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| Deed of Trust establishing the Consumer Trust |
|  |
|  |
| PARTIES[insert Territorial Authority name]Settlor[insert Initial Trustee 1 name]Trustee[insert Initial Trustee 2 name]Trustee[insert Initial Trustee 3 name]Trustee |

Contents

1. Definitions and interpretation 1

Defined terms 1

Understanding this deed 4

2. NAME OF TRUST 5

3. DECLARATION OF TRUST 5

Settlor's declaration 5

[Trustees' power to apply for incorporation 5

Trustees' acknowledgement 5

Secretary approval 5

4. PURPOSE 5

Functions of the Trust 6

5. WATER ORGANISATION SHARES 6

6. SHAREHOLDERS COUNCIL 6

Appointment and removal of members of Shareholders Council 6

Oversight 6

7. Water Organisation Board 6

Appointment and removal of members of [Water Organisation] Board 6

Statement of expectations 7

Performance monitoring 7

8. APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES 8

9. DUTIES OF TRUSTEES 8

Financial Statements 8

Audit 8

Appointment of Electoral Officer 8

Confidentiality 8

Land use and resource management planning 9

Te Tiriti o Waitangi | Treaty of Waitangi 9

10. REVIEW OF GOVERNANCE PROCEDURES 9

11. TRUSTEES' POWERS 9

Trustees' specific powers 10

No power to grant security over capital 10

Exercise of powers 10

12. APPLICATION OF TRUST FUND 10

13. TRUSTEES' LIABILITY AND INDEMNITY 10

Limitation of Trustees' liability 10

Liability insurance 11

14. REMUNERATION AND EXPENSES 11

15. NO PRIVATE PECUNIARY PROFIT FOR ANY INDIVIDUAL, AND EXCEPTIONS 11

16. ELECTORAL OFFICER 12

Role of Electoral Officer 12

Powers of Electoral Officer 12

Indemnification of Electoral Officer 13

17. VARIATION TO TRUST DEED 13

18. POWER TO RESETTLE 13

19. Termination of Trust 14

Power to terminate the Trust 14

20. NOTICES 14

21. NEW ZEALAND LAW 14

Governing law of the Trust 14

Jurisdiction of New Zealand courts 14

Binding on all persons with an interest under the deed 15

Schedule 1 18

Trustees' Duties 18

Schedule 2 21

Trustees' Powers 21

Schedule 3 26

Appointment, retirement and proceedings of the trustees 26

Initial Trustees 26

Schedule 4 35

District and service area maps 35

**Deed** dated 2024

**PARTIES**

[insert Territorial Authority name]

("Settlor")

[insert Initial Trustee 1 name]

("Trustee")

[insert Initial Trustee 2 name]

("Trustee")

[insert Initial Trustee 3 name]

("Trustee")

INTRODUCTION

1. The [Territorial Authority] intends to incorporate a limited liability company, [Water Organisation], in which the [majority / minority / sole] shareholder will be the Trust.
2. The [Water Organisation] will deliver water services in the District as part of reforms introduced by the LG(WS) Act and the Local Government (Water Services Preliminary Arrangements) Act 2024.
3. The Settlor wishes to settle a [charitable] consumer trust in accordance with the LG(WS) Act for the Sole Purpose set out in this deed.
4. The Trustees have agreed to act as the trustees of the Trust.
5. On signing this deed, the Settlor has paid the sum of $10.00 to the Trustees to be held by it on the terms set out in this deed.
6. It is anticipated that further money, property and investments may from time to time be acquired by the Trustees for the Sole Purpose.

Covenants

# Definitions and interpretation

Defined terms

## 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.

### "**Board**" means the board of directors of the [Water Organisation].

### "**Business Day**" means any day other than a Saturday, Sunday or statutory public holiday in the region(s) set out in Schedule 4.

### "**Chairperson**" means the Trustee elected as chairperson pursuant to clause 15 of Schedule 3.

### "**charitable purposes**" means every purpose which in accordance with the law of New Zealand for the time being is charitable, whether such purpose involves the relief of poverty, the advancement of education or religion, or any other object or purpose beneficial to the community, and shall include any trust established solely and exclusively for charitable purposes.

## "**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.

## "**Code of Conduct**" means any code of conduct to regulate the behaviour and conduct of participants in relation to a Trustee election and which may be adopted, amended and issued from time to time by Trustees to the Electoral Officer.

## "**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:

### the discharge by a Trustee of duties and obligations created by the Trust, as set out in this deed;

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

### the order or direction of any lawful or regulatory authority or otherwise as a consequence of the operation of any law or regulation;

### a request for disclosure pursuant to the Guidelines; or

### other lawful action by a third party.

## "**Consumer"** means a person who consumes, uses, or is provided with, water services from the [Water Organisation] per [clause 4] of the LG(WS) Act.

## "**consumer trust**" has the meaning set out in [clause 4] of the LG(WS) Act.

## "**Core Trust Documents**" means the documents that are to be kept by the Trustees pursuant to clause 12 of Schedule 1.

## "**Deputy Chairperson**" means the Trustee elected as deputy chairperson pursuant to clause 15 of Schedule 3.

## "**District**" means the district of the Territorial Authority as shown in the map attached as **Schedule 4** to this deed.

## "**Elector**" means a Consumer who is a named account holder for the provision of water services with the [Water Organisation] on the date nominations for candidates close as specified in accordance with clause 14(b)(v) of Schedule 3.

## "**Electoral Officer**" means the officer appointed in accordance with clause 16 of this deed.

## "**Financial Statements**" means the financial statements of the Trust prepared in accordance with clause 9.3 of this deed.

## "**Financial Year**" means a period of twelve (12) months ending on 30 June per [clause 4] of the LG(WS) Act.

## "**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.

## "**Initial Trustees**" means the signatory trustees to this deed whose powers are subject to the limits set out in clause 3 of Schedule 3.

## "**LGA**" means the Local Government Act 2002.

## "**LG(WS) Act"** means [*insert legislation name as enacted, which is to be titled the Local Government (Water Services) Act 2024 under clause 1 of the Local Government (Water Services) Bill*].

## "**local authority**" has the meaning set out in s 5(1) of the LGA.

## "**Secretary**" means the Secretary for Local Government.

## "**Settlor**" means the territorial authority named as "Settlor" under the heading "Parties" at the beginning of this deed.

## "**service area**" has the meaning set out in [clause 4] of the LG(WS) Act.

## "**Shareholders' Agreement**" means the shareholder agreement for the [Water Organisation].

## "**Shareholders Council**" means the council of shareholders of the [Water Organisation].

## "**Sole Purpose**" has the meaning set out in clause 4.1 of this 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.

