



12 September 2024

AMENDMENTS TO THE WAITOMO ENERGY SERVICES CUSTOMER TRUST DEED

1. The purpose of this note is to explain the changes proposed to be made to the trust deed for the Waitomo Energy Services Customer Trust (“**Trust Deed**”).
2. There are attached:
 - (a) A copy of the existing Trust Deed as at 12 September 2024. This is marked “Existing Deed” on the cover.
 - (b) A copy of the Trust Deed as it is proposed to be amended, marked to show the changes proposed to the existing deed. This is marked “Mark-up 12 September 2024” on the cover. Please note that the order of clauses in the deed has been changed from the existing deed. This mark-up does not show the change of order of clauses, but does show the changes to the wording of the clauses.
 - (c) A “clean” copy of the Trust Deed as proposed to be amended, without mark-ups. This is marked “Clean Copy” on the cover.
3. The table below deals with material proposed changes to the Trust Deed (but not with minor changes of drafting or wording). The first column in the table refers to the relevant clause in the amended deed, the second column refers to the corresponding clause in the existing deed (if any), and the third column contains commentary on the reason for and effect of the proposed amendment.
4. A number of the amendments have been made for the following reasons:
 - (a) To take account of changes in legislation since the Trust Deed was originally drafted.
 - (b) To allow for or take advantage of changes in technology, and methods of communication (including the internet and email) since the Trust Deed was originally drafted.

Where the reason for a particular amendment is that in (a), the third column of the table refers to “Legislation Change”. Where the reason is that in (b), the reference is to “Technology Change”.
5. The term “Customer” in the existing trust deed has been changed to “Beneficiary” in the amended deed. The Trustees feel that the new term better reflects the fact that the parties in question are beneficiaries of the trust. This change has been shown in the mark-up wherever it has been made, but is not separately commented on in the table below.
6. In the table below “Company” refers to The Lines Company Limited.

TABLE OF AMENDMENTS

Clause of amended Deed	Clause of existing Deed	Commentary
Trustee names and introduction	Trustee names and introduction	These sections name the current trustees and briefly record the present position.
Definitions in clause 1.1	Clause 1.1	The definitions of “Board”, “Electricity Supply Business”, “Interest”, “Line Function Services” “Major Customer”, “Trust Income Period” and “Voting Date” are no longer used in the Deed and have been deleted.
Clause 1.1 – definition of “Bank”	Definition of “Bank”	The definition has been simplified. Legislation Change.
Definition of “Beneficiary”	Definition of “Customer”	The change to the definition reflects: <ul style="list-style-type: none"> – the change of the concept of “Customer” to “Beneficiary” – the fact that the Company supplies only electricity distribution services, not electricity – the fact that customers of the Company may contract directly with energy retailers.
Definition of “Director”	No equivalent	This is a new definition referring to a director of the Company.
Definition of “Distribution”	No equivalent	This is a new definition referring to amounts distributed by the Company either to a Beneficiary’s account with the Company or to a Beneficiary’s account with an energy retailer.
Definition of “Energy Retailer”	No equivalent	This is a definition to describe energy companies which supply electricity to Beneficiaries, and reflects the fact that the Company no longer supplies electricity, but supplies line services.
Definition of “Local Authorities”	Definition of “Local Authorities”	Legislation Change.
Definition of “Major Transaction”	Definition of “Major Transaction”	Under clause 6.10 of the amended Deed (which is the equivalent of clause 13.13 in the existing Deed) the trustees may not approve a Major Transaction

Clause of amended Deed	Clause of existing Deed	Commentary
		<p>by the Company without the approval of a poll of Beneficiaries. The definition of “Major Transaction” for this purpose in the existing Deed is similar to, but not the same as, the definition of “Major Transaction” in the Companies Act 1993. The definition has now been simplified by referring to the definition in the Companies Act. The principal differences are:</p> <ul style="list-style-type: none"> – the definition in the existing Deed captures the sale of at least 25% in book value of the assets of the Company, the sale by the Company of any facility for the generation of electricity, or the sale by the Company of at least 50% in book value of the distribution network of the Company. The definition in the Companies Act captures any disposal of assets having a value more than half of the value of assets of the Company. – the definition in the Companies Act captures a transaction which has the effect of the Company acquiring rights or interests, or incurring obligations or liabilities, the value of which is more than half the value of the Company’s assets. This is not caught by the definition in the existing Deed. – The purpose of the change is to simplify the definition, and align with the generally applicable definition in the Companies Act. The change also reflects the fact that the Company no longer generates electricity.
Definition of “Termination Date”	Definition of “Termination Date”	Legislation Change.
Definition of “Trusts Act”	Definition of “Trustee Act”	Legislation Change.
Clause 1.2	Clause 1.2	Addition of a definition of “written”. Technology Change.

