

General Conditions

1. TERM

1.1 Unless agreed otherwise by both parties in writing, this Commercial Agreement will commence on the Commencement Date and continue for the Initial Term unless, or until, terminated in accordance with these General Conditions.

1.2 Manawa Energy ("Manawa Energy") will start supplying electricity to the Property on the later of:

- (a)** the Commencement Date;
- (b)** the date the Supply Point is switched to Manawa Energy; and
- (c)** any later date set by Manawa Energy as a result of the Customer not complying with any of its obligations under this Commercial Agreement.

1.3 If, after expiry of the Initial Term, the Customer continues to be supplied with electricity or any other Services by Manawa Energy and the Customer has not entered into a new agreement with Manawa Energy in respect of such supply of electricity or other Services, this Commercial Agreement will apply to such supply of electricity and/or Services and the Charges will be determined in accordance with clause 3.2. In that event, either party may terminate that arrangement by giving the other not less than 5 Working Days written notice of termination.

2. PROVISION OF SERVICES

2.1 The Customer agrees that Manawa Energy is the exclusive supplier of all electricity to be used at the Property.

2.2 Manawa Energy agrees, subject to the terms of this Commercial Agreement, to supply to the Customer (either directly or from a third party), and the Customer agrees to receive and pay for, the following services:

- (a)** electricity supply services to the Supply Point;
- (b)** metering services in respect of the Supply Point; and
- (c)** any other services agreed between the parties and set out in the Special Conditions,

(together the "**Services**").

2.3 Manawa Energy will use reasonable endeavours to ensure that the quality of the Services meets:

- (a)** the requirements set out in this Commercial Agreement;
- (b)** all applicable legal requirements (including the Code and industry rules and codes of practice); and
- (c)** good industry practice.

2.4 Manawa Energy does not guarantee that supply of any or all of the Services will be continuous or fault free. Should any problems with the Services be experienced by the Customer, the Customer should contact Manawa Energy's customer service team on 0800 35 35 35 without delay.

2.5 In the event that Manawa Energy purchases or enters into any hedge arrangements on behalf of the Customer in accordance with the Special Conditions, the Customer agrees to comply with the terms of all such hedge arrangements.

2.6 The Customer will:

- (a)** comply with all Connection Agreements and will, if requested by Manawa Energy, provide a certificate of compliance that the Supply Point complies with industry rules and codes of practice;
- (b)** comply with all applicable legal requirements including under the Code (with Manawa Energy not being responsible for the Customer's non-compliance); and

- (c) for any Supply Point at which Manawa Energy is unable to read the Customer's Metering Installation remotely, provide Manawa Energy with accurate meter location, access and installation details and all keys or security cards necessary to allow Manawa Energy to locate, gain access to, and read the Customer's meters at that Supply Point.

2.7 Where Manawa Energy does not provide the Customer with the Metering Installations in respect of the Supply Point, the Customer will:

- (a) provide Manawa Energy with copies of certificates from an Approved Test House certifying that each Metering Installation is currently fully compliant with all requirements of the Code;
- (b) ensure that all Metering Installations are able to be accessed remotely and directly by modem by Manawa Energy using its current software;
- (c) ensure that all Metering Installations are able to record a minimum of active and reactive electricity per Half Hour;
- (d) ensure that all Metering Installations meet the Distributor's requirements; and
- (e) provide Manawa Energy with such additional information for each Metering Installation as Manawa Energy may require.

2.8 If the Customer fails to comply with the obligations in subclauses 2.7(a) to (e) (inclusive) in respect of a Supply Point, Manawa Energy may, in addition to Manawa Energy's other rights and remedies under this Commercial Agreement, delay the start date for the supply of electricity to that Supply Point for up to 10 Working Days after the Customer has complied with all of its obligations in those sub-clauses.

3. CHARGES

3.1 Subject to this clause 3 and except as otherwise provided in this Commercial Agreement, the Charges for the Services for the Initial Term are as set out in Schedule B – Charges.

3.2 If Manawa Energy continues to provide electricity or any other Services to the Customer after the

expiry of the Initial Term and no new agreement has been entered into between Manawa Energy and the Customer in respect of such supply as referred to in clause 1.3, then the Charges applicable in respect of such supply will be those determined by Manawa Energy and notified (either before or after the expiry of the Initial Term) to the Customer. The electricity component of the Charges may, at Manawa Energy's discretion, be levied at the New Zealand electricity market spot price (adjusted by the applicable loss factor) plus Manawa Energy's applicable service fees, all as determined by Manawa Energy.

3.3 Manawa Energy's Charges include and may reflect the pricing and pricing methodologies of third parties for services that relate, directly or indirectly, to Manawa Energy's supply of the Services to the Customer. In the event that any such third party increases the charges payable by Manawa Energy (including as a result of amending its pricing methodology) then, regardless of any other provision of these General Conditions or Schedule B – Charges, but subject to any agreement to the contrary set out in the Special Conditions, Manawa Energy may increase the Charges by an amount not greater than any increase in charges payable by Manawa Energy, with the amount allocated to the Customer being determined by Manawa Energy. Notwithstanding the above, but subject to clause 3.5, if, as set out in Schedule C – The Commitment Schedule, Manawa Energy has purchased an energy hedge directly on behalf of and for the Customer covering some or all of the relevant electricity charges then the hedged electricity portion of the Charges may not be changed until the termination of that energy hedge.

3.4 Subject to clause 3.2, Manawa Energy will give the Customer prior notice of any changes to the Charges and the Customer shall pay the revised Charges from the date specified in the notice.

3.5 In addition to the Charges payable by the Customer, the Customer must pay to Manawa Energy:

- (a) all fees, charges, levies (including prudential cover), tax (other than income tax) and other costs (including Carbon Obligations) that are imposed or increased by law (including pursuant to the Code) or as a result of a Regulatory Event after the date of this Commercial Agreement and which

increase Manawa Energy's costs, either directly or indirectly, in supplying the Services; and

- (b) GST on the Charges and all other sums payable by the Customer to Manawa Energy.

4. PRUDENTIAL REQUIREMENT

4.1 Manawa Energy may, at any time, require the Customer to provide a guarantee, letter of credit, bond, or other security (or a combination) ("**Security**") acceptable to Manawa Energy for any amount which Manawa Energy reasonably determines, irrespective of the Customer's payment history, which Manawa Energy may use to pay any amount overdue or otherwise owing to Manawa Energy pursuant to this Commercial Agreement.

