

JUST FOR YOUR INFORMATION

*DS PO*

AGREEMENT made the 15 day of March 1999

BETWEEN THE NGATI TAHU TRIBAL TRUST

("the Lessors")

AND

CONTACT ENERGY LIMITED at Wellington ("Contact")

NOW THEREFORE it is agreed as follows:

1. The Lessors will forthwith following execution of this Agreement sign and use their Best Endeavours to enter into with the Crown the lease in the form annexed (subject to any minor clerical amendments to enable registration of the same under the Land Transfer Act) ("the Lease").
2. The Lessors and Contact will use their respective Best Endeavours to facilitate with the Crown, forthwith following execution of this Agreement, the registration of the Lease and the registration of the transfer of the Crown's interest as Lessee under the Lease to Contact pursuant to section 23 of the State Owned Enterprise Act 1986.
3. The Lessor and Contact will cooperate to enable Contact to obtain at Contact's cost but upon terms and conditions entirely satisfactory to Contact all statutory and regulatory consents and approvals, including Court Orders, required to enable registration of the Lease against the Land referred to thereon and registration of the transfer of the Lessee's interest to Contact.
4. Upon registration of the Lease against the Land and registration of the transfer of the Lessee's interest thereunder to Contact, Contact shall thereupon pay (subject to receipt of GST invoice) to the Lessors the sum of [REDACTED] plus GST, made up as follows:

- (a) the sum of [REDACTED] plus GST being consideration in respect of bore 12:

<b>RECEIVED</b>
Waitangi Tribunal
<b>12 Dec 25</b>
Ministry of Justice WELLINGTON

*Handwritten signatures and initials*

*SM*

(b) the sum of [REDACTED] plus GST being consideration for the Lessors' acceptance of clause 3.1 of the Lease and waiver of any objection to the use of section 23 of the State-Owned Enterprises Act.

5. The parties shall use their Best Endeavours to achieve registration of the Lease and its transfer upon or before 31 December 1999.

6. In the event that notwithstanding the parties Best Endeavours, registration of the Lease and the transfer of the Lessee's interest to Contact is not achieved within the above milestone date then Contact may at any time thereafter give to the Lessor 3 months notice in writing and unless such registration is achieved prior to the expiration of that notice period then Contact shall be entitled to terminate this Agreement and thereupon neither party shall have any claim upon the other relating to this Agreement.

7. The parties acknowledge that they have entered into this Agreement upon the basis that if this Agreement is terminated under clause 6, this Agreement and the Lease shall thereupon terminate, without prejudice to the rights of the Crown under the 1982 Heads of Agreement to Lease, to the intent that Contact shall be entitled following such termination to call for the Crown to transfer to Contact the Crown's interest as Lessee under the Heads of Agreement, as if the Lease in the form annexed had never been entered into.

~~This Agreement is executed on the \_\_\_\_\_ day of \_\_\_\_\_ 1999~~

SIGNED by the abovenamed Lessors

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

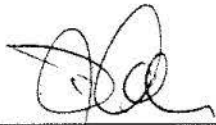
[REDACTED]

the 15<sup>th</sup> day of MARCH 1999

*[Handwritten signature]*

in the presence of:

Witness signature

  
\_\_\_\_\_

Witness occupation

DAVID JOHN AMBER


Witness place of abode

SOLICITOR

ROTORUA.

Signed for and on behalf of

**CONTACT ENERGY LIMITED**

  
\_\_\_\_\_

RN.





*M/S*

(Approved by the District Land Registrar, Hamilton, under No.: )

### MEMORANDUM OF LEASE

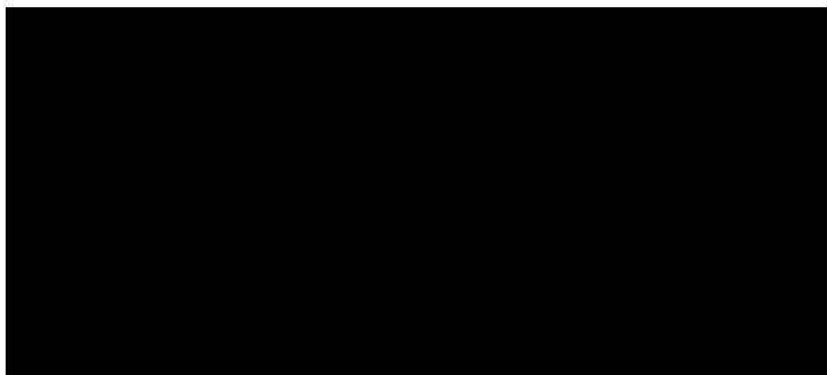
#### PARTIES

**LESSOR:** The persons referred to below in Recital (a) ("the Lessor")

**LESSEE** **HER MAJESTY THE QUEEN** in right of New Zealand acting through the Minister of Finance **SIMON WILLIAM ENGLISH L**("the Lessee")

#### RECITALS

(a) **BY** virtue of Orders of the Maori Land Court of New Zealand (as amended) made under Section 438 of the Maori Affairs Act 1953 and Section 86 of the Te Ture Whenua Maori Act 1993



(with their respective successors referred to collectively as "the Lessors") are the registered proprietors of an estate in fee simple in each of the Maori freehold lands more particularly described in the Schedule to this Lease ("the Land").