## "**income**" means income which the Trustees have not paid, applied or appropriated to or for the Sole Purpose under clause 4.1 of this deed during a Financial Year.

## "**Termination Date**" means the date that the Trust is terminated in accordance with clause 19.2 of this deed.

## "**[Territorial Authority]**" means the [Territorial Authority]under Schedule 2 of the LGA .

## "**territorial authority**" has the meaning set out in section 5(1) of the LGA.

## "**Trustee**" and "**Trustees**" means the trustee or trustees for the time being of the Trust, whether original, additional or substituted (including Initial Trustees).

## "**Trust Fund**" means the sum of ten dollars referred to in the introduction to this deed, all property which may in the future be received or acquired by the Trustees from any source whatever for the purposes of the Trust and the money and investments from time to time representing such property and, unless inconsistent with the context, the income from such property.

## "**Trusts Act**" means the Trusts Act 2019.

## "**[Water Organisation]**" means [Water Entity Limited]of which the Trust holds shares in and includes any successor company.

## "**water organisation**" has the meaning set out in [clause 4] of the LG(WS) Act.

## "**Water Organisation** **Shares**" means the shares held by the Trustees in the [Water Organisation].

## "**water services**" has the meaning set out in [clause 4] of the LG(WS) Act.

Understanding this deed

## There are some general rules which apply to this deed:

### Except as otherwise expressly provided by this deed, all powers or discretions vested in the Trustees by any clause shall not in any way be limited or restricted by the interpretation of any other clause.

### The interpretation of this deed in cases of doubt is to favour the broadening of the powers and the restricting of the liabilities of the Trustees.

### References to this deed includes the schedules and any amendments.

### Unless the context otherwise requires:

#### words in the singular include the plural and vice versa;

#### references to one gender include any other gender;

#### words denoting natural persons include companies and organisations;

#### reference to a statute (or any provision of any statute) shall be deemed to be reference to that statute as from time to time amended, re-enacted or substituted;

#### reference to a clause is, unless otherwise specified, a reference to a clause of this deed.

### Headings have been inserted for guidance only and shall not be deemed to form part of the context of this deed.

# NAME OF TRUST

## The Trust created by this deed shall be known as the [Template]Consumer Trust, but the Trustees may, by signing a deed, change this name at any time.

# DECLARATION OF TRUST

Settlor's declaration

## The Settlor establishes this Trust as a consumer trust under the LG(WS) Act.

## The Settlor directs and declares, and the Initial Trustees declare and acknowledge, that the Trustees shall hold the Trust Fund upon the terms, and with and subject to the powers and discretions, contained or implied in this deed.

[Trustees' power to apply for incorporation

## The Trustees will have the power to apply for incorporation as a charitable trust board under Part II of the Charitable Trusts Act 1957 under the name [Template] Consumer Trust. Upon incorporation, the powers and discretions conferred upon the Trustees by law or by this deed will be conferred upon the Trustees as a trust board.**]**

Trustees' acknowledgement

## By signing this deed, the Trustees agree to act as Initial Trustees of this Trust and of the Trust Fund. The Initial Trustees accept the limits on their powers set out in clause 3 of Schedule 3.

Secretary approval

## Pursuant to [clause 48] of the LG(WS) Act, the Settlor has sought and gained the approval of the Secretary of this deed.

# PURPOSE

## The Trustees shall hold the Trust Fund subject to the terms of this deed upon trust for charitable purposes beneficial to the community, specifically [owning or co-owning] the [Water Organisation] for the benefit of Consumers who hold an account for the provision of water services with the Water Organisation.

## In accordance with [clause 44] of the LG(WS) Act, to achieve the Sole Purpose the Trustees [in conjunction with the other shareholders of the [Water Organisation]] must:

### represent the interests of Consumers who hold an account for the provision of water services with the Water Organisation; and

### perform the roles and responsibilities of the shareholders in a water organisation under the LG(WS) Act.

Functions of the Trust

## In accordance with [clause 44(3)] of the LG(WS) Act, the Trustees must not perform any function that is not for the Sole Purpose.

# WATER ORGANISATION SHARES

## The Trustees will be the [majority / minority / sole] shareholders in the [Water Organisation].

## The Trustees shall act as diligent shareholders of the [Water Organisation] and exercise the rights of shareholders for the benefit of Consumers with due regard to the objective(s) of the[Water Organisation] to provide water services in accordance with the purposes set out in [clause 3], objectives set out in [clause 15], financial principles set out in [clause 16] and the obligation to continue water services set out in [clause 17] of the LG(WS) Act.

## The Trustees as shareholders shall keep water services in public ownership.

## The Water Organisation Shares will be held by the Trustees in accordance with the LG(WS) Actand this deed.

# SHAREHOLDERS COUNCIL

Appointment and removal of members of Shareholders Council

## The Trustees will appoint members to the Shareholders Council of the [Water Organisation] in accordance with the Shareholders' Agreement and charter of the [Water Organisation].

## The Trustees may remove members from the Shareholders Council of the [Water Organisation] in accordance with the Shareholders' Agreement and the charter of the [Water Organisation].

Oversight

## In accordance with the LG(WS) Act, the Shareholders Council will be responsible for setting a statement of expectations, appointing Board directors to the [Water Organisation], and monitoring performance.

# Water Organisation Board

## Pursuant to [clause 49(6)] of the LG(WS) Act, a Trustee must not be a member of the Board.

Appointment and removal of members of [Water Organisation] Board

## The Trustees will appoint members of the Board of the [Water Organisation] in accordance with clause [X] of the constitution of the [Water Organisation] and [clause 40] of the LG(WS) Act.

## The Trustees may remove members of the Board of the [Water Organisation] in accordance with clause [X] of the constitution of the [Water Organisation].

Statement of expectations

## Pursuant to [clause 184] of the LG(WS) Act, the Trustees will issue a statement of expectations for the [Water Organisation] within the time periods required by the LG(WS) Act.

## Pursuant to [clause 188] of the LG(WS) Act, the Trustees may only provide one (1) statement of expectations to the [Water Organisation] at any time.