4.2 If any Security is applied by Manawa Energy pursuant to clause 4.1 or Manawa Energy (in its sole discretion) determines at any time that it requires further Security, it may give notice to the Customer to this effect. The Customer must then provide, within 10 Working Days, further or additional Security (as the case may be) for the amount specified by Manawa Energy.

4.3 If the Customer provides a bond to Manawa Energy:

- (a) it will not bear interest;
- (b) Manawa Energy may hold it until the earlier of:
 - (i) this Commercial Agreement being terminated, and the Customer having paid all Charges to Manawa Energy and having otherwise complied with all the terms of this Commercial Agreement; or
 - (ii) 12 months after the bond was provided, unless Manawa Energy (in its sole discretion) determines to extend the period for when it requires the bond (for example, due to the Customer not paying all Charges by the Payment Date, except in the case of a genuine dispute); and

- (c) Upon it being repayable to the Customer, Manawa Energy will return the bond to the Customer by crediting it against the next invoice or by paying it to the Customer's nominated bank account by direct credit.

5. PAYMENT

5.1 Manawa Energy will send the Customer an invoice on a regular basis for amounts payable pursuant to this Commercial Agreement. Payment in respect of an invoice is due on or before the Payment Date. Failure to receive an invoice in respect of the Charges does not alter the Customer's liability to pay the Charges.

5.2 If the Customer wishes to dispute any invoice, the Customer must write to or telephone the Manawa Energy representative specified in Schedule A – Customer Details or Manawa Energy's customer services team and seek resolution of the dispute. The Customer must pay any undisputed amount of an invoice by the Payment Date.

5.3 If Manawa Energy agrees that an invoice is in error Manawa Energy will correct that invoice and resend it to the Customer. In the event that, as a result of an error, the Customer has paid a greater sum to Manawa Energy than the amount owed by the Customer to Manawa Energy pursuant to that invoice, the overpayment shall either, at Manawa Energy's option, be refunded to the Customer or credited against any future Charges.

5.4 If Manawa Energy does not agree that there has been an error made in respect of the Charges set out in an invoice, the Customer shall pay any outstanding amounts immediately together with interest on that sum at the Default Interest Rate from the Payment Date under the invoice until the date of receipt of payment by Manawa Energy. The Customer is still entitled to dispute Manawa Energy's decision in accordance with clause 18.2.

5.5 Subject to clause 18.2, Manawa Energy may charge interest at the Default Interest Rate in respect of Charges that remain unpaid after the Payment Date. Interest will be calculated on a daily basis from the day after the Payment Date until the date of receipt of payment by Manawa Energy.

5.6 Manawa Energy may set off Charges owed to it by the Customer against any sum that Manawa Energy owes to the Customer.

5.7 The Customer shall be liable for all fees and expenses incurred by Manawa Energy in collecting, or attempting to collect, Charges including legal fees, debt collection charges and disconnection and reconnection fees.

6. POINT OF SUPPLY

6.1 The supply of electricity shall be made by Manawa Energy to the Supply Point. Title, risk and ownership of such electricity shall pass to and vest in the Customer at the time of delivery to the Customer at the Supply Point.

7. METERING EQUIPMENT AND UNMETERED LOAD

7.1 The quantity of electricity delivered to the Supply Point will be measured by the Metering Installation. The Metering Installation may be supplied by or on behalf of Manawa Energy or the Customer as agreed. Manawa Energy will endeavour to read the Metering Installation monthly unless otherwise agreed between the parties.

7.2 The Metering Installation will be deemed to be accurate unless either Manawa Energy or the Customer disputes the accuracy of the Metering Installation and the Metering Installation will then be tested in accordance with the Code. If that test reveals that the Metering Installation does not meet the relevant standard required by the Code then, as soon as reasonably practicable after a determination is made under the Code, Manawa Energy will correct any invoices that are found to be incorrect.

7.3 If for any reason a Metering Installation is not read at the proper time, Manawa Energy may estimate how much electricity has been supplied to the Supply Point, and invoice the Customer according to that estimate. The Customer must pay all estimated invoices in accordance with clause 5. When the Metering Installation is next read, any differences between Manawa Energy's estimate and the actual amount of electricity the Customer has used will be taken into account in the next invoice issued (or such future invoices as may be reasonably practicable).

7.4 The party that owns, contracts for the provision of, or controls the Metering Installation (as

determined by Manawa Energy from time to time) is the "Metering Equipment Owner" for that Metering Installation and has the responsibilities of the Metering Equipment Owner under this Commercial Agreement and the Code.

7.5 If Manawa Energy incurs any fines or fees because of the Customer's failure to comply with the Customer's obligations pursuant to this clause 7, then the Customer will be liable to Manawa Energy for those fines and fees and any associated costs.

7.6 Where applicable, if Manawa Energy's obligations to the Metering Equipment Provider change or this Commercial Agreement does not accurately reflect Manawa Energy's arrangement with the Metering Equipment Provider, Manawa Energy may amend this Commercial Agreement to reflect those changes or that arrangement upon providing at least 10 Working Days' written notice to the Customer.

7.7 Manawa Energy may, at any time, choose to remove, replace or alter any part, or all of, the Metering Installation. The Customer will be liable for all charges incurred by Manawa Energy if the removal, replacement or alteration is at the Customer's request or due to the Customer's failure to comply with this Commercial Agreement.

7.8 In respect of any Metering Installation for which a party is the Metering Equipment Owner, the Metering Equipment Owner agrees to comply with all applicable laws (including the Code) including:

- (a)** by being, or appointing a third party to be, the Metering Equipment Provider under the Code;
- (b)** ensuring that the Metering Installation meets the requirements of the Code including in relation to accuracy, inspection and calibration; and
- (c)** arranging for the Metering Installation to be tested in accordance with the Code if the other party disputes the accuracy of the Metering Installation and, if the Metering Installation does not meet the requirements of the Code, ensuring compliance with the Code by fixing or replacing the Metering Installation. If the party who is not the Metering Equipment Owner disputes the accuracy of the Metering Installation and the test reveals that the Metering Installation meets the requirements of the

Code, then that party will be responsible for the costs of the tests undertaken in accordance with this clause 7.8(c).

