statement by the candidate that the candidate is not, and to the best of the candidate's knowledge and belief will not be on Election Date, disqualified from holding office as an (*sic*) Trustee by reason of any of the matters set out in Rule 2.2;
 - (c) the signature of the nominator and candidate.
- The Returning Officer shall be entitled to declare any nomination invalid where on reasonable grounds he has good cause to believe that the candidate is ineligible for election in terms of Rule 2.2.
- 2.15 Withdrawal: The nomination of a candidate shall be deemed to have never been made, and the candidate shall be ineligible for election, if the:
- (a) nominator withdraws the nomination by notice received by the Returning Officer before closure of nominations;
 - (b) candidate withdraws by notice received by the Returning Officer before a result is declared;
 - (c) candidate dies before a result is declared;
 - (d) candidate becomes disqualified by virtue of Rule 2.2 before a result is declared.
- 2.16 Closure of Nominations: Nominations shall close at 5pm on the day one (1) month before election date ("Closure of Nominations").
- 2.17 Circumstances where No Election Necessary: If by Closure of Nominations five (5) valid nominations have been received the Returning Officer shall forthwith declare the five (5) candidates duly elected, and no elections shall be held. If, by such time, less than five (5) nominations have been received, the Returning Officer shall forthwith declare those nominated to be duly elected and the Trustees so elected shall forthwith fill the vacancy or vacancies by appointment. A declaration of the Returning Officer pursuant to this clause shall be deemed to be a Declaration of Result.

- 2.18 Eligibility to Vote: The following provisions shall apply:
- (a) Subject to Rule 2.18(b) below, each customer on the Roll shall be entitled to one (1) vote for each entry of that customer's name on the Roll.
 - (b) Joint holders shall be entitled to one (1) vote for each entry and the person whose name appears on the Roll first as a member of that joint holding shall exercise the vote for that joint holding to the exclusion of the other joint holders;
 - (c) Subject to Rule 2.19(a), Companies, other incorporated or unincorporated bodies (other than joint holders), and Local Authorities shall be entitled to one (1) vote for each entry through a representative (who may be a customer on the Roll exercising a personal vote);
 - (d) Eligible voters shall vote for not more than five (5) candidates, but may vote for less.
- 2.19 Election: Not later than ten (10) days before Election Date the Returning Officer shall complete distribution, in whatever manner the Returning Officer deems appropriate (including progressively over a period), to every person on the Roll:
- (a) A printed voting paper containing:
 - (i) names of all candidates validly nominated in alphabetical order of their surnames;
 - (ii) appropriate provision for voting;
 - (b) Notification (which may be on the voting paper) as to the date and time the Poll closes;
 - (c) A postage paid return addressed envelope.
- 2.20 Closure of Poll: A vote is invalid, and shall not be counted, unless the Returning Officer receives the voting paper not later than 5pm on Election Date ("Closure of Poll").
- 2.21 Invalid Votes: A vote is invalid and shall not be counted if:
- (a) It is received after closure of the Poll;
 - (b) The voter votes more than once unless authorised to do so by Rule 2.18;
 - (c) The voter votes for more candidates than there are Original Trustees to be elected;
 - (d) In the opinion of the Returning Officer, the voting paper does not indicate clearly enough the candidate or candidates for whom the voter intended to vote;
 - (e) The Returning Officer believes, on reasonable grounds, that the voting paper was not issued to the voter by the Returning Officer.
- 2.22 Counting of Votes: The Returning Officer shall as soon as practicable after Election Date, but in any event not later than fourteen (14) days after Elections Date, count the valid votes cast for each candidate and ascertain the candidates elected.
- 2.23 Tied Poll: Where, because two (2) or more candidates have received the same number of valid votes, the Returning Officer cannot determine which of them has been elected, the Returning Officer shall decide which of them is elected by lot drawn by those candidates in the presence of the Returning Officer and such other person or persons (if any) as the Returning Officer may decide.

