

**Dated**

**23 September 2022**

**SUPPLEMENTAL TRUST DEED  
SERIES 11**

**CONTACT ENERGY LIMITED**

**THE NEW ZEALAND GUARDIAN TRUST  
COMPANY LIMITED**

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This Supplemental Deed is made on **23 September** 2022

## **BETWEEN**

- (1) **CONTACT ENERGY LIMITED** (company number 660760) (the **Issuer**)
- (2) **THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED** (company number 115240) (the **Supervisor**)

## **INTRODUCTION**

This deed is a supplemental trust deed entered into pursuant to clause 2.4 (*Supplemental Trust Deed*) of the Master Trust Deed to provide for the constitution and issue of the Bonds on the terms and conditions set out in this Supplemental Deed Series 11.

## **IT IS AGREED**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 **Master Trust Deed:** The terms of the Master Trust Deed (including, without limitation provisions of clauses 1.1 (*Definitions*), 1.2 (*References*) and 1.4 (*Miscellaneous*) of the Master Trust Deed) shall apply in this Supplemental Deed Series 11 and to the Bonds constituted by this Supplemental Deed Series 11 except to the extent modified in this Supplemental Deed Series 11. To that extent, or in the event of any conflict between the provisions of this Supplemental Deed Series 11 and those of the Master Trust Deed, the provisions of this Supplemental Deed Series 11 shall prevail over those of the Master Trust Deed.

- 1.2 **Definitions:** In this Supplemental Deed Series 11, terms defined in the Conditions and used in this Supplemental Deed Series 11 have the meaning given to them in the Conditions and, unless the context indicates otherwise:

**Bonds** means the unsecured, unsubordinated, Fixed Rate Notes which are to be issued pursuant to this Supplemental Deed Series 11;

**Conditions** means the terms and conditions set out in Schedule 1 to this Supplemental Deed Series 11;

**Master Trust Deed** means the amended and restated master trust deed dated 21 August 2015 between the Issuer and the Supervisor, as amended from time to time;

**NZX Notice** means the notice in relation to the offer of the Bonds pursuant to clause 20(1)(a) of Schedule 8 of the FMC Regulations, and any notice given pursuant to clause 21 of Schedule 8 of the FMC Regulations (if applicable);

**Offer Information** means the Terms Sheet, NZX Notice, the investor presentation and the announcements to be released on the NZX Market Announcement Platform;

**Registrar** means Link Market Services Limited;

**Supplemental Deed Series 11** means this supplemental trust deed and the terms of the Master Trust Deed incorporated by reference in accordance with clause 1.1; and

**Terms Sheet** means the terms sheet to be dated on or about 27 September 2022 under which the Bonds are offered.

- 1.3 **Modification of other terms in Master Trust Deed:** In this Supplemental Deed Series 11, the terms Holder, Register and Series have the meanings given in the Master Trust Deed and Bond has the meaning given to Note in the Master Trust Deed but, in this Supplemental Deed Series 11, refer only to the Bonds, to the Holders of those Bonds, to the Register in relation to those Bonds and to the Series of Bonds issued under this Supplemental Deed Series 11.
- 1.4 **Terms Sheet:** All references in the Master Trust Deed to "Information Memorandum" shall, to the extent that they relate to the Bonds, be read as references to the Terms Sheet.

## **2. ISSUE AND TERMS OF BONDS**

- 2.1 **Maximum Principal Amount:** The aggregate Principal Amount of Bonds that may be issued under this Supplemental Deed Series 11 is \$250 million, or such other additional aggregate maximum Principal Amount as is otherwise agreed by the Issuer and the Supervisor.
- 2.2 **Issue Price:** Each Bond shall have an issue price of \$1.00, being the Principal Amount of each Bond.
- 2.3 **Minimum Subscription Amount:** The minimum subscription amount for each initial Holder of Bonds is a Principal Amount of \$5,000 and in multiples of \$1,000 thereafter.
- 2.4 **Status under Master Trust Deed:** The Bonds are Unsubordinated Notes and Fixed Rate Notes, and form a Retail Series that is Listed.
- 2.5 **Sale restrictions:** The Bonds may only be offered for sale or sold in New Zealand in conformity with all applicable laws and regulations in New Zealand. No Bonds may be offered for sale or sold in any other country or jurisdiction except in conformity with all applicable laws and regulations of that country or jurisdiction.
- 2.6 **Terms and Conditions:** The terms and conditions that will apply to the Bonds are set out in Schedule 1.
- 2.7 **Guaranteeing Subsidiaries:** The Bonds will not, at the time of issue, be guaranteed by any Subsidiary.