7.9 If the Customer is the Metering Equipment Owner, the Customer must:

- (a) obtain Manawa Energy's prior written consent to any persons proposed to be the Metering Equipment Provider;
- (b) ensure that Manawa Energy is able to remotely read and obtain all required data from the Metering Installation at times and in the frequency as Manawa Energy determines with its then current meter reading software, or, at Manawa Energy's sole discretion, provide Manawa Energy with all data from the Metering Installation that Manawa Energy reasonably requires within such periods as Manawa Energy stipulates, at no cost to Manawa Energy; and
- (c) notify Manawa Energy if there is any change or proposed change to any Metering Installation or change in the ownership of any part of the Metering Installation and provide to Manawa Energy all information Manawa Energy consequently requests.

7.10 The Customer must not install, or arrange the installation of any metering equipment in addition to the Metering Installation ("**Additional Equipment**") without the prior written approval of Manawa Energy. If Manawa Energy agrees to the installation of such Additional Equipment, that Additional Equipment must not interfere with the Metering Installation.

7.11 If Manawa Energy is the Metering Equipment Provider, the Metering Installation is not and does not become (including following the termination of this Commercial Agreement or otherwise) a fixture or fitting of the Property to which it is installed or a fixture or fitting that belongs to any person other than Manawa Energy or the party that Manawa Energy has procured to supply it.

7.12 The Customer must:

- (a) ensure the safety and security of, and compliance with all obligations at law in

respect of, all equipment at the Property not owned or provided by Manawa Energy;

- (b) ensure that there is a safe and secure space and associated wiring at the Property for the installation and operation of the Metering Installation;
- (c) keep trees and other vegetation on the Property clear of the Metering Installation (and if the Customer fails to do so, Manawa Energy may give notice requiring this to be done within a specified period);
- (d) not take (or allow anyone else to take) electricity from any point between a Supply Point and the Metering Installation;
- (e) not interfere (or allow anyone else to interfere) with the Supply Point or Metering Installation, without Manawa Energy's prior written consent;
- (f) immediately notify Manawa Energy of any damage to, or interference or fault with the Metering Installation;
- (g) not connect one Supply Point to another, or interfere with any other person's electricity supply;
- (h) comply with any applicable Distributor's requirements; and
- (i) not seek to inject electricity generated at the Property to any Network without the Distributor's and Manawa Energy's prior written consent.

7.13 Manawa Energy may charge the Customer for:

- (a) the cost of any investigation as to compliance with clause 7.12;
- (b) costs which Manawa Energy incurs to rectify any failure to comply with clause 7.12; and
- (c) the estimated cost of any electricity supplied but not recorded by the Metering Installation accurately due to any failure to comply with clause 7.12.

7.14 Neither Manawa Energy nor the Metering Equipment Provider where such Metering Installation is supplied by or on behalf of Manawa Energy, shall be liable for any loss, including

consequential or indirect loss (such as shutdowns or the need for standby generation) of the Customer or any third party arising directly or indirectly from any testing, modification or replacement of the Metering Installation.

8. DISTRIBUTED UNMETERED LOAD

8.1 Should the Customer be supplied by Manawa Energy with electricity which is not metered, the Customer must keep, at its cost, an up to date database of the Distributed Unmetered Load in compliance with the requirements of the Code and any additional requirements of Manawa Energy from time to time. This information shall be supplied to Manawa Energy (in the format specified by Manawa Energy) on a monthly basis by the first Working Day of the immediately following month unless otherwise agreed by Manawa Energy.

8.2 If in Manawa Energy's opinion, the Customer does not comply with clause 8.1, such non-compliance will constitute a material breach of this Commercial Agreement and, without prejudice to any other rights and remedies Manawa Energy has:

(a) Manawa Energy will be entitled to reasonably estimate the Services provided to the Customer for the unmetered electricity supplies and charge the Customer for those Services. The Customer shall pay the Charges in respect of that estimated use irrespective of the time that may have elapsed since the non-compliance was discovered.

(b) Manawa Energy may also, at its sole discretion, disconnect the unmetered electricity supplies if the breach is not remedied in a reasonable timeframe (such reasonable timeframe to be stipulated by Manawa Energy). If Manawa Energy elects to disconnect the unmetered electricity supplies, Manawa Energy may charge the Customer a disconnection fee and may, if it agrees to reconnect the unmetered electricity supplies, charge the Customer a reconnection fee upon the conclusion of the disconnection.

(c) Manawa Energy may also charge the Customer for all fees, charges, levies or

other costs imposed or incurred by Manawa Energy as a result of such non-compliance including reconciliation fees.

(d) Manawa Energy or an agent appointed by Manawa Energy may, during normal business hours, by no less than 5 Working Days' notice to the Customer, audit the Customer's Distributed Unmetered Load database. The Customer must provide all reasonable assistance and records that are requested by the person undertaking the audit in relation to such audit in a reasonable timeframe. Manawa Energy (in its sole discretion) may pass on the cost of that audit to the Customer. Where the Customer's Distributed Unmetered Load database does not comply with clause 8.1 or Manawa Energy has a concern that the Customer is not in compliance with clause 8.1 and notifies the Customer of this, the Customer must:

(i) correct any issues of non-compliance raised;

(ii) pay any fees, charges, levies or other such costs imposed on Manawa Energy as a result of non-compliance; and

(iii) if such failure to comply contributes, directly or indirectly, to an audit of Manawa Energy in accordance with Part 16A of the Code and the auditor being of the opinion that Manawa Energy has not complied with the Code and/or causes Manawa Energy to cease to be a certified reconciliation participant for the purposes of the Code ("**Non Compliance**"), the Customer shall indemnify Manawa Energy for all costs, losses, damage and liability suffered or incurred by Manawa Energy, whether directly or indirectly, arising out of or in connection with the Non Compliance by the Customer.

(e) Manawa Energy will be entitled to, upon notice to the Customer specifying the failure and the period within which it must be remedied, arrange for the correction of any Non Compliance to be undertaken at

the cost of the Customer, if that failure is not remedied within the relevant period.

9. DEFAULT DISCONNECTION

9.1 Without prejudice to any other rights and remedies Manawa Energy has, Manawa Energy may, without terminating this Commercial Agreement, upon notice to the Customer, suspend the supply of all or any Services in the event that any of the Charges set out in any invoice remain unpaid for 5 Working Days after the relevant Payment Date, except if the Charges not paid are genuinely disputed in accordance with clause 5.2.

9.2 Manawa Energy may suspend the supply of electricity to the Customer where it is required to do so by any Distributor pursuant to any Connection Agreement. The parties acknowledge that this clause 9.2 is for the benefit of and is enforceable by any such Distributor in accordance with the Contract and Commercial Law Act 2017.