- 2.24 Declaration of Result: Forthwith after ascertaining which candidates have been elected, the Returning Officer shall forthwith declare the names of the Trustees so elected ("Declaration of Result"), and shall publish those names in one or more principal newspapers circulating in the District.
- 2.25 Destruction of Voting Papers: After the Declaration of Result the Returning Officer shall decide when to destroy the voting papers.
- 2.26 General Duties of Returning Officer: The Returning Officer and every person assisting the Returning Officer shall faithfully and impartially perform the duties of that office, and shall not, directly or indirectly:
- (a) before the declaration of the result make known the state of the poll, or give or pretend to give any information by which the state of the poll might be known;
 - (b) make known for which candidate or candidates any person has voted;
 - (c) give any person any information likely to defeat the secrecy of the election;
- 2.27 Change of Trustees: Notwithstanding any other provision in the Deed or these Rules, retiring Trustees shall remain in office until the Returning Officer shall have made a Declaration of Result pursuant to Rule 2.17 or Rule 2.24. Forthwith upon the Declaration of Result the candidates declared elected shall assume office in place of the retiring Trustees.
- 2.28 Calculation of Time: If any day or days specified in Rule 2.1 to 2.27 upon or by which any step is taken shall fall on a day that is not a working day then the date for performance shall be deemed to be the working day immediately following.

3. TERM OF OFFICE

The Trustees (including the Original Trustees) shall (subject to the provisions of Rule 2.27 and Rule 8) hold office for a term on one (1) year from the date of their appointment or election until the Declaration for Result of the next election. A Trustee may seek re-election for a further term of three (3) years and may at the expiration of that term seek further re-election for one further term of three (3) years; PROVIDED HOWEVER that no Trustee shall serve more than three (3) consecutive terms.

4. REMUNERATION AND EXPENSES OF ORIGINAL TRUSTEES

- 4.1 Remuneration: The Trustees shall be entitled in each Financial Year to such remuneration for their services as may be reasonable having regard to their duties and responsibilities as Trustees.
- 4.2 Expenses: 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.
- 4.3 Payments to be made from Trust Funds: The payments of remuneration and expenses to the Trustees pursuant to Rule 4.1 or 4.2 shall be paid out of the Trust Fund or any other fund available for that purpose.

5. DELEGATION BY TRUSTEES

ANY Trustee may, in any of the circumstances permitted by Section 31 of the Trustees Act, exercise the powers under that section of delegating all or any trusts powers authorities and discretions to any person, who has been approved by all other Trustees, during any period of absence from New Zealand or of incapacity.

6. CHAIRMAN

THE Trustees may from time to time elect a chairman and a deputy chairman and determine the period for which the chairman and deputy chairman are to hold office. The chairman (or in the absence of the chairman, the deputy chairman or in the absence of both, a Trustee elected by the meeting) shall take the chair at all meetings of the Trust and shall have a casting vote.

7. QUORUM

SUBJECT to Rule 2.1 a quorum at meetings of the Trustees shall comprise three (3) Trustees.

8. CESSATION OF TRUSTEESHIP

8.1 AN (*sic*) Trustee shall cease to hold office if such Original Trustee:

- (a) Expiry of Term: has served for the term referred to in Rule 3 and has not been re-elected;
- (b) Resignation: resigns office as Trustee by notice in writing to the secretary of the Trust, or if there is no secretary, to the chairman;
- (c) Refuses to act: refuses to act as Trustee;
- (d) If Unsound Mind: becomes of unsound mind in terms of the Mental Health Act 1969;
- (e) Subject to a Property Order: becomes subject to a property order made under Section 30 or 31 of the Protection of Personal and Property Rights act 1989;
- (f) Bankrupt or Arrangement with Creditors: becomes bankrupt or enters into a composition or assignment for the benefit of creditors;
- (g) Absence: is absent without leave from three consecutive ordinary meetings of the Trustees;
- (h) Conviction: is convicted of any offence punishable by imprisonment for a term of two (2) years or more;
- (i) Imprisonment: is sentenced to imprisonment for any offence;
- (j) Member of Parliament, Member of District Council or Community Board: becomes a Member of Parliament, or a Member of the Tararua District Council or of a Community Board of that Council;
- (k) Director or Employee of Company/Subsidiary: becomes a director or employee of the Company or any subsidiary company;
- (l) Dies: dies while holding office as a Trustee;
- (m) Ceases to be a Customer.