## Pursuant to [clause 185] of the LG(WS) Act, the first statement of expectations produced by the Trustees after the [Water Organisation] is established must be provided to the [Water Organisation]:

### as soon as practicable after the date on which the [Water Organisation] is established; but

### no later than six (6) months after the date on which the [Water Organisation] is established.

## Pursuant to [clause 185] of the LG(WS) Act, the Trustees may provide the [Water Organisation] with a document setting out the shareholders' interim expectations of the [Water Organisation] that applies between:

### the date on which the [Water Organisation] is established; and

### the date on which the shareholders provide the statement of expectations to the [Water Organisation].

## The statement of expectations must be prepared in accordance with the requirements set out in the LG(WS) Act, including but not limited to [clauses 187 and 188] as amended from time to time.

## [In the course of preparing the statement of expectations, the Trustees will give consideration to the views and preferences of Consumers.]

## The Trustees must publish the process that they must follow to prepare a statement of expectations on a website maintained by on or on behalf of the shareholders of the [Water Organisation].

Performance monitoring

## Pursuant to [clause 210] of the LG(WS) Act, the Trustees as shareholders will regularly monitor the performance of the [Water Organisation].

## The Trustees will undertake an annual review of the [Water Organisation's] performance in giving effect to:

### the statement of expectations provided by the Trustees; and

### the strategic priorities, objectives, and outcomes specified in the [Water Organisation's] water services strategy.

# APPOINTMENT, RETIREMENT AND PROCEEDINGS OF TRUSTEES

## The clauses set out in **Schedule 3** of this deed shall govern the appointment, retirement and proceedings of the Trustees and associated matters.

# DUTIES OF TRUSTEES

## The Trustees have the duties set out in **Schedule 1** and will perform those duties having regard to the context, purposes and objects of the Trust, and the terms of this deed. In addition, the Trustees shall have the specific duties set out in this clause 9.

Financial Statements

## 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.

## Pursuant to [clause 51] of the LG(WS) Act, the Trustees shall within four (4) months after the end of each Financial Year:

### 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;

### submit those Financial Statements to the Auditor-General for audit; and

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

Audit

## Pursuant to [clause 51(2)] of the LG(WS) Act, the Auditor-General is the auditor of the Trust.

## The Trustees shall fix the fees and expenses of the Auditor-General.

Appointment of Electoral Officer

## The Trustees must appoint an Electoral Officer at each Annual General Meeting or whenever a vacancy shall occur in such appointment. The Electoral Officer must be a person who, in the opinion of Trustees, is suitably qualified to act as an electoral officer and who has no material conflict of interest with the Trust or its affairs or the Trustees.

## The Trustees shall fix the fees and expenses of the Electoral Officer.

Confidentiality

## The Trustees shall, from time to time, make a copy of this deed available to Consumers in accordance with clause 9.

## The Trustees shall:

### keep confidential all Confidential Information (and its existence) which has been provided to or becomes available to the Trustee(s);

### 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

### not use Confidential Information other than for the purpose of the proper discharge in good faith of the Trustees duties and obligations, 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 Trustee duties and obligations with the further expectation of compliance with any order or determination made by any Court or lawful authority.

Land use and resource management planning

## The Trustees shall engage with the Settlor in relation to the Settlor's land use and resource management planning in the District.

## The manner in which the Trustees and the Territorial Authority shall engage with one another, pursuant to clause 9.10 of this deed, shall be agreed between the Trustees and the Settlor.

Te Tiriti o Waitangi | Treaty of Waitangi

## The Trustees must act in a manner that is consistent with Treaty settlement obligations as defined in the LG(WS) Act when performing and exercising functions, powers, and duties under the LG(WS) Act.

# REVIEW OF GOVERNANCE PROCEDURES

## The Trustees shall cause the governance procedures of the Trust to be reviewed at least once every three (3) years. When conducting such a review, the Trustees must consider whether the governance procedures of the Trust:

### are fit for purpose;

### assist the Trust to achieve its charitable purpose; and

### assist the Trust to comply with the requirements of the Charities Act 2005.

# TRUSTEES' POWERS

## Subject to clauses 11.3 and 11.4 of this deed, the Trustees have the following general powers:

### 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

### all the powers necessary to carry out the Trust, including powers incidental to those in clause 11.1(a).

Trustees' specific powers

## Without prejudice to the generality of clause 11.1, or to any of the Trustees' express or implied powers under this deed and at law, the Trustees will have the specific powers set out in **Schedule 2**, and may exercise them either alone or with any other person or persons. The powers in **Schedule 2** are not an exhaustive source or description of the specific powers of the Trustees.

No power to grant security over capital

## Despite clauses 11.1 and 11.2, the Trustees do not have the power to use the capital of the Trust Fund as security for any purpose, or otherwise grant security over or encumber the Water Organisation Shares.

## **No power to sell or dispose of the Water Organisation shares**

## Despite clauses 11.1 and 11.2, the Trustees do not have the power to sell, transfer or otherwise dispose of the Water Organisation Shares save in accordance with [clause 37] of the LG(WS) Act.

Exercise of powers

## 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 at law and under this deed.

## The Trustees may not exercise their powers in any manner which may prejudice the Sole Purpose and objects of the Trust.

## Pursuant to [clause 49(5)] of the LG(WS) Act, the powers of Trustees are not affected by a vacancy in the number of Trustees.

# APPLICATION OF TRUST FUND

## Subject to clauses 11.3 and 11.4, the Trustees may in any year:

### use or apply, or decide not to use or apply, all or any of the income of the Trust Fund for the Sole Purpose;

### use or apply any capital of the Trust Fund for the Sole Purpose without first using or applying the whole or any portion of the income of the Trust Fund for that year; or

### set aside reserves or accumulations for future use or application.

# TRUSTEES' LIABILITY AND INDEMNITY

Limitation of Trustees' liability

## No Trustee or former Trustee will be liable for any loss which is not attributable to the Trustee's dishonesty, wilful misconduct or gross negligence.

## No Trustee will be bound to take any proceedings against a co-Trustee or a former Trustee for any breach or alleged breach of trust committed by that co-Trustee or former Trustee.

## No Trustee will be liable for the exercise of any discretion, except for loss arising from the Trustee's dishonesty, wilful misconduct or gross negligence.

## All of those who act or have acted as Trustee will be entitled to be reimbursed from the Trust Fund for all costs and expenses they incur in defending their actions, unless liability for loss is established and is not excluded by the provisions of this deed or the Trusts Act 2019.

Liability insurance

## 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.

## 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.

## 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.

# REMUNERATION AND EXPENSES

## The Trustees and other persons providing services to the Trust will be entitled in each financial year to such remuneration as may be reasonable having regard to:

### in respect of Trustees, their duties and responsibilities, and the LGA; and

### in respect of other persons providing services to the Trust, the services provided.

## 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.

## Other persons providing services to the Trust shall be entitled to be reimbursed for any expenses incurred by them in the provision of their services to the Trust under this deed.