9.3 Where Manawa Energy suspends the supply of any Service in accordance with clauses 9.1 or 9.2 Manawa Energy may charge the Customer a disconnection fee. If Manawa Energy agrees to resume supply of the Services, including upon payment of all outstanding amounts that are not genuinely disputed, Manawa Energy may charge a reconnection fee and may require a bond or other form of Security or increase the amount of a bond or other form of Security as security for future payments.

10. DISRUPTION TO SUPPLY

10.1 It may be necessary from time to time for Manawa Energy or the Distributor to interrupt the supply of electricity to the Supply Point. This may occur for a number of reasons including:

- (a)** the reasons set out in any Connection Agreement;
- (b)** health and safety reasons, or to avoid danger to persons or damage to property;
- (c)** maintenance, installation upgrades, downgrades, repairs and other works to be carried out at the Property, on a Network, or at another person's site;

(d) ensuring the quality and safety of the electricity supply to the Customer or any other person;

(e) preserving and protecting the proper working of a Network;

(f) compliance with instructions from Transpower or the Distributor or any regulatory authority;

(g) complying with the law, including the Code;

(h) an event of Force Majeure; or

(i) for load management purposes.

10.2 Subject to clause 10.3, Manawa Energy (where it is, in Manawa Energy's opinion, practically possible) will give at least 2 Working Days' notice of its intention to interrupt the supply of electricity provided that if Manawa Energy receives insufficient notice of any interruption to give 2 Working Days' notice, Manawa Energy will give such notice as is practicable in the circumstances. Following the interruption, Manawa Energy will endeavour to resume supply as soon as practicable. However, as work often depends on weather or other external conditions, the time and date of interruption and resumption of supply may vary from that stated in a notice and Manawa Energy will have no liability if that occurs.

10.3 In the event that an unplanned interruption, outage, accident or emergency causes disruption of supply of electricity, Manawa Energy shall not be obliged to provide advance notice to the Customer.

10.4 Manawa Energy will use reasonable endeavours to ensure that the Distributor gives the Customer reasonable notice of any planned interruptions undertaken by or on behalf of the Distributor, but Manawa Energy will have no liability if such notice is not given.

11. PROTECTION OF SENSITIVE ELECTRICAL EQUIPMENT

11.1 If the Customer operates equipment that requires a continuous supply of the Services or a supply without fluctuations in voltage or frequency for any reason (e.g. dialysis or computer equipment), then the Customer acknowledges that Manawa Energy cannot and does not guarantee a

continuous supply of the Services nor that fluctuations in voltage or frequency will not occur. The Customer should assess the risk to its operations, and where necessary, and at its own cost, install the appropriate equipment to ensure that it will receive a level of supply quality and security that will meet its particular requirements.

12. TEMPORARY DISCONNECTIONS AND ELECTRICAL SAFETY

12.1 For safety purposes, the Customer agrees to contact Manawa Energy or the appropriate Distributor for advice before working near overhead or underground lines.

12.2 The Customer agrees not to use, or allow anyone else to use, the Customer's electrical installations or the Services in a manner which may:

- (a) cause damage to, or interfere with, any electrical installations used to supply electricity including, without limitation, if the Customer's power factor is below that specified by the Distributor;
- (b) interfere with the supply of electricity to any other person, or with the electrical installations of any other person;
- (c) be in breach of any law or legal or regulatory requirements; or
- (d) jeopardise the safety of any person or the proper functioning of any electrical installation (including all appliances and machinery that consume electricity).

12.3 The Customer shall be liable for any costs, loss or damage suffered by any person, including Manawa Energy, due to the Customer's failure to comply with clause 12.1 or 12.2. Without prejudice to any of its rights and remedies under this Commercial Agreement, Manawa Energy may also terminate this Commercial Agreement immediately without notice and/or disconnect the supply of electricity if, in Manawa Energy's opinion, the Customer fails to comply with all or any part of clause 12.2.

13. LIABILITY FOR LOSS

13.1 The Customer acknowledges and agrees that for the purposes of section 43 of the Consumer

Guarantees Act 1993 ("**CGA**") and section 5D of the Fair Trading Act 1986 ("**FTA**");

- (a) the Services provided pursuant to this Commercial Agreement are being supplied and acquired in trade;
- (b) the Customer is in trade;
- (c) to the extent permitted by law, the Customer agrees with Manawa Energy to contract out of the CGA and sections 9, 12A, 13 and 14(1) of the FTA; and
- (d) it is fair and reasonable that the Customer is bound by this clause 13.1.

13.2 Neither Manawa Energy nor the Customer will be liable to the other for any cost, loss, damage or liability the other may suffer or incur (including any actual damage to property) unless this cost, loss, damage or liability arises due to:

- (a) a failure to comply with the terms of the Commercial Agreement; or
- (b) a negligent act, negligent error or negligent omission of (as the case may be) Manawa Energy or the Customer;

and that cost, loss, damage or liability is:

- (i) caused by such failure, negligent act, negligent error or negligent omission; and
- (ii) not caused by an event or circumstance beyond Manawa Energy's or the Customer's (as the case may be) control. An event or circumstance beyond a party's control includes any event or circumstance of Force Majeure.

13.3 Without limiting any other rights or remedy of Manawa Energy where a cost, loss, damage or liability caused by an event or circumstance within the Customer's control ("**Issue**") is capable of remediation (as determined by Manawa Energy), Manawa Energy may:

- (a) provide notice to the Customer specifying the Issue and requiring the Customer to remedy the Issue within a specified period ("**Remediation Notice**"); and
- (b) if the Issue is not remedied within 10 Working Days following receipt by the

Customer of the Remediation Notice, Manawa Energy may undertake any steps required to remedy the Issue and the Customer will be liable to Manawa Energy for all costs incurred by Manawa Energy in remedying the Issue.

13.4 Notwithstanding any other provision of this Commercial Agreement but without limiting the Customer's obligation to pay all Charges and all other fees and expenses referred to in this Commercial Agreement, and to indemnify Manawa Energy under clauses 8.2(d)(iii) and 13.6, neither Manawa Energy nor the Customer shall have any liability of any kind whatsoever (including liability for negligence) to the other:

- (a) for any loss of profit or any indirect or consequential loss or damage;
- (b) any loss resulting from loss or corruption of, or damage to, any computer or electronically stored data, software or hardware;
- (c) exceeding the greater of \$10,000 or 2.5 percent of the annual Charges payable by the Customer for any single event or circumstance (a series of such failures arising from the same event or circumstance shall be a single event or circumstance of failure) subject to an overall maximum of the greater of \$10,000 or 5 percent of the annual Charges payable by the Customer for all events or circumstances occurring in any 12 month period.