Clause of amended Deed	Clause of existing Deed	Commentary
Clause 1.3	Clause 1.3	Legislation Change.
Clause 2.2	Clause 2.2	The trustees are given a right to change the name of the Trust by a majority resolution. Previously, this required a change to the Trust Deed, which involved giving public notice of the change and calling for comments. That was seen as an unnecessary process for a change of name of the Trust, which does not affect the rights of beneficiaries. The change gives the trustees the power to change the name of the Trust if the Company rebrands..
Clause 3.8	Clause 3.8	The words deleted have been deleted because the same matter is dealt with in clause 6.10.
Clauses 3.11 and 3.12	Clauses 3.11 and 3.12	Legislation Change.
Clause 4.3	Clauses 13.3, 13.5, 13.6 and 13.7	Legislation Change.
Clause 4.6	Clause 13.10	The trustees will comment on the Company's compliance with the statement of corporate intent at the annual meeting of Beneficiaries.
Clause 4.7	Clause 13.11	Legislation Change.
Clause 6.1	Clause 9.1	The provision that the trustees may not appoint a trustee as a director of the Company has been deleted because the same matter is dealt with in clause 15.1.
Clause 6.4	Clause 9.4	Legislation Change.
Clause 6.5	Clause 9.5	Addition of a provision that the trustees may authorise an employee or officer of the Trust to administer bank accounts. This has been added to enable the efficient administration of the Trust.
Clause 6.9	Clause 9.9	The existing Deed provides that the approval of a poll must be obtained if an increase in capital of the

Clause of amended Deed	Clause of existing Deed	Commentary
		Company would reduce the percentage shareholding of the Trust to 50% or less. This has been amended so that the approval of a poll must be obtained before an increase in capital effects any reduction in the percentage shareholding of the Trust. It is felt that the approval of a poll of beneficiaries should be obtained before an increase of capital of the Company causes any reduction at all in the Trust's percentage holding in the Company.
Clause 7.1	Clause 10.2	A provision has been added that the Trust may invest in an energy business or a business associated with energy. The reason for this is to enable the Trust to invest in businesses involved in forms of energy other than electricity.
Clause 7.2	Clause 10.4	Legislation Change.
Clause 7.3	Clause 10.5	Legislation Change.
Clause 9.15	Clause 4.15	Legislation Change.
Clause 11.3	Clause 5.3	Addition of references to the new defined term "Distribution".
Clause 12	Clause 12	Legislation change. Wording updated.
Clauses 13.1 and 13.2	Clauses 6.1 and 6.2	The words deleted in these clauses have been deleted because it was felt that they added nothing to the meaning of the Deed as set out in other provisions.
Clause 14	Clause 14	Technology Change.
Clause 16.4	Clause 17.4	Under the existing Deed, the question of whether a trustee is interested in a matter (and thus cannot vote) is determined by the chairperson of trustees. This has been changed so that the question is to be decided by a majority decision of trustees, excluding any trustee whose interest is in question.

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		It is felt that this is fairer than the chairperson alone making the decision.
Clauses 18 and 19	Clauses 18 and 19	Legislation Change. The exceptions to the clauses providing exclusion of liability for trustees, and an indemnity for the trustees, have been changed to comply with the Trusts Act 2019.
First Schedule rules 2.1, 2.2 and 2.3	First Schedule rules 2.1, 2.2, 2.3, 2.4, 2.6, 2.7 and 2.8	<p>Under the existing Deed there are six trustees as follows:</p> <ul style="list-style-type: none"> – three A trustees elected by all customers – two B trustees elected by Major Customers (which is defined as a customer who has purchased more than 0.1 GWh of electricity from the Company over the last 12 months) – one appointed trustee appointed by the A trustees <p>An election for A trustees takes place at three -year intervals. An election for B trustees also takes place at three- year intervals, but on different dates.</p> <p>This is to be replaced by a new structure under which there is no distinction between trustees, and all six trustees are elected by all Beneficiaries. Elections are held every two years for three trustees, so that a trustee once elected holds office for a term of four years, and at the end of that four years is eligible for re-election.</p> <p>The principal reasons for the new structure are:</p> <ul style="list-style-type: none"> – it was not seen as appropriate that large customers should have a different right to appoint trustees as compared to ordinary residential customers – the election of trustees by all beneficiaries reflects the fact that all trustees owe their duties to all beneficiaries – to have a simpler structure more in line with the process for appointing trustees used by other electricity customer trusts.