8.2 Operation of Disqualification: the provisions of Rule 2.3 shall apply, *mutatis mutandis*, to Rules 8.1(h) and 8.1(i). During any appeal period the Trustees shall be deemed to have taken leave of absence and shall not be capable of acting as a Original 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.

9. RECORDING OF CHANGE OF TRUSTEES

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.

10. VALIDITY OF PROCEEDINGS

ALL acts done by any meeting of Trustees or by any persons 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.

11. RESCISSION OR VARIATION OF RESOLUTIONS

SUBJECT to the provisions of clause 15 hereof ANY resolution of the Trustees may be rescinded or varied from time to time by the Trustees at any meeting.

PART II - ADMINISTRATIVE PROVISIONS12. MEETINGS

THE Trustees shall meet at such intervals as they deem appropriate for the proper conduct of the affairs of the Trust or upon a requisition signed by three (3) Trustees.

13. NOTICE OF MEETINGS

NOTICE in writing of every meeting shall be delivered or sent by post or facsimile to each Trustee by the person acting under the direction of the Trustees at least seven (7) days prior to the date of such meeting. No notice shall be necessary for adjourned meetings except to Trustees not present when the meeting was adjourned.

14. CONTENT OF NOTICE

EVERY notice of meeting shall state the place, day, and hour of the meeting and every notice of a special meeting shall state the matters to be discussed at that meeting. Notice of any general or special meeting may be abridged or waived if all the Original Trustees who are for the time being in New Zealand consent in writing to such abridgement or waiver.

15. ADJOURNMENT

IF a quorum is not present within thirty (30) minutes after the time appointed for any meeting the Trustee or Original Trustees present may adjourn the meeting. Any meeting may be adjourned by the chairman upon the adoption of a resolution for its adjournment.

16. MINUTES

16.1 Minute Book: a Minute Book shall be provided and kept by the Trustees and all proceedings of the Trustees shall be entered in the Minute Book.

16.2 Evidence of Proceedings: minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were transacted or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

16.3 Meetings Deemed to be Regular: 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 convened.

17. RESOLUTIONS IN WRITING

NOTWITHSTANDING any other provisions in the Deed or these Rules, a resolution in writing signed by all the Trustees shall be as effective for all purposes as a resolution passed at a meeting of the Trustees duly convened, held and constituted. Such resolution may consist of several documents in the same form, each signed by one of more of the Trustees.

18. MEETINGS BY TELEPHONE

Deemed to be a Meeting: notwithstanding any other provisions in the Deed or these Rules, the contemporaneous linking together of a number of the Trustees ("the participants") being not less than a quorum, together with the secretary or person acting secretarially, 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) Notice: 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) Hear Each Other: each of the participants taking part in the meeting by telephone, and the secretary or person acting secretarially, must be able to hear each of the others taking part at the commencement of the meeting;
- (c) Acknowledge Presence: 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) Not to Leave: 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 aforesaid;

18.2 Evidence: 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 chairman of the meeting, and by the secretary or person acting secretarially.

19. BANK ACCOUNTS

BANK accounts in the name of the Trust shall be opened and kept with a bank or banks selected from time to time by the Trustees. All sums of money received on account of the Trust shall be 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.

20. 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 and countersigned by the secretary or by another Trustee or any other person approved by the Trustees for this purpose.