13.5 Manawa Energy will not be liable to the Customer in respect of:

- (a) momentary fluctuations in the voltage or frequency of electricity supplied;
- (b) any failure to convey electricity caused by the Customer's, or any other person's, failure to observe or comply with any Network Connection Standards;
- (c) any failure to convey electricity caused by no, or reduced, injection or electricity supply into a Network or an interruption in the conveyance of electricity in a Network;

- (d) any failure to convey electricity caused by any defect or abnormal conditions at the Property;
- (e) any delays, faults, or any other problem whatsoever in relation to the electricity supply to the Customer resulting from any incorrect or inadequate information provided by the Customer;
- (f) any failure to convey electricity where a Network operator or System Operator considers it reasonably necessary to interrupt the electricity supply;
- (g) any failure to convey electricity or effect its conveyance arising from the Customer's or a third party's acts or omissions; or
- (h) any loss resulting from the liability of the Customer to any other person.

13.6 Manawa Energy is a party to contracts with the National Grid Manager, Metering Equipment Owner, Distributors and Generators for the supply of electricity, meter services and transmission services. Should Manawa Energy be required to indemnify any of these persons in respect of any action, liability, claim, demand, charge, loss, damage or proceedings brought by the Customer against these persons as a result of any loss or damage caused by any of these persons (excluding where negligence can be proved), the Customer shall indemnify Manawa Energy for any amount including, without limitation, any court awards, interest or penalty which Manawa Energy is liable to pay these persons in respect of such action, liability, claim, demand, charge, loss, damage or proceedings brought by the Customer.

13.7 Manawa Energy will in no circumstance be liable for failure of any nature on the part of others who supply Manawa Energy with electricity or services for Manawa Energy to supply the Services to the Customer.

13.8 If Manawa Energy is liable to the Customer and this arises because of the action or inaction of another person, the Customer can only claim from Manawa Energy a proportion of what Manawa Energy recovers from that third person. If the amount Manawa Energy recovers relates to loss suffered by more than one of Manawa Energy's customers, Manawa Energy will distribute the amount recovered in proportion to each affected customer's relative loss.

13.9 If the Customer on-sells electricity to any person, the Customer agrees to include terms in that sale to the same effect as clause 13.1 to the fullest extent permitted by law.

14. FORCE MAJEURE

14.1 If either party fails to comply with or observe any provision of this Commercial Agreement (other than an obligation to make payment for Charges, and all other fees and expenses referred to in this Commercial Agreement, and to indemnify Manawa Energy under clauses 8.2(d)(iii) and 13.6), and such failure is caused by:

- (a) any event or circumstance occasioned by or in consequence of any act of God, strikes, lockouts, other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, pandemics, animals, aircraft, landslides, well blow-outs, lightning, earthquakes, fires, storms, floods, washouts, geomagnetically induced currents, arrests and restraints of rulers, civil disturbances; or
- (b) a partial or entire failure of the supply or availability of electricity to the Grid or a Distributor's or Generator's system, a partial or entire failure of any of Manawa Energy's customers or other person to take electricity from a Distributor's or Generator's system beyond the control of the party invoking this clause 14.1; or
- (c) the binding order of any court, or governmental or local authority; or
- (d) breakage or failure of, or an accident to, any plant, equipment or other facility owned or operated by the party invoking this clause 14.1 (not arising due to a failure on the part of the party seeking to invoke this clause 14.1 to exercise reasonable care); or
- (e) any restriction, interruption, diminution, or variation in quantity or voltage or frequency of the supply of electricity, whether caused by demands exceeding available generating or transmitting capacity of Generators, the National Grid Manager, Manawa Energy or a Distributor; or
- (f) the use of any of the statutory, legislative, or contractual powers of Generators, the

National Grid Manager or any Distributor or through any fault or negligence of Generators, the National Grid Manager or any Distributor or their respective agents or servants or otherwise; or

- (g) any event or circumstance of force majeure which excuses performance under a Connection Agreement (not arising due to a failure on the part of the party seeking to invoke this clause 14.1 to exercise reasonable care); or
- (h) a partial or entire failure of or reduction in transmission by a Network by reason of any cause (other than a cause arising due to a failure on the part of the party seeking to invoke this clause 14.1 to exercise reasonable care); or
- (i) local or national electricity shortages or capacity constraints, instances of extreme wholesale electricity prices, or where rationing is required as part of an industry rationing plan; or
- (j) any other event or circumstance beyond the control of the party invoking this clause 14.1, but not including lack of financial means, being such that by the exercise of reasonable care as a reasonable and prudent operator such party could not have prevented such failure nor avoided the consequences of it,

that failure shall not give rise to any cause of action or liability based on breach of that provision, but the party shall continue to comply with those obligations which are not affected by the Force Majeure. If the Customer's non-performance of any obligation may result in liability for Manawa Energy, Manawa Energy may cease the supply of the Services (or any one or more of the Services, as determined by Manawa Energy) to avoid such liability.

14.2 If a party becomes aware of a serious prospect of a forthcoming Force Majeure, it shall notify the other party as soon as reasonably practicable of the particulars of which it is aware.

14.3 The party invoking clause 14.1 shall:

- (a) notify the other party as soon as reasonably practicable of full particulars of the Force Majeure;

- (b)** use all reasonable endeavours to overcome or avoid the Force Majeure;
- (c)** use all reasonable endeavours to mitigate the effects or consequences of the Force Majeure; and
- (d)** consult with the other party on the performance of the obligations referred to in clauses 14.3(a), (b) and (c).

However, nothing in this clause 14.3 shall be construed as requiring the party invoking clause 14.1 to settle a strike, lock-out or other industrial disturbance by acceding against its judgment to the demands of opposing parties.