## The payments of remuneration and expenses to the Trustees and other persons providing services to the Trust pursuant to this clause 14 shall be paid out of the Trust Fund or any other fund available for that purpose.

# NO PRIVATE PECUNIARY PROFIT FOR ANY INDIVIDUAL, AND EXCEPTIONS

## No private pecuniary profit may be made by any person from the Trust, except that:

### any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust;

### the Trust may pay reasonable remuneration to any officer or servant of the Trust (whether a Trustee or not) in return for services actually rendered to the Trust;

### any Trustee may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust; and

### any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that that Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.

## The Trustees, in determining all reimbursements, remuneration and charges payable in the terms of this clause, shall ensure that the restrictions imposed by the following clause are strictly observed.

## Notwithstanding anything to the contrary contained or implied in this Deed, no remuneration or benefit or advantage (regardless of whether it is convertible into money) or income of any of the kinds referred to in section CW 42(8) of the Income Tax Act 2007 shall be paid or afforded to, or received or gained or achieved or derived by, any person (the "**Determining** **Person**") if the limitation in section CW 42(1)(c) of the Income Tax Act 2007 denies the Trustees an exemption from tax on income derived by the Trustees from the carrying on of any business of the Trust in the circumstances set out in clause 15.4.

## The circumstances referred to in clause 15.3 are those in which the Determining Person is:

### a Settlor or Trustee of the Trust; or

### a shareholder or director of any company carrying on any business of the Trust; or

### a settlor or trustee of any trust which is a shareholder of any company carrying on any business of the Trust; or

### an associated person (as defined by the Income Tax Act 2007) of any such settlor, trustee, shareholder, or director,

## and the Determining Person can, by virtue of being such a shareholder, director, settlor, trustee or associated person, in any way (whether directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of the remuneration or benefit or advantage or income referred to in clause 15.3 or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by the Determining Person.

# ELECTORAL OFFICER

Role of Electoral Officer

## The Electoral Officer shall be entrusted with the conduct of a Trustee election held pursuant to this deed and the principles set out in [clause 50] of the LG(WS) Act.

Powers of Electoral Officer

## The Electoral Officer shall have the power to and shall:

### appoint such scrutineers and other assistants and delegate to them such powers and duties as it shall see fit;

### provide for the due secrecy, fair conduct and professional nature of any Trustee election process which is to be undertaken in accordance with the relevant provisions of **Schedule 3** (as amended from time to time) and the Code of Conduct;

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

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

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

Indemnification of Electoral Officer

## The Electoral Officer shall be entitled to be indemnified against the Trust Fund and be reimbursed for any reasonable expenses incurred by it in the exercise of its duties and powers under this deed.

# VARIATION TO TRUST DEED

## The Trustees may, by a [unanimous resolution] revoke, vary, or add to any of the provisions of this deed, provided such revocation, variation, or addition is consistent with the Sole Purpose.

## Any alteration or amendment by the Trustees to this deed is not effective unless and until the Secretary has approved the variation pursuant to [clause 52] of the LG(WS) Act.

## Any amendment to this deed must be recorded in writing in a supplemental deed signed by the Trustees and notified as required by the Charitable Trusts Act 1957 and the Charities Act 2005 (to the extent applicable).

# POWER TO RESETTLE

## The Trustees may at any time resettle by deed all or any part of the Trust Fund on a local authority or upon the trustees of another consumer trust. Pursuant to [clause 37] of the LG(WS) Act, the Trustees may not resettle all or any part of the Trust Fund upon any other person. The intent of this clause is that, prior to the Termination Date, the Trust Fund may only be resettled on a territorial authority or upon the trustees of an analogous consumer trust shareholder of another [Water Organisation] operating for the benefit of the public. The Trustees may only exercise this power if they are satisfied it is lawful, and consistent with the purposes and objects of the LG(WS) Act.

# Termination of Trust

Power to terminate the Trust

## Pursuant to [clause 53] of the LG(WS) Act, the Trust will continue indefinitely. However, the Trustees may at any time with the approval of the Secretary, resolve to terminate the Trust.

## On the Termination Date, the Trustees must transfer to the Settlor:

### all shares that the Trustees hold in the Water Organisation; and

### all other assets and liabilities they hold for the Trust.

# NOTICES

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

## Any notice or document given pursuant to clause 20.1 shall be deemed to be duly given or made:

### if delivered by hand, when so delivered;

### if sent by post, on the third Business Day after posting;

### 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).

# NEW ZEALAND LAW

Governing law of the Trust

## This Trust is created subject to the laws of New Zealand.

## Pursuant to [clause 47(2)] of the LG(WS) Act, unless otherwise provided in the LG(WS) Act, the Trust must operate in accordance with the Trusts Act 2019 and is subject to the Local Authorities (Members' Interests) Act 1968 and the Local Government Official Information and Meetings Act 1987.

Jurisdiction of New Zealand courts

## While this Trust is governed by the laws of New Zealand, each of the parties to this deed:

### submits to the non-exclusive jurisdiction of the New Zealand courts; and

### waives any rights to object that such a court is not a convenient forum.

Binding on all persons with an interest under the deed

## For the purpose of the previous sub-clause, every person who has or claims an interest under this deed is to be treated as a party to it. Everyone who accepts or claims any interest under this deed, in doing so agrees to be bound by all the provisions of this clause, including the above submission and waiver.

**SIGNED AS A DEED**

|  |  |
| --- | --- |
| **[TERRITORIAL AUTHORITY] (Company Number: [•])** as Settlor by: |  |
|  |  |  |
| Signature of Authorised Signatory |  |  |
|  |  |  |
| Name of Authorised Signatory |  |  |
| In the presence of: |  |  |
|  |  |  |
| Signature of witness |  |  |
|  |  |  |
| Name of witness |  |  |
|  |  |  |
| Occupation |  |  |
|  |  |  |
| City/town of residence |  |  |

|  |  |
| --- | --- |
| **[INITIAL trustee 1]** as Trustee by: |  |
|  |  |  |
| Signature  |  |  |
|  |  |  |
| Name  |  |  |
| In the presence of: |  |  |
|  |  |  |
| Signature of witness |  |  |
|  |  |  |
| Name of witness |  |  |
|  |  |  |
| Occupation |  |  |
|  |  |  |
| City/town of residence |  |  |

|  |  |
| --- | --- |
| **[INITIAL trustee 2]** as Trustee by: |  |
|  |  |  |
| Signature  |  |  |
|  |  |  |
| Name  |  |  |
| In the presence of: |  |  |
|  |  |  |
| Signature of witness |  |  |
|  |  |  |
| Name of witness |  |  |
|  |  |  |
| Occupation |  |  |
|  |  |  |
| City/town of residence |  |  |

|  |  |
| --- | --- |
| **[INITIAL trustee 3]** as Trustee by: |  |
|  |  |  |
| Signature  |  |  |
|  |  |  |
| Name  |  |  |
| In the presence of: |  |  |
|  |  |  |
| Signature of witness |  |  |
|  |  |  |
| Name of witness |  |  |
|  |  |  |
| Occupation |  |  |
|  |  |  |
| City/town of residence |  |  |

1.