21. GENERAL POWERS

SUBJECT to the provisions of the Deed and of the preceding Rules the Trustees shall have the power to do all acts and things which they may consider proper or advantageous for accomplishing the purposes and objects of the Trust.

PART III - AMENDMENTS TO RULES22. AMENDMENTS

22.1 The Rules set forth in Part II of Schedule 1 being administrative provisions may be rescinded, amended or added to by the unanimous resolution of the Trustees.

22.2 No such resolution shall be effective unless notice thereof shall have been given in the notice convening the meeting and no such rescission, amendment or addition shall conflict with any of the provisions of the Deed, or part I or II of the Schedule to the Deed or any relevant provisions of the Act.

SCHEDULE 2MEETINGS OF CUSTOMERS1. INTERPRETATION

In this schedule, unless the context otherwise requires:

- (a) "Appointed Time" means the day and time at which any meeting is due to be held;
- (b) "Extraordinary Resolutions" means a resolution duly passed at a duly convened meeting by not less than seventy-five (75) per cent of Customers voting thereat in person or by a Representative upon a show of hands or if a poll is duly demanded not less than seventy-five (75) per cent of the votes cast on such a poll;
- (c) "Meeting" means a meeting of the Customers duly convened and held or to be duly convened and held in accordance with this schedule and includes an adjourned meeting;
- (e) "Notice" means a notice given or to be given in accordance with this schedule convening a meeting (including an adjourned meeting);
- (f) "Proxy Closing Time" means forty-eight (48) hours before the Appointed Time of the relevant meeting;
- (g) "Representative" means a person authorised by a Customer to attend and vote on his or her behalf at a meeting by an instrument of proxy, power or attorney or, in the case of corporate Customer, pursuant to statute or its constitution;

2. CONVENING A MEETING

The Trustees may at any time, and (if so requested in writing by Customers representing not less than fifteen (15) per cent of the total number of Customers) shall convene a meeting. Any such request shall state the nature of the business proposed to be dealt with at the meeting.

3. PLACE OF MEETING

Each meeting shall be held at such place as the Trustees shall nominate.

4. NOTICE OF MEETING

- (a) At least seven (7) days' notice of every meeting (exclusive of the day of despatch of the Notice and the following day and the day of the meeting) shall be given to: -
 - (i) every Customer at the date of despatch of the Notice; and
 - (ii) the Trustees, if the Company has convened the relevant meeting, and vice versa.
- (b) Notices shall specify the place and Appointed Time of the Meeting and the general nature of the business to be transacted and in the case of the annual general meeting held in accordance with Clause 13.3 the Notice shall also contain a form of proxy substantially in the form of schedule 3 to this Deed together with a copy of the notice of the annual general meeting received from the Company by the Trustees and in the case of a resolution to be passed as an Extraordinary Resolution the text of the proposed resolution shall be set out in the Notice or form of proxy.

- (c) Notices shall be given by posting such notices to Customers at the address for the delivery of accounts to Customers held in the books of the Company.
- (d) At least seven (7) days' notice of any adjourned meeting at which an Extraordinary Resolution is to be proposed shall be given in the same manner as the Notice convening the original meeting and such Notice shall state the requisite quorum. No Notice of any other adjourned Meeting need be given.
- (e) The accidental omission to give Notice to, or the non-receipt of Notice by, any Customer entitled thereto shall not invalidate the proceedings at any meeting.