- 14.4** In the event of Force Majeure suffered by Manawa Energy, Manawa Energy shall, where practicable, consult with the Customer on the steps to be taken to cause minimum interference with the business of the Customer.
- 14.5** In the case of an event or circumstance of Force Majeure which affects in part the ability of the Customer to take electricity, the Customer shall, to the extent possible, continue to take a supply under this Commercial Agreement. No Force Majeure shall relieve the Customer from its obligations to make payment of amounts due to Manawa Energy (including for Charges and all other fees and expenses referred to in this Commercial Agreement, and to indemnify Manawa Energy under clauses 8.2(d)(iii) and 13.6).
- 14.6** In the case of a Force Majeure event that affects in part the ability of Manawa Energy to procure or provide electricity, Manawa Energy shall use reasonable endeavours to continue to provide supply under this Commercial Agreement but may ration the supply to the Customer.
- 14.7** If the Force Majeure is of such magnitude or will be (or will be likely to be) of such duration that it is either impracticable or unreasonable for either party to perform, comply with or observe its obligations under this Commercial Agreement (including its obligations under clause 14.3) for a period of more than 6 months, that party may, upon giving not less than 10 Working Days' notice, terminate this Commercial Agreement.

15. EVENTS OF DEFAULT

- 15.1** The following shall be Events of Default:

- (a)** if the Customer fails to make payment of a duly rendered invoice of any sum due to Manawa Energy within the period stipulated in this Commercial Agreement (without the need for formal demand); or
- (b)** if either party fails to comply with, observe or perform any material obligation under this Commercial Agreement (other than as a result of a failure arising from Force Majeure pursuant to clause 14.1 or a payment obligation the subject of clause 15.1(a)) provided that, if the failure is capable of remedy, this clause shall not apply unless such failure has not been remedied in the bona fide opinion of the party not in default within 10 Working Days of notice of the failure by the party not in default to the other; or
- (c)** Manawa Energy is not satisfied (acting reasonably) with the results of any credit check on the Customer in accordance with clause 22; or
- (d)** upon either party becoming insolvent or upon a receiver or manager of any asset of either party being appointed, or an order made or resolution passed for the liquidation of either party; or
- (e)** where the Customer is no longer permitted to draw off electricity pursuant to a Connection Agreement in respect of the Supply Point for an extended period of time, other than in circumstances of Force Majeure.

- 15.2** Without limiting a party's rights in respect of the Event of Default, at any time following the expiry of 5 Working Days after the occurrence of an Event of Default of the type described in clauses 15.1(a), 15.1(b), 15.1(c) or 15.1(e) and while the Event of Default remains un-remedied, and immediately upon an Event of Default of the type described in clause 15.1(d), the party not in default shall be entitled to give notice of termination to the other party and to immediately terminate this Commercial Agreement.

- 15.3** The termination of this Commercial Agreement does not affect any rights or obligations of the parties for any Services provided up to the date of termination including the right to invoice for any amounts due to Manawa Energy for Services prior to termination, and without waiving any remedy to

which the party not in default may be entitled due to the Event of Default.

15.4 On termination of this Commercial Agreement for any reason, the following provisions will survive termination and remain in effect until their purpose is served:

- (a)** clauses 3 and 5 to the extent they relate to Charges incurred but not yet paid;
- (b)** clauses 7 and 20 to permit Manawa Energy or any Metering Equipment Owner to remove or disconnect any Metering Installation and to have access to undertake any final readings;
- (c)** clause 13;
- (d)** clauses 15.3 and 15.4;
- (e)** clause 16; and
- (f)** clause 18 in respect of any prior disputes.

15.5 Where any Event of Default of the type described in clauses 15.1(a), 15.1(b), 15.1(c) or 15.1(e) is committed or, in respect of clause 15.1(d), suffered by the Customer, and such Event of Default relates to a particular site or a particular Supply Point ("**Affected Site**") and while the Event of Default remains un-remedied, Manawa Energy shall, without terminating this Commercial Agreement, be entitled to give notice to the Customer to immediately terminate the Affected Site's participation in this Commercial Agreement. In such event:

- (a)** the Customer in respect of the Affected Site will have no further rights or obligations for any Services in respect of that Affected Site where such rights and obligations arise after the date of termination of participation in this Commercial Agreement of that Affected Site; and
- (b)** such termination will not affect any rights or obligations of the parties for any Services provided to the Affected Site up to the date of termination of participation.

15.6 Should Manawa Energy terminate the participation of an Affected Site in this Commercial Agreement, this will not prejudice Manawa Energy's right to subsequently terminate this Commercial Agreement.

16. CONFIDENTIALITY

16.1 Each party undertakes with the other party that it will preserve the confidentiality and secrecy of, and will not directly or indirectly reveal, report, publish, disclose or transfer, confidential information about the other party acquired by the first party during the performance of this Commercial Agreement, except if:

- (a)** at the time of receipt, the confidential information is lawfully in the public domain;
- (b)** after the time of receipt, the confidential information enters the public domain except as a result of a breach of obligations under this clause;
- (c)** disclosure is required:
 - (i)** by Manawa Energy to properly perform its obligations under this Commercial Agreement, including pursuant to any obligations entered into by Manawa Energy for the performance of the Services;
 - (ii)** by the Code or any statutory or regulatory obligation, body or authority (including a stock exchange); or
 - (iii)** by any judicial or other arbitration process; or
- (d)** confidential information is released to the first party's agents, or to a bona fide preferred purchaser of that party, in each case on the basis of an undertaking given by the person to whom the information is to be disclosed, to be bound by the obligations of confidentiality in this clause 16.1.

17. ASSIGNMENT AND AGENTS

17.1 Manawa Energy may at any time transfer or assign all or any of its rights and obligations under this Commercial Agreement, provided that notice of such transfer or assignment shall be given to the Customer prior to such transfer or assignment or as soon after the transfer or assignment as it is reasonably practical in the circumstances. On giving that notice, Manawa Energy will be released from the obligations assigned or transferred, and

the assignee or transferee will assume those obligations.

17.2 Where Manawa Energy commits a trader "event of default" (as that term is referred to in schedule 11.5 of the Code) the Electricity Authority may assign Manawa Energy's rights and obligations under this Commercial Agreement to another electricity retailer ("**Recipient Retailer**"). The terms of this Commercial Agreement may be amended upon assignment to the Recipient Retailer to:

- (a) the standard terms the Recipient Retailer would have offered to the Customer immediately before the event of default; or
- (b) such other terms that are more advantageous to the Customer than the standard terms as the Recipient Retailer and the Electricity Authority agree; and
- (c) include a minimum term in respect of which the Customer must pay an amount for cancelling the contract before the expiry of the minimum term.

This clause 17.2 is for the benefit of the Electricity Authority for the purposes of the Contract and Commercial Law Act 2017 and may not be amended without the consent of the Electricity Authority.

17.3 The Customer may not assign its rights or obligations under this Commercial Agreement without the prior written consent of Manawa Energy. Manawa Energy shall not unreasonably withhold such consent.