Trustees' Duties

1. **Duty to know the terms of Trust:** The Trustees must know the terms of the Trust.
2. **Duty to act in accordance with the terms of Trust:** The Trustees must act in accordance with the terms of the Trust.
3. **Duty to act honesty and in good faith:** The Trustees must act honestly and in good faith.
4. **Duty to act for benefit of beneficiaries:** The Trustees must hold or deal with the Trust Fund and otherwise act to further the permitted purpose of the trust, in accordance with the terms of the Trust.
5. **Duty to exercise powers for a proper purpose:** The Trustees must exercise the Trustees' powers for a proper purpose.
6. **Duty of care:** In administering the Trust, the Trustees must exercise the care and skill that is reasonable in the circumstances. However, any 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 2019.
7. **No duty to invest prudently:** In the exercise of the power of investment of Trust property, the Trustees are not required to exercise the care and skill that a prudent person of business would exercise in managing the affairs of others. Any 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 the exclusion of section 30 of the Trusts Act 2019.
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:
	1. the duty in section 31 of the Trusts Act not to exercise a power directly or indirectly for the Trustees' own benefit;
	2. the duty in section 34 of the Trusts Act to avoid conflicts of interest;
	3. the duty in section 36 that a Trustee must not make a profit from the trusteeship of the Trust; and
	4. the duty in section 37 that Trustees must not take any reward for acting as Trustees,

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 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 Trustees act 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 1–6 of this Schedule 1.

1. **Duty to consider exercise of power:** The Trustees must actively and regularly consider whether they should exercise one or more of their 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 they consider 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.
2. **Duty not to bind or commit Trustees to future exercise of discretion:** The duty that one or more Trustees must not bind or commit the Trustees to a future exercise or non-exercise of a discretion is modified to the extent that one or more 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(s) 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(s) acts honestly and in good faith, and otherwise discharges the duties set out in clauses 1–5 of this Schedule 1. 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.
3. **Duty of impartiality:** In the exercise of a discretion to pay, apply or appropriate income or capital, Trustees may favour one or more object(s) over another, notwithstanding that the exercise of the discretion may be directly or indirectly to the detriment of other objects. For the purposes of sections 5(4) and 5(5) of the Trusts Act, this clause 11 is to be regarded as a modification of section 35 of the Trusts Act.
4. **Duty to keep Core Trust Documents:** Each Trustee must keep, so far as is reasonable, the following Core Trust Documents relating to the Trust:
	1. the Trust deed and any other document that contains the terms of the Trust;
	2. any variations made to this Trust deed or Trust;
	3. 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;
	4. any records of Trustee decisions made during the Trustee's trusteeship;
	5. any written contracts entered into during that Trustee's trusteeship;
	6. any accounting records and financial statements prepared during that Trustee's trusteeship;
	7. documents of appointment, removal, and discharge of Trustees (including any court orders appointing or removing Trustees);
	8. any other documents necessary for the administration of the Trust; and
	9. 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.
5. If each Trustee holds at least:
	1. the Trust deed and any other document that contains the terms of the Trust; and
	2. 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 12 of this Schedule 1 above, provided the Trustees are satisfied that those documents (or copies of them) will be made available to the other Trustees on request.

1. 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.
2.

Trustees' Powers

**To establish sub-committees of Trustees**

1. Subject to clause 9 of this Schedule 2, the Trustees may appoint a sub-committee or sub-committees of Trustees from time to time as they think necessary or desirable for carrying out the objects of the Trust and any administrative or other functions of the Trustees on such terms and conditions and otherwise in any manner as the Trustees may from time to time in their absolute discretion determine.
2. In particular, but without limitation, the Trustees may wish to appoint a Finance Sub-Committee to assist with the preparation of the annual report, Financial Statements and audit or review thereof.
3. A sub-committee may co-opt any other person or persons, (whether a Trustee or not and including a person appointed under clause 14 of this Schedule 2), to be a member of that sub-committee.
4. Subject to any directions that the Trustees might give, each sub-committee may regulate its own procedure.
5. Each sub-committee will report to the Trustees at each meeting of Trustees (or as the Trustees may otherwise direct) on their activities and any other relevant matter as the Trustees may direct.
6. Having made an appointment under clauses 1–6 of this Schedule 2, the Trustees must keep the affairs of the sub-committee under review, and if the circumstances make it appropriate to do so, consider whether they should intervene in any manner including, but without limitation, amending, revoking, terminating or replacing the sub-committee.

**To appoint persons to exercise or perform certain powers or functions**

1. On such terms and conditions and otherwise in any manner as the Trustees may from time to time in their absolute discretion determine:
	1. to appoint a person to exercise or perform, on behalf of the Trustees, specified powers or functions in relation to the Trust;
	2. to appoint a person to make specified decisions in relation to all or part of the Trust property; and / or
	3. to appoint an eligible person to hold or deal with all or part of the Trust property as nominee or custodian and vest all or part of the Trust property in that person.
2. For the purposes of clause 7(c) of this Schedule 2, an eligible person means:
	1. a person who carries on a business that consists of or includes acting as a nominee or custodian; or
	2. a body corporate in which the Trustees have a controlling interest or the capacity to determine the outcome of decisions about the body corporate's financial and operating policies; or
	3. a law firm.
3. However, the Trustees may not appoint a person under clause 7 of this Schedule 2 to exercise or perform any of the following powers or functions:
	1. a function that is, or is related to, the determination of whether, when, or in what way any Trust property should be distributed, used, possessed, or otherwise applied to any object of the Trust;
	2. any other powers where the decision affects any payment, application or appropriation to an object;
	3. a right to apply to the court; and
	4. the Trustees' powers under clause 7 of this Schedule 2 and any other power conferred by statute or the terms of the Trust that are exercisable only by the Trustees personally.
4. The terms of appointment of any person appointed under clause 7 of this Schedule 2 will include that the person appointed does not take on the duties of the Trustees, but must act in accordance with the terms of the appointment and with any directions of the Trustees and is liable to the Trustees for any failure to comply with those terms or directions.
5. Having made an appointment under clause 7 of this Schedule 2, the Trustees must keep the arrangements, and how those arrangements are being put into effect, under review and if the circumstances make it appropriate to do so, consider whether they should intervene in any manner including, but not limited to, amending, revoking, terminating or replacing the appointment.
6. The Trustees will not be liable for any act or default of any person appointed under clause 7 of this Schedule 2, unless the Trustees failed in any duty under clause 9 of this deed and in Schedule 1 in appointing the person or failed to fulfil the obligations in clause 11 of this Schedule 2.
7. The act of an appointee appointed under clause 7 of this Schedule 2 is not invalid by reason only of any defect in the appointment.