5. QUORUM

- (a) No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
- (b) The quorum for passing a Resolution shall, at the meeting at which such Resolution is first passed, be twenty (20) Customers present in person or by Representative and, at any adjourned Meeting at which the relevant Resolution is subsequently proposed, and at any other meeting, shall be twenty (20) Customers present in person or by Representative. Provided that any representative at any meeting shall count only as one (1) Customer for the purpose of calculating the quorum for the meeting.
- (c) The quorum for passing an Extraordinary Resolution shall, at the meeting at which such Extraordinary Resolution is first proposed, be twenty (20) Customers present in person or by representative and, at any adjourned meeting to which the relevant Resolution is subsequently proposed, shall be twenty (20) Customers present in person or by Representative.
- (d) If within fifteen (15) minutes after the Appointed Time, or such longer time, not exceeding thirty (30) minutes, as the chairman of the meeting shall decide, a quorum is not present the meeting, if convened upon request of Customers, shall be dissolved. Otherwise it shall be adjourned to such day and time, being not less than seven (7) days thereafter, and to such place as may be decided by the Chairman.

6. CHAIRMAN OF MEETNG

The Trustees may from time to time elect a Chairman to take the chair at meetings of the Trustees and Customers.

7. SPEAKING RIGHTS

Any Customer and any director or officer of the Company or any of the Trustees or any person authorised by them in writing may attend any meeting and speak thereat.

8. ADJOURNMENTS

- (a) The Chairman may, with the consent of any meeting at which a quorum is present, and if so directed by any meeting shall, adjourn such a meeting from time to time and from place to place.
- (b) No business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.

9. VOTING RIGHTS

- (a) The only Customers entitled to vote at a meeting shall be those entered as Customers in the books of the Company as at the Proxy Closing Time or the personal representative or assignee in bankruptcy of any such Customer or their respective Representatives. And, the presence of any such Person shall, for all purposes, be deemed to be the presence in person of the Customer concerned.
- (b) A Representative who has been appointed in writing by a Customer shall have the right to demand, or join in demanding, a poll and shall have power generally to act at the meeting as though he was the Customer by whom he is appointed.

10. CLOSURE OF BOOKS

For the purpose of establishing voting entitlements at a meeting the books of the Company shall be closed as of the close of business on the business day immediately preceding the day on which the Proxy Closing Time falls.

11. PROXIES

- (a) Instruments appointing a proxy shall be in writing in the common form or such other form as the Trustees approve and signed by the appointor or his duly authorised attorney or, if the appointor is a company, executed under its seal or signed on its behalf by a duly authorised officer or attorney (but need not be witnessed), may provide for the grantor to give voting directions, may be given in favour of a named person or the of the meeting (*sic*) and shall, unless the contrary is stated thereon, also be valid for an adjournment of the meeting held within twelve (12) months of the relevant Appointed Time.
- (b) Instruments appointing a proxy, and if relevant, the power of attorney or other authority under which it is signed or a copy of such power or authority certified by notary public or solicitor or in such other manner as the Trustees shall approve, shall be deposited at the registered office of the Company, or such other place as is specified in the relevant Notice, not later than the Proxy Closing Time and in default the instrument of proxy shall be invalid.

12. EVIDENCE OF APPOINTMENT OF REPRESENTATIVES

Representatives appointed by Power Of Attorney and Representatives appointed by corporate Customers pursuant to Section 143 of the Companies Act 1955 or the constitutions of the relevant Company must produce evidence of their appointment and authority before the Appointed Time and, if so empowered, may appoint a proxy for the Customers appointing them.

13. VOTING POLLS

- (a) All resolutions put to the vote at a meeting shall be decided on a show of hands unless a poll is, before or on the declaration of the result of the show of hands, demanded by the chairman, the Trustees or by not less than fifty (50) per cent of Customers or their Representatives present at the meeting. Unless a poll is so demanded a declaration by the chairman that a resolution has been carried or lost by any particular majority shall be conclusive evidence of such fact.
- (b) At each meeting each Customer present in person or by Representative shall on a show of hands have one vote or on a poll have one vote per each Customer.
- (c) In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall have a casting vote in addition to the votes (if any) which he may be entitled to exercise as a Customer or as a Representative of Customer.