(b) **ON** 21 July 1982 the Crown and the then Trustees of the Land signed a "Memorandum of Heads of Agreement for granting of Leases of lands for the Ohaaki Power Station" (called "the Heads of Agreement") under which the former Trustees of the Land agreed, among other things, to grant a lease of certain lands at Ohaaki to the Crown for the purposes of constructing and operating a Geothermal Power Station.

(c) **THE** Crown subsequently sold the Ohaaki Power Station to **CONTACT ENERGY LIMITED** at Wellington "Contact Energy Limited" and gave possession of the Land to Contact Energy Limited even though the Heads of Agreement did not permit any assignment or subleasing.

*[Handwritten signatures and initials]*

- (d) A bore known as Bore 12 which occupies part of the lands described in paragraphs 1, 3, and paragraph 7 in the Schedule to this Lease, being the parts comprising 1.2326 ha, .2936 ha and 1.0331 ha, subject to survey shown on a survey plan dated June 1987 prepared by S.R. Jolly, (called "the Bore Land") (together with such reasonable adjustment to ensure the same is contiguous to the Land) was also created with the consent of the Lessors but partly outside the land which the Lessors originally agreed to lease to the Crown pursuant to the Heads of Agreement.
- (e) THE Crown entered into negotiations with the Lessors in order to regularise the legal position related to the occupation and use of the Land (including the Bore Land) by the Lessee.
- (f) IT was agreed by the Lessors, the Crown and the Lessee that in consideration of payments totalling [REDACTED] already made by the Crown to the Lessors (receipt of which is hereby acknowledged) and the further consideration [REDACTED] to be paid by the Lessee to the Lessors pursuant to an agreement between the Lessor and Contact Energy Limited dated the 15th day of March 1999 (called "the Memorandum of Understanding") the Lessor will grant a direct lease to the Lessee on the terms and conditions set out below.

NOW THEREFORE IN CONSIDERATION of the premises the Lessors LEASE the Land to the Lessee for a term commencing on 22 January 1999 and expiring on 27 July 2072 at a rental of [REDACTED] per annum payable to the Lessors (if demanded by the 1<sup>st</sup> day of January in each applicable year) SUBJECT to the following covenants, terms, conditions, restrictions, stipulations and agreements:

## LESSEES COVENANTS

### 1. RENT

- 1.1 The Lessee shall if demanded by the Lessor pay in advance the rent reserved free of exchange and without any deduction whatsoever to the Lessors at Rotorua.

### 2. RATES AND OTHER CHARGES IN RESPECT OF LAND

- 2.1 The Lessee shall during the term and as and when the same shall become due and payable duly and punctually pay and discharge all rates, taxes, charges (including electricity and telephone charges) levies and assessments whatsoever and howsoever which during the term may be rated, charged, levied, assessed or made payable in respect of the Land. All such









16. **COSTS**

16.1 The Lessee will pay the Lessors' costs and disbursements of and incidental to this Lease and the Memorandum of Understanding up to a maximum of [REDACTED] and for past attendances relating to the Ohaaki lease up to a maximum of [REDACTED]

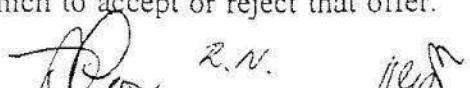
17. **SURRENDER OF LEASE**

17.1 The Lessee may at any time during the term give to the Lessors not less than twelve (12) calendar months notice of the Lessee's intention to surrender this Lease in whole or in part. In that event the Lessors shall join with the Lessee in the execution of the appropriate documents to that end and then without consideration one way or the other save the payment by the Lessee to the Lessors of their reasonable costs disbursements and out of pocket expenses (including inspection and valuation fees, if any) of and incidental to such surrender or surrenders. Such surrender or surrenders shall be without prejudice to the Lessors' rights to fulfilment by the Lessee of its obligations in the subject matter of those surrenders down to and including the date of surrender. The Lessors shall be under no obligation at law or otherwise howsoever to refund to the Lessee any rent upon the Land or lands so surrendered notwithstanding that the same has been paid in advance as the parties have already agreed.