## **3. DEED OF NEGATIVE PLEDGE AND GUARANTEE**

- 3.1 **No Guarantee:** Clauses 5 (*Guarantee*), 6 (*Further Guaranteeing Group Companies*) and 7 (*Release of Guaranteeing Group Companies*) of the Deed of Negative Pledge and Guarantee shall not apply to the Bonds or to any principal, interest or other amount represented by the Bonds.
- 3.2 **Issuer as sole Guaranteeing Group Company:** The Supervisor's rights (as Supervisor for the Bonds) under the Deed of Negative Pledge and Guarantee shall be modified such that each reference in the Deed of Negative Pledge and Guarantee to "Guaranteeing Group Company", other than the references in clause 3.1.2(c) (*New Guaranteeing Group Company*) of that deed, shall be read as references to the Issuer only.
- 3.3 **Financial covenants:** Clause 2.3.2 (*Guaranteeing Group Worth*) of the Deed of Negative Pledge and Guarantee shall not apply to the Bonds.

- 3.4 **No prejudice to permitted transactions:** Nothing in this Supplemental Deed Series 11 (including clause 3.2) shall prejudice or prohibit any transaction permitted to be undertaken by a Guaranteeing Group Company (as defined in the Deed of Negative Pledge and Guarantee) under the Deed of Negative Pledge and Guarantee.

#### 4. CONDITIONS PRECEDENT

- 4.1 **Conditions precedent:** The Issuer is not entitled to issue any Bonds until the Supervisor has confirmed to it in writing that it has received the following in form and substance satisfactory to it:
- (a) a duly executed original of this Supplemental Deed Series 11;
  - (b) a copy of the Terms Sheet and the NZX Notice;
  - (c) evidence that this Supplemental Deed Series 11 has been lodged with the Registrar of Financial Service Providers;
  - (d) a legal opinion from the Issuer's solicitors regarding:
    - (i) due execution and enforceability of this Supplemental Deed Series 11;
    - (ii) the adequacy of the due diligence process used in the preparation of the Offer Information; and
    - (iii) the compliance of the Offer Information, this Deed and the Master Trust Deed with the FMCA, FMC Regulations and the Listing Rules.
- 4.2 **Representations, warranties and undertakings:** In addition to the requirements set out in clause 4.1, the Issuer shall not issue any Bonds unless the representations and warranties contained in clause 11.1 (*Representations and Warranties*) of the Master Trust Deed and 5.1 of this Supplemental Deed Series 11 are true and correct in all material respects by reference to the facts and circumstances existing as at the Issue Date for those Bonds.
- 4.3 **Issue Notice:** Promptly after the issuance of Bonds on the Issue Date, the Issuer agrees to send to the Supervisor a copy of the communication(s) it sends to the Registrar with the particulars of the Bonds issued on that Issue Date.

#### 5. REPRESENTATIONS AND WARRANTIES

- 5.1 **No Event of Default:** Pursuant to clause 11.2 (*Supplemental Trust Deed*) of the Master Trust Deed, the Issuer represents and warrants to the Holders and the Supervisor, as at the date of this Supplemental Deed Series 11, that:
- (a) **(no event of default):** no Event of Default has occurred and is continuing; and
  - (b) **(status):** it is a company duly incorporated and validly existing under the laws of New Zealand with indefinite corporate existence, capable of suing and being sued and has the power and authority to own its assets and to carry on its business as presently conducted.
- 5.2 **Quotation:** The Issuer undertakes to use its best endeavours to ensure that the Bonds are quoted on the NZX Debt Market within a reasonable time after the final date on which the Bonds are issued, and that they remain quoted on the NZX Debt Market until redeemed in accordance with the Conditions.

**5.3 Provision of information:** The Issuer must:

- (a) promptly after its occurrence, notify the Supervisor in writing of any downgrade of its credit rating; and
- (b) promptly notify the Supervisor in writing of any non-payment of any amount payable in respect of the Bonds when due.

**6. SUPERVISOR APPOINTMENTS**

- 6.1 At any time while the Bonds are Listed, the Issuer may not appoint a Supervisor in relation to the Bonds under clause 18.3 (*Appointment of new supervisor*) of the Master Trust Deed unless that appointment is approved by an Extraordinary Resolution of the Holders of the Bonds.