17.4 Manawa Energy may appoint an agent or subcontractor to perform any of Manawa Energy's rights or obligations under this Commercial Agreement.

17.5 Those persons who are not party to this Commercial Agreement but on whom a benefit is expressly conferred can enforce the benefit with the consent of Manawa Energy in accordance with the Contract and Commercial Law Act 2017. However, Manawa Energy is free to alter this Commercial Agreement as set out in this Commercial Agreement.

18. DISPUTE RESOLUTION

18.1 In the event a difference or dispute ("**Dispute**") arises between the parties, the parties shall, in the first instance, seek to resolve the Dispute by negotiation.

18.2 Where a Dispute is not resolved by the parties in accordance with clause 18.1 within 15 Working Days of the Dispute arising, and provided the Dispute involves a claim for an amount not exceeding the maximum applicable amount set out in the Scheme Rules for the Energy Complaints Scheme operated by Utilities Disputes, the Customer is entitled to submit the Dispute to Utilities Disputes for resolution, who provides a free and independent dispute resolution service. Where Utilities Disputes issues a binding decision in respect of that Dispute, the Customer agrees to be bound by that decision.

19. NOTICES

19.1 Any notice, communication, document, or demand required to be made or served pursuant to this Commercial Agreement should be in writing and may be given or served (without prejudice to any other mode of service):

- (a) if delivered by hand, when so delivered;
- (b) if sent by email, when sent provided the sender can produce a printed copy of the email which evidences that the email was sent to the correct address; and
- (c) if sent by post, on the second Working Day following posting.

20. ACCESS

20.1 The Customer agrees to provide to Manawa Energy, the Distributor, the Metering Equipment Owner and their agents access at all reasonable times to the Property, upon reasonable notice by either Manawa Energy, the Distributor, or the Metering Equipment Owner (such notice not being required in the case of meter reading or, following termination, meter removal or disconnection), so as to permit Manawa Energy, the Distributor, the Metering Equipment Owner or their agents to carry out any of their rights or obligations under this Commercial Agreement or

as reasonably required to give effect to this Commercial Agreement.

- 20.2** If the Customer fails to grant access, in accordance with this Commercial Agreement to the Property (including the Metering Installation or other equipment on the Property), the electricity supply may be disconnected immediately. Manawa Energy will not be liable for any damages incurred by the Customer or any third party as a result of any such disconnection. The Customer will be liable to pay to Manawa Energy all costs of disconnection and of any reconnection.

21. PROVISION OF INFORMATION

- 21.1** The Customer warrants that all information the Customer provides to Manawa Energy is accurate and correct and if such information changes to keep Manawa Energy informed in a reasonable timeframe.
- 21.2** The Customer agrees to notify Manawa Energy, in advance, of any significant and foreseeable change in the Customer's electricity consumption volume or pattern, or of any proposed change in equipment at the Property that may affect the Customer's electricity supply in any material way.
- 21.3** Without limiting clause 21.2, if the Customer wishes to increase the maximum level of supply at a Supply Point or the level of consumption of electricity at the Property in excess of that set out in Schedule A – Customer Details, the Customer must first obtain the written consent of Manawa Energy who may, as a condition to giving such consent, require an amendment to the Commercial Agreement including by amending the Charges.
- 21.4** The Customer agrees that Manawa Energy may access, store, use and analyse its Half-Hour Data. Where Half-Hour Data is held by a Customer's previous supplier of electricity, the Customer hereby consents to Manawa Energy contacting such previous supplier and requesting the supply of that Half-Hour Data to Manawa Energy. Upon the request of its previous supplier or Manawa Energy the Customer agrees to undertake any further acts, including the provision of further information and/or written confirmation of Manawa Energy's rights under this clause 21.4, to ensure that Manawa Energy is able to access that Half-Hour Data.

22. CREDIT CHECKS

- 22.1** The Customer authorises Manawa Energy to conduct a credit check on the Customer from time to time when Manawa Energy considers it appropriate.
- 22.2** Credit checks (as referred to in clause 22.1) may include (but not be limited to) enquiries of any previous suppliers of electricity to the Customer, reviewing the information the Customer has provided to Manawa Energy, and registering and checking the Customer's information with credit reference agencies and debt collection agencies that may also check the details of anyone the Customer is financially associated with.
- 22.3** The Customer authorises Manawa Energy to disclose to credit reporters (as that term is defined in the Credit Reporting Privacy Code 2020) any credit checks and any defaults in payment to Manawa Energy for them to include this information in their databases and share this information with others who wish to conduct credit checks on the Customer, as well as disclose any credit checks and any defaults in payment to Manawa Energy with other suppliers of electricity if requested by such suppliers.
- 22.4** If the Customer is not satisfied with the information which Manawa Energy receives from any credit reference agency or debt collection agency or any previous supplier of electricity to that Customer, the Customer must deal directly with the credit reference agency, debt collection agency or previous supplier, as the case may be, to resolve this.

23. MISCELLANEOUS PROVISIONS

- 23.1** This Commercial Agreement may be signed in any number of counterparts all of which taken together shall constitute one and the same instrument. Either party may enter into this Commercial Agreement by signing any counterpart.
- 23.2** The provisions contained in each clause of this Commercial Agreement shall be enforceable independently of each of the others and its validity shall not be affected if any of the others is invalid. If any provision of this Commercial Agreement is held to be invalid, unlawful, or unenforceable, then that provision shall be deemed to be modified

only to the extent necessary to remedy that result. The parties will then promptly negotiate the relevant terms of this Commercial Agreement to restore the original balance of benefits and burdens.

23.3 This Commercial Agreement contains all the terms of the arrangement between the parties concerning the Services and supersedes and extinguishes all prior agreements, discussions and arrangements between the parties. It is subject to all statutes, regulations, industry rules and codes of practice relating to electricity supply, as well as any requirements that any Distributor may impose.

23.4 Manawa Energy may vary or replace the General Conditions from time to time. The varied or replacement General Conditions will then apply to the Services and form part of this Commercial Agreement. Where minor changes are made to the terms of this Commercial Agreement that more closely align it with industry model agreements or mandated requirements no notice of the changes is required to be given. This is only so long as the changes made are beneficial and/or of immaterial consequence to the Customer. In all other circumstances, Manawa Energy will advise the Customer of any variation to or replacement of the General Conditions.

23.5 No waiver of any breach or failure to enforce any provision of this Commercial Agreement, by either party shall affect, limit, or waive that party's right to enforce and compel strict compliance with the provisions of this Commercial Agreement.