18. **REMOVAL OF LESSEE IMPROVEMENTS AND FIXTURES**

18.1 Upon the surrender or expiry of this Lease the Lessee after prior consultation with the Lessors shall promptly remove or cause to be removed from the Land all such building improvements and other fixtures thereon saving and excepting such improvements and other fixtures as may be mutually agreed upon in writing by the Lessors and the Lessee. The Lessee shall leave the areas from which said items are removed in a clean and tidy and so far as reasonably practicable safe condition provided however that the Lessee shall not be obliged to remove wells or other predominantly underground items but shall to the extent that it is reasonably able to do so ensure that such wells and other predominantly underground items are capped and clearly marked for the purposes of public safety and leave the same in a condition that does not constitute an undue hazard.

18.2 If upon surrender or expiry of this Lease, the Lessee wishes to sell its building improvements or other fixtures on the Land, then the Lessee shall give to the Lessor notice ("the Lessee's Notice") and specify the terms and conditions upon which it is prepared to sell those items. The Lessor shall have 90 days within which to accept or reject that offer.

 R.N. [initials]



soon as conveniently possible thereafter the Lessors shall give particulars by notice in writing thereof to the Lessee. Upon the happening of such event the Lessee shall forthwith take all reasonable and practical steps to remedy and make good such default at the cost in all things of the Lessee. Subject to clause 22 hereof if such default shall not have been remedied and made good within ninety (90) days of service of such notice or such longer time as is reasonable in the circumstances or as may be mutually agreed in writing then it shall be lawful for the Lessors to enter upon any part of the Land in the name of the whole and thereby determine the estate of the Lessee under this Lease but without releasing the Lessee from liability in respect of any breach or of any of the covenants, terms, conditions, restrictions, stipulations or agreements.

21. **PROPERTY LAW ACT 1952 NOT TO APPLY**



21.1 The covenants, powers and conditions implied in leases by the Property Law Act 1952 shall be excluded to the extent permitted by law.

22. **DISPUTES/ARBITRATION**

22.1 If a dispute arises between the parties under or in connection with this Lease which is unresolved within 10 working days (being any day of the week other than Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, Christmas Day, Boxing Day, New Year's Day, the second day of January, The Sovereign's Birthday, Waitangi Day and the provincial anniversary day as observed at Wellington) after arising, any party involved in the dispute may thereafter by notice to the other party require the matter to be determined by arbitration of a single arbitrator (appointed by the parties or failing agreement within five working days then appointed as soon as possible by the President of the New Zealand Law Society at the request of either party) which arbitration shall be conducted as soon as possible at Rotorua in accordance with, and subject to, the Arbitration Act 1996 and its amendments.

22.2 The parties shall continue to perform their obligations under this Lease to the extent reasonable and proper in the circumstances as if no dispute had arisen pending the final settlement or determination of any matter.

22.3 Nothing in this clause 22 shall preclude either party from taking immediate steps to seek urgent interlocutory relief before a New Zealand Court.

 R.V. 



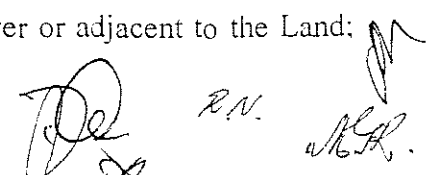
- (a) To plant, manage, cultivate, protect and render productive, harvest, carry away, sell, process and otherwise utilise all trees, timber and logs growing on such areas of the Land as the Lessee may authorise in writing from time to time "the Forest".
- (b) To use and where necessary upgrade such existing roadways, tracks and gates on the Land as may be necessary for the purpose of exercising the rights conferred in subclause (a) above.
- (c) From time to time enter and pass and repass upon the roadways, tracks and gates on the Land with or without machinery, vehicles and plant of all kinds.

**PROVIDED ALWAYS** the exercise of the Lessors' above entry rights shall be done in a manner so as not to adversely affect the ability for the Lessee to effectually operate the power station or adversely affect the security of or structural integrity of the power station works in or about the Land or interfere with the proper functioning of the same. No actual use or works shall be undertaken by the Lessors of or to the Land without the Lessors having first obtained the prior approval in writing of the Lessee, such approval not to be unreasonably withheld. The Lessors will carry out all such use and/or works at all times in accordance with all conditions reasonably imposed by the Lessee and any conditions imposed by any statutory or regulatory body.