**To delegate**

1. To delegate all or any Trustee powers and functions by power of attorney to any person (provided the person is not ineligible to be a Trustee under clause 6 Schedule 3) if the delegation is necessary or the Trustees expect that it may from time to time become necessary because of the Trustee's:
	1. absence from New Zealand;
	2. temporary inability to be contacted;
	3. temporary physical incapability; or
	4. temporary lack of capacity to perform the functions of a trustee.
2. Any delegation under clause 14 of this Schedule 2 commences when the circumstance for the delegation begins or occurs and continues until either, the circumstance ceases, or for a maximum period of twelve (12) months from commencement. If the circumstance is continuing at the end of the initial twelve (12) month period, the delegation may be extended by the delegating Trustee (or the delegate, if the relevant circumstance is that the delegating Trustee is suffering from a lack of capacity to perform the functions of a trustee) until either, the circumstance ceases, or for a maximum further period of twelve (12) months.
3. The delegating Trustee (or the delegate, if the relevant circumstance is that the delegating Trustee is incapable of doing so) must notify any co-Trustees within five (5) Business Days of the commencement of a delegation under clause 14 of this Schedule 2 of:
	1. the date the delegation commenced;
	2. the duration of the delegation;
	3. the name and contact details of the delegate;
	4. the reason for the delegation; and
	5. which of the Trustee's powers are delegated if only some are delegated.
4. If a power of attorney authorising delegation is executed by a Trustee because the Trustee expects the delegation may from time to time become necessary, the delegating Trustee (or the delegate, if the delegating Trustee is incapable) must within five (5) Business Days of the date of the power of attorney notify any co-Trustees:
	1. the date of the power of attorney;
	2. the name and contact details of the delegate; and
	3. in which of the permitted circumstance under clause 14 of this Schedule 2 the delegation commences.
5. The Trustees will not be liable for any act or default of a delegate, unless the Trustees failed in appointing the delegate to adhere to any duty under clause 9 of this deed or in Schedule 1.
6. The act of a delegate is not invalid by reason only of any defect in the appointment.

**To employ any person**

1. To employ staff, including officers, managers and professionals, on a full time or part time basis, or for a fixed term subject to the duty to act in good faith and to comply with employment law in New Zealand from time to time.

**To appoint special trust advisers**

1. To appoint, on such terms and conditions and otherwise in any manner as the Trustees may from time to time in their absolute discretion determine, a special trust adviser under section 74 of the Trusts Act 2019 to advise the Trustees on any matter relating to the Trust and any special trust adviser so appointed may be removed by the Trustees at any time.
2. The Trustees may consult a special trust advisor on any matter relating to the Trust but are not required to follow the special trust adviser's advice.
3. The Trustees will not be liable for any act or omission as a result of following the special trust adviser's advice unless the act or omission involves the Trustee's dishonesty, wilful misconduct or gross negligence.
4. If a special trust adviser disagrees with, or objects to, a proposed action by a Trustee, such disagreement or objection will not affect a person dealing with the Trustee in that matter.
5. A special trust adviser is not a Trustee and does not have the powers or duties of a Trustee.
6. A special trust adviser may be paid for the special trust adviser's services provided remuneration is payable to a Trustee. The remuneration paid will be fixed by the Trustees from time to time.

**To enter into and vary contracts**

1. On such terms and conditions and otherwise in any manner as the Trustees may from time to time in their absolute discretion determine:
	1. to enter into any type of contract, commitment, arrangement or understanding to assume or reallocate risk, rewards, rights or obligations; and
	2. to vary, assign, novate, waive, terminate or otherwise deal with any contract, commitment, arrangement or understanding to which the Trustees are party.

**To take legal, financial or other professional advice**

1. To take legal, financial or other professional advice in New Zealand or elsewhere on any matter relating to the Trust, the Trust Fund or to the Trustees' duties and powers, and in all matters to act in accordance with that advice.

**To enter into alternative dispute resolution**

1. To agree that any dispute that may give rise to legal proceedings, or any legal proceeding relating to the Trust, the Trust Fund or to the Trustees' duties and powers, and brought by or against a Trustee, between a Trustee and a third party or between two (2) or more Trustees, may be referred to an alternative dispute resolution process designed to facilitate the resolution of the matter.
2. Any agreement to enter into an alternative dispute resolution process with any other party to the dispute under clauses 29–32 of this Schedule 2 will be on such terms and conditions as the Trustees may from time to time in their absolute discretion agree.
3. The Trustees will be under no obligation to agree to any alternative dispute resolution process notwithstanding the power to do so under clauses 29–32.
4. To take all steps necessary or desirable in the Trustees' absolute discretion to reach agreement on any matter referred to an alternative dispute resolution process including, without limitation:
	1. payment from the Trust Fund of all or any costs and expenses in relation to the alternative dispute process;
	2. entering into an enforceable settlement agreement on such terms and conditions as the Trustees in their absolute discretion agree; and
	3. giving binding undertakings in relation to the matter (including undertakings that may bind or commit the Trustees to a future exercise or non-exercise of a discretion (notwithstanding, and by way of modification to, the Trustees' duty under clause 10 of Schedule 1).
5.

Appointment, retirement and proceedings of the trustees

**Number of trustees**

1. There shall be up to [six (6)] Trustees elected by Electors.
2. Should the number of trustees drop below [four (4)] a by-election must be called by the Electoral Officer to fill the vacant positions. The by-election will be conducted in accordance with this Schedule 3.