**7. MISCELLANEOUS**

- 7.1 **Counterparts:** This Supplemental Deed Series 11 may be signed in any number of counterparts (including electronic copies), each of which is deemed an original, and all of which, when taken together, will constitute one and the same instrument. A party may enter into this Supplemental Deed Series 11 by executing any counterpart.
- 7.2 **Governing law:** This Supplemental Deed Series 11 and the Bonds shall be governed by and construed in accordance with New Zealand law.
- 7.3 **Submission to jurisdiction:** The Issuer submits to the non-exclusive jurisdiction of the New Zealand courts for the purpose of any legal proceedings arising out of this Supplemental Deed Series 11.

**8. DELIVERY**

- 8.1 Without limiting any other mode of delivery, this Supplemental Deed Series 11 will be delivered by each of the parties on the earlier of:
- (a) unconditional physical delivery of an original of this Supplemental Deed Series 11, executed by that party, to the other party, or to that respective party's solicitors; or
  - (b) unconditional transmission by each party of an electronic copy of an original of this Supplemental Deed Series 11, executed by that party, to the other party, or to that respective party's solicitors.

## EXECUTION

EXECUTED as a DEED for and on behalf  
of CONTACT ENERGY LIMITED by

in the presence of



Witness signature

Jade David Neale

Full name

Wellington

Address

Lawyer

Occupation

Signature of Authorised Signatory

Michael Joseph Fuge

Print name of Authorised Signatory

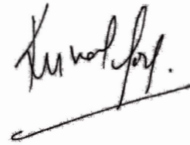
**Note:** Authorised Signatory's signature must be witnessed

EXECUTED as a DEED for and on behalf )  
of THE NEW ZEALAND GUARDIAN )  
TRUST COMPANY LIMITED by )

(WCT 631)



\_\_\_\_\_  
Authorised Signatory



\_\_\_\_\_  
Authorised Signatory

in the presence of

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

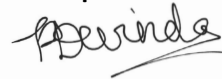
## WITNESS TO BOTH SIGNATURES

**Full Name:** Hemal Thanipullige

**Residential Address:** Auckland

**Occupation:** Corporate Trusts Administrator

**Signature:**





## SCHEDULE 1

### TERMS AND CONDITIONS OF SERIES 11 BONDS

#### 1. GENERAL

- 1.1 The Bonds are subject to the provisions of the Trust Documents and, to the extent imported by the Trust Documents, the Deed of Negative Pledge and Guarantee. Holders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Trust Documents.
- 1.2 Words and expressions defined in the Trust Documents and used in these Conditions have the meanings given to them in the Trust Documents, as applicable, unless otherwise defined. In addition, unless the context otherwise requires:

**Accrued Interest** means, on any date and in respect of any Bond, all interest on the Principal Amount of that Bond which has accrued in accordance with these Conditions but has not been paid to the relevant Holder and includes, where the context requires, interest overdue for payment.

**Conditions** means these conditions.

**Interest Payment Date** means each of 11 January, 11 April, 11 July and 11 October in each year commencing on 11 January 2023 and ending on 11 April 2028, or such other dates in each year as determined by the Issuer with the prior written consent of the Supervisor and recorded in the Register in respect of the Bonds.

**Interest Period** means each period calculated as follows:

- (a) the first Interest Period will commence on (and include) the Issue Date and end on (but exclude) the first Interest Payment Date;
- (b) each subsequent Interest Period will commence on (and include) the Interest Payment Date following immediately after the previous Interest Period and end on (but exclude) the next Interest Payment Date; and
- (c) the final Interest Period will end on (but exclude) the Maturity Date.

**Interest Rate** means the interest rate advised in the Interest Rate Advice Notice.

**Interest Rate Advice Notice** means the announcement made by Contact Energy to NZX of the interest rate applicable to the Bonds.

**Maturity Date** means 11 April 2028.

**Principal Amount** means, in relation to a Bond, the amount (other than interest) payable on redemption or repayment of that Bond, being the amount recorded as such in the Register in respect of that Bond.

**Statement** means a statement issued by Contact Energy to a Holder in relation to the Bonds held by the Holder, in compliance with the Listing Rules (if applicable).

**Trust Documents** means the Master Trust Deed and the Supplemental Trust Deed dated 23 September 2022 and entitled "Supplemental Trust Deed Series 11".

## **2. STATUS AND RANKING OF THE BONDS**

- 2.1 **Status:** The Bonds constitute unsecured, unsubordinated debt obligations of the Issuer. They will rank equally in all respects with each other and with all other unsecured, unsubordinated indebtedness of the Issuer, other than indebtedness preferred by law.
- 2.2 **Repayment on Maturity Date:** Unless and until amounts owing under the Bonds are paid or repaid earlier under the Trust Documents or these Conditions, the Issuer shall repay the Principal Amount owing under the Bonds, together with Accrued Interest, on the Maturity Date.