23.6 Each provision of the Commercial Agreement survives termination to the extent unfulfilled, remains enforceable, and does not merge on the performance of another person.

24. DEFINITIONS

In this Commercial Agreement, unless the context otherwise requires:

"Additional Equipment" has the meaning set out in clause 7.10.

"Approved Test House" means a facility that has been approved to certify Metering Installations pursuant to the Code.

"Carbon Obligations" means a tax, levy, impost, duty, financial obligation (for example, to surrender emission units) or other charge or withholding on, or in relation to, carbon dioxide or another Greenhouse Gas, or substances used to generate electricity which contain any Greenhouse Gas or emit it when used.

"Charges" means any amounts, charges and fees payable by the Customer to Manawa Energy in accordance with this Commercial Agreement including pursuant to any hedge arrangement referred to in Schedule C – The Commitment Schedule.

"Code" means the Electricity Industry Participation Code 2010.

"Commencement Date" means the date agreed as such by both Manawa Energy and the Customer and set out in Schedule A – Customer Details.

"Commercial Agreement" means this agreement between Manawa Energy and the Customer, which comprises both the cover page, Special Conditions and the General Conditions (as varied from time to time).

"Connection Agreement" means any agreement or arrangement (including all variations and modifications thereto) between a Distributor and:

- (a) Manawa Energy, relating to Manawa Energy's connection to, and/or the conveyance of electricity over, a Network to enable electricity to be injected or uplifted at a Supply Point; or
- (b) the Customer, relating to the Customer's connection to, and/or the conveyance of electricity over, a Network to enable electricity to be uplifted at a Supply Point,

as the case requires.

"Customer" means the person named as such as a party to this Commercial Agreement with Manawa Energy.

"Default Interest Rate" means, unless otherwise agreed in writing between Manawa Energy and the Customer, a rate of 18% per annum.

"Dispute" has the meaning set out in clause 18.1.

"**Distributed Unmetered Load**" has the meaning in the Code.

"**Distributor**" means the provider of delivery systems for the transmission and/or conveyance of electricity to the Customer.

"**Electricity Authority**" means the Electricity Authority established by the Electricity Industry Act 2010.

"**Event of Default**" has the meaning set out in clause 15.1.

"**Force Majeure**" means the events set out in clause 14.1.

"**FTA**" means the Fair Trading Act 1986.

"**Generator**" means any person who generates wholesale electricity.

"**General Conditions**" means the conditions contained in this part of the Commercial Agreement, under the heading "General Conditions" as may be varied or replaced in accordance with clause 23.4.

"**Greenhouse Gas**" means a gas identified as such in the Kyoto Protocol to the United Nations Framework Convention on Climate Change or any such protocol or other agreement which amends or replaces such protocol.

"**Grid**" has the meaning in the Code.

"**GST**" means goods and services tax pursuant to the Goods and Services Tax Act 1985.

"**Half Hour**" means a period of 30 continuous minutes beginning at any hour or at any 30 minutes past the hour.

"**Half-Hour Data**" means that Customer's electricity usage data for the Property in respect of 30 minute periods on any day or days.

"**Initial Term**" means one calendar year from the Commencement Date or such other period as is set out in Schedule A – Customer Details.

"**Issue**" has the meaning set out in clause 13.3.

"**Metering Installation**" has the meaning given to that term in the Code.

"**Metering Equipment Owner**" has the meaning given to that term in the Code.

"**Metering Equipment Provider**" has the meaning given to that term in the Code.

"**National Grid Manager**" means the person for the time being operating the Grid.

"**Network**" has the meaning in the Code.

"**Network Connection Standards**" means any document issued by a Distributor from time to time relating to any network connection standards, electricity distribution code or other similar document.

"**Non-Compliance**" has the meaning set out in clause 8.2(d)(iii).

"**Payment Date**" means, unless otherwise specified in Schedule A – Customer Details, the 20th day of the month next following the month in respect of which the Charges have been incurred, or such other day or frequency as Manawa Energy may determine.

"**Property**" means the land owned or occupied by the Customer as described in Schedule A – Customer Details.

"**Recipient Retailer**" has the meaning set out in clause 17.2.

"**Regulatory Event**" means any legislative or regulatory change (including any determination, direction or decision by a regulatory authority, or the introduction of any regulations, standard terms, determination or undertaking) that directly or indirectly has the effect of altering the burden or benefit of the terms of this Commercial Agreement (financial or otherwise).

"**Security**" has the meaning set out in clause 4.1.

"**Services**" has the meaning set out in clause 2.2.

"**Special Conditions**" means the terms of this Commercial Agreement under the heading "Special Conditions".

"**Supply Point**" means each point of connection at which a supply of electricity may flow between a Network and the Customer's installation identified as such in Schedule A – Customer Details.

"**System Operator**" has the meaning in section 5 of the Electricity Industry Act 2010.

"**Transpower**" has the meaning given to that term in the Code. "**Manawa Energy**" means Manawa Energy Limited, a duly incorporated company having its registered office in Tauranga.

"**Utilities Disputes**" means a body that has been set up for the resolution of Customer complaints, whether established by statute or by voluntary agreement to which Manawa Energy is a party.

"**Working Day**" means any day (other than a Saturday or Sunday) on which banks are customarily open for general banking business in Tauranga, New Zealand.

- (f) reference to "month" or "monthly" means calendar month or calendar monthly;
- (g) references to any statute, industry rules or codes of practice or regulations are to New Zealand statutes, industry rules or codes of practice and regulations and shall with all necessary modifications apply to any modification, re-enactment or replacement;
- (h) references to "written" and "in writing" include any means of permanent visible representation;
- (i) references to any document include all modifications and replacement documents from time to time; and
- (j) "including" and similar words do not imply any limitation.

25. INTERPRETATION

25.1 In the construction and interpretation of this Commercial Agreement, except to the extent that the context requires modification:

- (a) terms that are capitalised but not otherwise defined have the same meaning in this Commercial Agreement as given to them in the Code;
- (b) references to clauses are references to clauses for the relevant part of this Commercial Agreement where the reference appears;
- (c) the headings are for convenience only and shall not affect the interpretation of this Commercial Agreement;
- (d) words importing the singular number include the plural and vice versa and references to any gender includes every gender and references to persons include corporations and unincorporated bodies of persons, government or semi government bodies or agencies or political subdivisions of them;
- (e) references to "dollars" and "\$" are references to New Zealand dollars;