**27. LESSORS' FORESTRY RIGHTS AT ALL TIMES SUBJECT TO POWER STATION OPERATIONS AND LESSEE'S USE RIGHTS**

27.1 The Lessor's clause 26 forestry entry rights shall at all times be subject to the operational requirements of the power station from time to time and the ability of the Lessee to fully exercise and enjoy its use rights and to discharge its obligations under this Lease **AND** the Lessee shall be entitled to revoke or temporarily suspend, or temporarily or permanently as it considers appropriate in the circumstances, restrict the said entry rights and/or impose conditions upon the exercise of the same as may be necessary from time to time for:-

- (a) the said operational requirements of the power station, including without limitation the carrying out of any investigation, installation, upgrade, construction, maintenance, renewal, replacement, decommissioning, demolition and/or removal of any power station works from time to time on, under, over or adjacent to the Land;
- or

Handwritten signatures and initials, including "R.N." and "M.A.".





















44. **LEASE TO BE REGISTERED**

44.1 The Lessee shall be entitled to register this Lease under the Land Transfer Act 1952. The Lessors shall not be under any obligation to pay any sum of money in order to enable this Lease to be so registered but will co-operate to produce the titles to its land and to execute and supply documents in registrable form subject to stamping by the Lessee.

45. **NOTICES**

45.1 Where any notice is required to be given by the Lessor to the Lessee, it shall be given by posting it by mail or delivery to Contact Energy Limited, Legal Section, Level 1, Harbour Tower, 29 Brandon Street, Wellington or at such other place as may be notified to the Lessor in writing for that purpose by the Lessee from time to time. Any notice so posted shall be deemed to have been served at the time when the letter would in the ordinary course of the post be delivered.

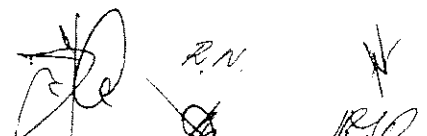
45.2 Where any notice is required to be given by the Lessee to the Lessor, it shall be given by posting it by mail to PO Box 770, Rotorua, or delivery to 1119 Pukaki Street, Rotorua or at such other place as may be notified to the Lessee in writing for that purpose by the Lessee from time to time. Any notice so posted shall be deemed to have been served at the time when the letter would in the ordinary course of the post be delivered.

46. **MUTUAL FURTHER ASSURANCES**

46.1 The Lessor and Lessee shall always act in good faith and do all acts and things and execute all documents reasonably necessary to give full and proper effect to this Lease (including its recitals) and the rights and interests granted herein and each shall enter into such further documents and registrable instruments (including co-operating to permit such instruments to be registered and obtaining any mortgagee or chargeholders consent) necessary to more fully give effect to the same and to preserve the integrity of the long term arrangements agreed upon.

47. **MERGER OF HEADS OF AGREEMENT**

47.1 It is acknowledged and agreed between the parties that the agreements, responsibilities, or other obligations contained or implied in the Heads of Agreement shall as between the Lessor and the Lessee be cancelled or extinguished upon execution of this Lease by both parties.

Handwritten signatures and initials at the bottom right of the page, including a large signature, the initials 'R.N.', and another signature.





- (vi) The provisions of the Arbitration Act 1996 shall apply.
- (c) In determining the compensation payable to the Lessor for the Affected Site, the valuers and/or umpire shall:
  - (i) Assess the current market value of the Affected Site as if it were general land and not Maori land, with due regard to the demand for and recent sale prices of comparable pieces of land in the vicinity of the Affected Site and/or land;
  - (ii) Assess such market value on the basis of a willing buyer and willing seller and no special premium shall be included in any such assessment on account of potential value to the Lessor of the Affected Site, or special need of the Lessor for the Affected Site for geothermal operations or other purposes;
  - (iii) Deduct from any such assessment any premium included on account of potential use of the Affected Site for geothermal purposes or geothermal electricity generation related purposes.
- (d) When compensation has been determined, the umpire or the valuers shall give written notice thereof to the parties and such determination shall be binding on both parties. The notice shall provide as to how the costs of the determination shall be borne and such provision shall be binding on the parties. The Lessee shall thereupon make payment of that compensation to the Lessor in settlement of all and any claims the Lessor may have against the Lessee resulting from or incidental to the subsidence and/or inundation of that Affected Land.

## 50. MISCELLANEOUS

- 50.1 The Lessors and the Lessee acknowledge that the Lessee will promptly and as soon as reasonably practicable following execution of this Lease transfer its interest in this Lease to Contact Energy Limited pursuant to section 23 of the State-Owned Enterprises Act 1986.
- 50.2 The Lessee shall be responsible to obtain at its cost any and all consents and orders required from the Maori Land Court to give effect to this Lease and to effect registration of the same in the Land Transfer Office.

*R.N.*  
*AK*  
*AS*