## **3. EVENT OF DEFAULT**

At any time after the occurrence of an Event of Default (as defined in the Master Trust Deed), provided the Event of Default is continuing unremedied, the Supervisor at its discretion may, or upon being directed to do so by an Extraordinary Resolution must, declare the Bonds to have become immediately due and payable by notice in writing to the Issuer, whereupon the Principal Amount of such Bonds, together with any Accrued Interest, shall forthwith become immediately due and payable.

## **4. INTEREST**

### **4.1 Interest Rate and Calculation of Interest**

- (a) Each Bond bears interest on the Principal Amount at the Interest Rate commencing on (and including) the Issue Date.
- (b) Subject to Condition 4.1(c), interest shall be paid in arrear in equal quarterly instalments on each Interest Payment Date.
- (c) If an Interest Period is shorter or longer than other Interest Periods because it starts or ends on the Issue Date or Maturity Date or any other date that does not correspond with other Interest Payment Dates, interest shall be calculated on the basis of the number of days in the relevant Interest Period and a year of 365 days. Interest will accrue daily and be paid to the Holder in arrear on the Interest Payment Date falling immediately after that Interest Period.

### **4.2 Payments**

All payments in relation to a Bond may be satisfied by direct credit to any New Zealand bank account nominated in writing (prior to 5:00pm on the Record Date) by the Holder entered in the Register as at 5:00pm on the Record Date. Such direct credit will occur prior to 5:00pm on the relevant Interest Payment Date (or, if that date is not a Business Day, the next Business Day after that date) or other date on which payment is required to be made.

## **5. WITHHOLDING TAXES**

- 5.1 **Deduction for Withholding:** Subject to Condition 5.2 (*Approved Issuer Levy*), all payments or credits to, or to the account of, Holders (including payments of, and credits in respect of, interest) will be made net of any tax or levy in respect thereof required by law to be withheld, deducted or paid by the Issuer, except to the extent that the Registrar is satisfied that the Holder is exempt from any such tax or levy, is a person in respect of whom any such withholding, deduction or payment is not required to be made or is a person who is entitled for the tax or levy to be deducted or withheld at a lower rate. Any Holder claiming any such exemption or to be such a person must provide the

Registrar with such evidence as the Registrar may from time to time require to satisfy itself in respect of the validity of that claim.

- 5.2 **Approved Issuer Levy:** The Issuer will register the Bonds with Inland Revenue for approved issuer levy (within the meaning of section 86F of the Stamp and Cheque Duties Act 1971) (AIL). Unless otherwise agreed, the Issuer will, where it is lawfully able, pay AIL at the minimum rate permitted by law on payments made or credited to Holders who are not New Zealand tax residents and do not engage in business in New Zealand through a fixed establishment in New Zealand (Non-Resident Holders). The amount of AIL will be reimbursed by the Non-Resident Holder to the Issuer by the Issuer deducting the amount from the Interest otherwise to be paid or compounded to or for the benefit of the Non-Resident Holder. At the written request of a Non-Resident Holder, to be made to the Registrar, the Issuer will not deduct AIL and will deduct non-resident withholding tax, at the rate required by law (as reduced by any applicable double tax agreement) from payments made or credited to that Non-Resident Holder. Where Bonds are held jointly by a New Zealand tax resident and a Non-Resident Holder, the Issuer will deduct resident withholding tax at the rate required by law. The Issuer or the Registrar may require satisfactory evidence as to a Holder's tax and residency status before agreeing to apply any particular withholding regime in respect of that Holder.
- 5.3 **No gross-up:** The actual amount of interest payable to each Holder on each Interest Payment Date will be the gross amount of interest calculated and payable in accordance with Condition 4.1 (*Interest Rate and Calculation of Interest*), less any amount deducted or paid by the Issuer under Condition 5.1 (*Deduction for Withholding*) and/or 5.2 (*Approved Issuer Levy*). The Issuer is not liable to increase any payment to a Holder on account of any deduction or payment made under Condition 5.1 (*Deduction for Withholding*) or 5.2 (*Approved Issuer Levy*).
- 5.4 **Taxation Indemnity from Holder:** If, in relation to any Bond, the Supervisor or the Issuer becomes liable to make any payment of or on account of tax payable by the Holder or in relation to any Bonds, the Supervisor and the Issuer is each indemnified by the Holder and the personal representatives or successor of that Holder (and, as concerns the Supervisor, also by the Issuer who shall in turn be indemnified by the relevant Holder) in respect of any such liability, and any moneys paid by the Supervisor and the Issuer in respect of any such liability may be recovered by action from such Holder and the personal representatives or successor of the such Holder (as the case may be) as a debt due to the Supervisor or the Issuer. Nothing in this Condition prejudices or affects any other right or remedy of the Supervisor or the Issuer.
- 6. TRANSFERS AND REPLACEMENTS OF BONDS**
- 6.1 **Transfers:** The Bonds may be transferred subject to and in accordance with this Condition 6 (including (without limitation) Condition 6.5 (*Refusal to Register Transfers*)) and clauses 2.5 and 2.6 of the Supplemental Deed Series 11.
- 6.2 **Form of Transfer:** Subject to these Conditions and the Trust Documents, a Holder may transfer any Bond held by him or her by:
- (a) **(written instrument):** a written instrument of transfer in the usual or common form signed by the transferor and the transferee; or