Initial Trustees

1. Pursuant to [clause 50(2)] of the LG(WS) Act, when the Trust is first established the Settlor will appoint Initial Trustees. The Initial Trustees shall be the [three (3)] persons signing this deed as Trustees.
2. The functions of the Initial Trustees are to:
	1. conduct the first election of Trustees as soon as practicable; and
	2. perform other tasks that are necessary to the establishment of the Trust.
3. The Initial Trustees will resign one (1) Business Day after the completion of the first election pursuant to this Schedule 3.

**Eligibility**

1. Pursuant to [clause 49(2)] of the LG(WS) Act, a person is eligible for election as a Trustee if:
	1. their principal residence is located in the service area of the [Water Organisation]; and
	2. they hold an account for the provision of water services with the [Water Organisation].
2. Subject to clause 8 of this Schedule 3, the following persons shall not be eligible for election as a Trustee:
	1. a person who has been convicted of any offence punishable by a term of imprisonment of two (2) or more years unless that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed upon that person;
	2. a person who has been sentenced to imprisonment for any offence unless that person has obtained a pardon or has served the sentence;
	3. a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company pursuant to the Companies Act 1993;
	4. an order is in force under the Protection of Personal and Property Rights Act 1988 protecting the property or personal care and welfare of that person;
	5. that person is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and is subject to an order made under that Act;
	6. any Trustee as received a written certificate from a medical practitioner (who holds a current practising certificate from the Medical Council of New Zealand) stating that in the practitioner's opinion the person lacks the mental or intellectual capacity to carry out the duties and powers given to that person by this deed but no Trustee has received a subsequent certificate from such a medical practitioner stating that the person in question has regained the required mental or intellectual capacity;
	7. he or she has been adjudicated bankrupt under the Insolvency Act 2006 and has not yet been discharged;
	8. a person who is not entered on the Parliamentary election rolls with an address in the District;
	9. the Chief Executive and any employees of, or contractors to, the Trust and any other office holder thereof;
	10. a person who is, or becomes, a member of Parliament in New Zealand;
	11. a person who is, or becomes, a councillor or other elected official of, or any appointed commissioner or other similar appointed officer to, any territorial authority whose territory includes any part of the District, or any elected or appointed director, trustee or similar officer of any council organisation or council controlled organisation thereof;
	12. a person who is, or becomes, a member (whether elected or appointed) of a Community Board (as that term is defined in the LGA) whose territory includes any part of the District;
	13. a person who has previously served in aggregate three (3) terms (including part terms) as a Trustee, whether or not such terms were served consecutively; and
	14. a person who is disqualified from being an officer of a charitable entity under sections 36B and / or 36C of the Charities Act 2005.
3. A person shall not be disqualified from appointment and may continue to hold that office:
	1. in any case to which clause 7(a) of this Schedule 3 applies, until the expiration of the time for appealing against the conviction and, in the event of an appeal against conviction, until the appeal has been determined;
	2. in any case to which clause 7(b) of this Schedule 3 applies, until the expiration of the time for appealing against the sentence of imprisonment and, in the event of an appeal, until the appeal has been determined; and
	3. in any case to which clause 7(h) of this Schedule 3 applies, if the Trustee to which the clause applies is an Appointed Trustee who ceases to be entered on the Parliamentary electoral rolls with an address in the District.

**Term of office**

1. The maximum duration of each term of office of a Trustee shall be [three (3) years], and no such Trustee may serve more than an aggregate of [three (3) terms] (including part terms) as a Trustee, whether or not such terms are served consecutively.
2. A Trustee shall cease to hold office if:
	1. the Trustee resigns by written notice to the Trustees;
	2. the Trustee is ineligible for election or appointment as a Trustee pursuant to clauses 6 and 7 of this Schedule 3;
	3. the Trustee dies while holding office as a Trustee;
	4. the Trustee, being an Elected Trustee, is not re-elected, when the Trustee shall retire at an Annual General Meeting; or
	5. the Trustee does not attend three (3) consecutive Trustee meetings of which notice has been properly given without the prior consent of the remaining Trustees.
3. The provisions of clause 8 of this Schedule 3 shall apply, mutatis mutandis, to clause 9 of this Schedule 3. During any appeal period the Trustee shall be deemed to have taken leave of absence and shall not be capable of acting as a Trustee. If the conviction or sentence of imprisonment (as the case may be) is not upheld, the Trustee shall be immediately reinstated. If the conviction or sentence (as the case may be) is upheld the disqualification as a Trustee shall take immediate effect.

**Rotation of Trustees**

1. From and including the first Annual General Meeting and at every [third] Annual General Meeting occurring thereafter, [all] Trustees shall retire from office.
2. The new Trustees who have been elected in accordance with clause 14 of this Schedule 3, who may, subject to the other provisions of this deed, include Trustees who have retired, shall be appointed at the conclusion of that Annual General Meeting.

**Election of Trustees**

1. All Trustees shall be elected by the Electors in accordance with [clause 50] of the LG(WS) Actin the following manner:
	1. The first election of trustees must be held by [date] and subsequent elections must be held in every subsequent [third] year not later than 30 June, as set by resolution of Trustees.
	2. Not later than nine (9) weeks before the proposed date of the election, the Electoral Officer shall insert a notice on a website maintained by the Trust giving:
		1. advice of the proposed election;
		2. the place or places at which nomination forms may be obtained;
		3. where completed nominations may be lodged;
		4. notice that the nominator, candidate and seconder must be, at the time of making the nomination, Electors; and
		5. the day and time nominations close.
	3. Every nomination of a candidate shall be in writing and shall include:
		1. the full name and address of the candidate;
		2. a statement by the candidate that the candidate is not, and to the best of the candidate's knowledge and belief will not be on the date of the election, disqualified from holding office as a Trustee by reason of any of the matters set out in clause 6 of this Schedule 3; and
		3. the signature of the nominator and seconder both of whom must be Electors, and the signature of the candidate who must be eligible to be elected as a trustee under the LG(WS) Act and this deed.
	4. Nominations shall close four (4) weeks after the first notice calling for nominations was given pursuant to clause 14(b) of this Schedule 3.
	5. After nominations close, the Electoral Officer shall conduct an election of Trustees pursuant to this clause 14 using any form of electronic voting or such other method as decided by the Electoral Officer. The Electoral Officer shall give, not less than three (3) weeks prior to the date on and the time at which voting is to close (in this clause 14, the "**Voting Period**"), to the Electors, in such manner as the Electoral Officer shall deem fit, an electronic ballot paper which shall contain:
		1. the names of all candidates validly nominated in random order and appropriate provision for recording the Elector's vote;
		2. if postal voting is to be used, a pre-paid envelope in which the ballot paper is to be placed and returned to the Electoral Officer; and
		3. a written explanation of the method for recording the Elector's vote, the manner in which the ballot paper is to be returned, and the date and time at which the Voting Period is to close.