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First Schedule rules 2.4 and 2.5	First Schedule rule 2.5	Legislation Change. In addition, the trustees have been given a power to determine a method of voting at elections not provided for in the Local Electoral Act 2001. This is intended to allow greater flexibility to use electronic methods of voting.
First Schedule rule 2.6	No equivalent	<p>The new clause 2.6 provides that:</p> <ul style="list-style-type: none"> – a trustee must be permanently resident in the District at the time of election or appointment. The change is intended to reflect the concept that the trustees hold a long term asset for the benefit of the residents of the Waitomo district, and for that reason should be resident in that district. The directors of the Company, who are appointed by the trustees, may be resident anywhere. – a candidate for office who is not already a trustee must be nominated by two Beneficiaries at least six weeks before the election. The reason for this is to allow time for the candidate to be included in the election process.
First Schedule rule 2.7	First Schedule rule 2.9	Under the existing Deed a vacancy in the office of a trustee is filled, in the case of an A trustee by the remaining A trustees, in the case of a B trustee by Major Customers, and in the case of an appointed trustee by the A trustees. Under the new structure a vacancy in the office of any trustee is filled by the remaining trustees.
First Schedule rule 2.8	Second Schedule rule (4)	Under the existing Deed each Customer has one vote. Under the new structure, each Beneficiary will have one vote for each ICP (installation control point) that Beneficiary owns or uses. The change is made for ease of administration, and because the Company no longer maintains a customer database.

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First Schedule rule 3	No equivalent	This rule contains transitional provisions intended to bring the existing trustees onto the new system of election described above.
First Schedule rules 4.1 and 4.2	First Schedule rules 3.1, 3.2, 3.3, 3.4 and 3.5	<p>The existing Trust Deed provides for:</p> <ul style="list-style-type: none"> – remuneration, allowances, and expenses to be paid to trustees. These are expressed to be “reasonable having regard to their duties and responsibilities” – an additional meeting fee of \$500 per day for meetings to consider any proposal for the sale of shares held by the Trust – the trustees to increase fees as at 1 April in each year having regard to their duties and responsibilities and the fees paid to the trustees of similar customer or community trusts. <p>The amended Deed provides for trustees to be paid fees, including a meeting fee, and expenses, of such amounts as the trustees may determine from time to time, and that those will be reviewed by the trustees annually.</p> <p>The reason for the change is to simplify the wording of the relevant provisions. It is not intended that there be any change to the process for setting the trustees’ fees or allowances.</p>
First Schedule rule 5	First Schedule rule 4	Legislation Change.
First Schedule rule 6	First Schedule rule 5	The new Deed provides for a deputy chairperson and requires that the chairperson and deputy chairperson be elected by the trustees annually.
First Schedule rule 8	No equivalent	Rule 8 is a new provision which provides that if a quorum is not present at a meeting of trustees, the meeting is adjourned for 14 days. Whatever trustees are present at the adjourned meeting will constitute a quorum. The intention of this provision is that trustees should not be able to

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		block the proceedings of the Trust by staying away from meetings.
First Schedule rule 13	First Schedule rule 11	The new Deed provides that there will be at least six ordinary meetings of trustees in each year beginning 1 April.
First Schedule rule 15	First Schedule rule 13	Technology Change.
First Schedule rule 18.1	First Schedule rule 17.1	Technology Change.
First Schedule rule 21	First Schedule rule 20	Technology Change.
No Equivalent	First Schedule rule 21	Rule 21 of the first schedule to the existing Deed has been deleted. It was a specific provision dealing with the power to maintain bank accounts. This is dealt with in clause 6.5 of the Deed, and rule 21 was seen as unnecessary.
First Schedule rule 22	First Schedule rule 22	The provision for a third signature on documents executed by the Trust has been removed. This served no purpose.
No Equivalent	First Schedule rule 23	Rule 23 of the First Schedule to the existing Deed has been deleted because the issues dealt with it are now dealt with adequately by the Trusts Act 2019.
Second Schedule	Second Schedule	<p>This schedule sets out rules as to the conduct of polls or elections. The changes are principally due to Technology Changes. In addition:</p> <ul style="list-style-type: none"> – the statement that each Customer has one vote has been deleted. Votes of Beneficiaries are now dealt with in rule 2.8 of the First Schedule. See above. – a provision has been added that each poll or election is to be conducted under the supervision of a returning officer appointed by the trustees.