- (b) **(NZX Debt Market):** if the Bonds are quoted on the NZX Debt Market, any method of transfer permitted by the NZX for securities quoted on that market; or
- (c) **(other method):** any other method of transfer of marketable securities which is not contrary to any law and which may be operated in accordance with any Listing Rules, and which is approved by the Issuer.

### 6.3 Registration process

The following provisions apply to instruments of transfer other than any transfer under Condition 6.2(b) (*NZX Debt Market*):

- (a) the instrument of transfer must be left with the Registrar along with such other evidence as the Registrar or the Supervisor requires to prove the transferor's title to, or right to transfer, the Bonds, together with evidence that any applicable duties and taxes required to be paid by any relevant legislation in order for the Bonds to be transferred have been paid; and
- (b) on registration of a transfer of a Bond, a Statement will be issued to the transferee of such Bond.

6.4 **Transfers must be Registered:** Subject to this Condition 6, the Issuer must direct the Registrar not to refuse to register, or fail to register, or give effect to, a transfer of Bonds.

6.5 **Refusal to Register Transfers:** The Issuer may direct the Registrar to refuse to register any transfer of Bonds where these Conditions, the Trust Documents, any applicable legislation or the Listing Rules permit (but do not require) the Issuer to do so.

6.6 **Notice of Refusal to Register:** Where registration of a transfer of Bonds is refused under Condition 6.5 (*Refusal to Register Transfers*), the Issuer must direct the Registrar to give written notice of the refusal and the precise reasons for the refusal to the party lodging the transfer, if any, within five Business Days after the date on which the transfer was lodged. The failure to give such a notice will not invalidate the decision not to register the transfer.

6.7 **Retention of Transfers:** The Issuer will direct the Registrar to retain all instruments of transfer of Bonds which are registered, but any instrument of transfer of Bonds the registration of which was declined or refused (except on the ground of suspected fraud) is to be returned to the party lodging the transfer.

6.8 **Powers of Attorney:** Any power of attorney granted by a Holder empowering the donee to deal with, or transfer Bonds, which is lodged, produced or exhibited to the Registrar will be deemed to continue and remain in full force and effect as between the Issuer, the Supervisor, the Registrar and the grantor of that power, and may be acted on, until express notice in writing that it has been revoked or notice of the death of the grantor has been received at the Registry.

6.9 **Transmission by Operation of Law:** Any person becoming entitled to any Bond by operation of law (including the death or bankruptcy of any Holder) may, upon producing such evidence of entitlement as is acceptable to the Issuer, obtain registration as the Holder of such Bond or execute a transfer of such Bond. This provision includes any case where a person becomes entitled as a survivor of a person registered as joint Holder.

#### 6.10 Notices

- (a) All notices given by Holders in accordance with these Conditions will be irrevocable.
- (b) In addition to the notice provisions set out in clause 27 (*Notices*) of the Master Trust Deed, each notice or other communication to be given or made under this Supplemental Deed Series 11 to any Holder may also be given by email to the email address designated for that purpose and last entered in the Register.
- (c) Any notice or communication given or made under this Supplemental Deed Series 11 to any Holder by email will be deemed to be received one hour after the time it is sent provided that no error message or out of office message was received to indicate that the email did not reach its intended destination or that the intended recipient is out of the office. In the event that the intended recipient is out of the office, the email will be deemed to be received by the addressee on the date that the addressee intends to return to the office as indicated in the out of office response.