- (d) If a poll is duly demanded it shall be taken in such manner as the chairman may direct. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken whether immediately or at such time (being not more than thirty (30) days from the date of the meeting) and place as the chairman may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.
- (e) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- (f) On a poll votes may be given either personally or by Representative. On a poll a person entitled to more than one vote need not cast (*sic*) all votes in the same way.
- (g) In the case of joint Customers the vote of the senior who tenders a vote, whether in person or by Representative, shall be accepted to the exclusion of the votes of the other joint Customers and for this purpose seniority shall be determined by the order in which the names stand in the records of the Company.
- (h) A vote given in accordance with the term of an instrument of proxy, power of attorney or other instrument shall be valid notwithstanding the previous death, insanity or (in the case of a company) liquidation of the principal or revocation of the proxy, power of attorney or other instrument or of the authority under which the same was executed or by the Customer ceasing to be a Customer so long as no intimation in writing of such death, insanity, liquidation, revocation or ceasing to be a Customer is received by the Company at its registered office before the Appointed Time of the Meeting at which the relevant instrument is used.

14. POWERS EXERCISEABLE BY EXTRAORDINARY OR ORDINARY RESOLUTION

- (a) In accordance with the terms of the Trust Deed an Extraordinary Resolution shall be required to: -
 - (i) vary the terms of the Deed in accordance with clause 15 of the Deed;
 - (ii) wind up the Trust in accordance with clause 16 of the Deed;

All other decisions relating to the Deed made at any meeting shall be made by an ordinary resolution.

Decisions binding on Trustees and Customers

- (b) Any resolution (whether an Extraordinary resolution or an ordinary resolution) duly passed at a duly convened meeting shall be binding upon all the Customers whether present or not or entitled to be present or not at the meeting and the Customers and the Trustee (subject to the provisions entitling it to indemnity contained in the Deed), shall be bound to give effect thereto in accordance with its terms and the passing of any such resolution shall, as between the Trustees and the Customers, be conclusive evidence that the circumstances justify the passing thereof, the intention being that it shall be for the meeting to determine (without appeal) whether or not the circumstances justify the passing of any such resolution.

15. MINUTES OF MEETING

Minutes of all resolutions and proceedings at every meeting shall be made by the Trustees or, if the Trustees shall not be present at such Meeting, by some person appointed by the chairman of such

meeting, and entered in the books from time to time provided for that purpose by the Trustees and any such minutes, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting of Customers, shall be prima facie evidence of the matters therein stated and, until the contrary is provided, every such meeting, in respect of the proceedings of which minutes have been made, shall be deemed to have been duly held and convened and all resolutions passed or proceedings thereat to have been duly passed and conducted. Copies of such minutes shall be furnished by the Trustees to the Company as soon as practicable after the holding of the meeting to which they refer.

SCHEDULE 3

SCANPOWER CUSTOMER TRUST (“the Trust”)

Please complete in block letters

CUSTOMER DETAILS

FULL NAMES(S) I/We

FULL ADDRESS of

ACCOUNT NUMBER

Being a customer (“Customer”) as that term is defined in the Scanpower Customer Trust Deed hereby appoint: -

FULL NAME OF PROXY

FULL ADDRESS OF PROXY

As my proxy to vote for me at the meeting of Customers held in accordance with the Scanpower

Customer Trust Deed at [] on [] commencing at [], and at any adjournment of that meeting.

RESOLUTION

Indicate with an “X”
For Against

- 1. To adopt the annual report and financial statements
- 2. To re-elect [] as a Trustee
- 3. To elect [] as a Trustee

DATED 19

Signature

Proxy Instructions

- 1. Joint account holders should all sign this form. Companies should execute this form under common seal or by an officer or attorney authorised. If this form is executed under power of attorney, a certificate of non-revocation of power of attorney should be completed. The power of attorney should be sent with this form if it has not already been noted by the Trustees.
- 2. If this form is returned with a direction as to how the proxy shall vote on any particular resolution, the proxy will exercise the proxy’s discretion as to whether to vote and if so how.