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

* 1. Each Elector shall have one vote.
	2. The Electoral Officer shall, after close of the Voting Period, count the number of valid votes cast for each candidate and ascertain the candidates elected.
	3. A vote is invalid and shall not be counted if:
		1. the Elector votes for more candidates than there are Trustees to be elected; or
		2. in the opinion of the Electoral Officer, the ballot paper does not clearly indicate the candidate or candidates for whom the Elector intended to vote.
	4. Where, because two (2) or more candidates have received the same number of valid votes, the Electoral Officer cannot determine which of them has been elected, the Electoral Officer shall decide which of them is elected by lot drawn by those candidates in the presence of the Electoral Officer and such other person or persons (if any) as the Electoral Officer may decide.
	5. Forthwith after ascertaining which candidates have been elected, the Electoral Officer shall declare the names of the candidates so elected, and shall publish those names on the website of the Trust. The candidates elected shall be appointed Trustees at the conclusion of the relevant Annual General Meeting.
	6. After declaring the result of the election, the Electoral Officer shall decide when to destroy the voting papers and / or to permanently delete any computer records or files relating to votes cast electronically.
	7. Notwithstanding any other provision in the deed (including the clauses set out in this Schedule 3), the retiring Trustees shall remain in office until the conclusion of the Annual General Meeting at which they are to retire. Forthwith upon the conclusion of the relevant Annual General Meeting, the candidates declared elected pursuant to this clause 14 shall assume office in place of the retiring Trustees.

**Chairperson and Deputy Chairperson**

1. The Trustees shall elect a Chairperson and (should they so decide) Deputy Chairperson, who shall also be Trustees, at the first meeting of Trustees after the Annual General Meeting in each year and at any other time when either position becomes vacant.

**Meetings of Trustees**

1. Pursuant to [clause 47] of the LG(WS) Act, all meetings of Trustees must be conducted in accordance with the Local Government Official Information and Meetings Act 1987.
2. The Trustees shall, subject to clause 23 of this Schedule 3, 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 compliant with the Local Government Official Information and Meetings Act 1987, and any such protocols and / or standing orders so adopted shall bind Trustees in their administration of the Trust.
3. Any [three (3)] or more Trustees may at any time summon a meeting of the Trustees.

**Notice of meetings**

1. In addition to any applicable public notice requirement under the Local Government Official Information and Meetings Act 1987, 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 clauses 16–18 of this Schedule 3, 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)] Business Days' notice of that meeting. No notice shall be necessary for adjourned meetings except to Trustees not present when the meeting was adjourned.
2. Every notice of meeting shall state the place, day, and hour of the meeting and every notice of a meeting summoned pursuant to clauses 16–18 of this Schedule 3 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.

**Quorum for trustee meetings**

1. A quorum at meetings of the Trustees shall comprise of the [majority of the number of Trustees in office from time to time].
2. 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 24 of this Schedule 3.

**Annual General Meeting of trustees**

1. The Trustees shall hold an Annual General Meeting of Trustees no later than by 30 June in each calendar year. The following provisions shall apply with respect to that Annual General Meeting:
	1. The Chief Executive shall give no less than [twenty (20)] Business Days notice of the Annual General Meeting to the Trustees. Such notice to specify the date, time and place of the Annual General Meeting.
	2. The business to be transacted at the Annual General Meeting of Trustees shall be the receipt of the annual report (including a report on the performance of the Trust against its annual plan objectives for the relevant year), the annual plan and the audited Financial Statements and the setting of the remuneration (if any) of Trustees. Any other business shall be deemed special business and shall be dealt with in accordance with clause 23(c) of this Schedule 3.
	3. Notice in writing of any special business shall be given to the Chief Executive no less than [fifteen (15)] Business 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)] Business Days prior to the Annual General Meeting and shall also give to Consumers not less than [ten (10)] Business 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.
	4. The Annual General Meeting is a public meeting. Consumers shall be entitled to attend and speak at the Annual General Meeting but shall not be entitled to vote at such meetings.

**Adjournment of trustee meetings**

1. 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.
2. The Chief Executive will give written notice of a meeting which is adjourned pursuant to clause 24 of this Schedule 3 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.
3. Any meeting may be adjourned by the Chairperson upon the adoption of a resolution for its adjournment.

**Voting**

1. Except as otherwise provided for 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.
2. 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.

**Disclosure of interests**

1. A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:
	1. is a party to, or will derive a material financial benefit from, that transaction;
	2. has a material financial interest in another party to the transaction;
	3. 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;
	4. 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
	5. is otherwise directly or indirectly interested in the transaction.
2. 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:
	1. if the monetary value of the Trustee's interest is able to quantified, the nature and monetary value of that interest; or
	2. if the monetary value of the Trustee's interest cannot be quantified, the nature and extent of that interest.
3. A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.
4. 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 21 of this Schedule 3, the Trustee may:
	1. attend a meeting of Trustees at which a matter relating to the transaction arises;
	2. sign a document relating to the transaction on behalf of the Trust; and
	3. 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.

**Minutes**

1. A minute book shall be provided and kept by the Trustees, and all proceedings of the Trustees shall be entered in the minute book. The minute book may be kept in physical or electronic form.
2. Minutes signed by the chairperson of the meeting at which the proceedings were transacted or by the chairperson of the next succeeding meeting shall be evidence of the proceedings.
3. Where minutes of the proceedings at any meeting of Trustees have been made in accordance with the provisions of this Schedule 3, until the contrary is proved, the meeting shall be deemed duly held and convened, and all proceedings at that meeting shall be deemed to have been duly conducted.

**Resolutions in writing**

1. Notwithstanding any other provisions in the deed or in this Schedule 3, 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.

**Meetings by telephone / video conferencing**

1. Notwithstanding any other provision in this deed or in this Schedule 3, the contemporaneous linking together of a number of the Trustees or members of a committee (the participants) being not less than a quorum, shall be deemed to constitute a meeting and all the provisions in this Schedule 3 as to meetings shall apply to such meetings by telephone or by video conferencing.
2. 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.

**Validity of proceedings**

1. 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.

**Execution of documents**

1. 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.
2.

District and service area maps