

**Supplemental Trust Deed
(No. 2)**

Powerco Limited

Issuer

and

The New Zealand Guardian Trust Company Limited

Trustee

Date 2 September 2005

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This **Supplemental Trust Deed (No. 2)** is made on 2 September 2005

between (1) **Powerco Limited (Issuer)**

and (2) **The New Zealand Guardian Trust Company Limited (Trustee)**

Introduction

- A. This Supplemental Deed is a supplemental trust deed entered into pursuant to clause 2.4 of the Master Trust Deed to provide for the constitution and issue of the Notes described in this Supplemental Deed.
- B. The Guarantor has agreed to guarantee certain obligations of the Issuer arising under this Supplemental Deed in relation to the Notes and (except to the extent modified by this Supplemental Deed and solely in relation to the Notes issued under this Supplemental Deed) the Master Trust Deed in this regard.

Covenants

It is agreed

1. Interpretation

1.1 Master Trust Deed

The terms of the Master Trust Deed (including without limitation the definitions, the rules of construction and the miscellaneous provisions of clauses 1.1, 1.2 and 1.4 respectively of the Master Trust Deed) shall apply in this Supplemental Deed and to the Notes constituted by this Supplemental Deed except to the extent modified in this Supplemental Deed. To that extent, or in the event of any conflict between the provisions of this Supplemental Deed and those of the Master Trust Deed, the provisions of this Supplemental Deed shall prevail over those of the Master Trust Deed.

1.2 Additional or modified defined term

In this Supplemental Deed, unless the context otherwise requires:

Agency Agreement means the registrar and paying agency agreement dated 16 February 2004 as amended on or about the date of this Supplemental Deed between the Issuer, the Registrar and the Trustee under which the Registrar is appointed as registrar, calculation agent and paying agent for the Notes.

Application Form means the application form included in, or the form of which is contained in, the Information Memorandum.

Business Day includes New York for each of the following purposes only:

- (a) for the purposes of the Trustee, the Issuer or any other person giving any notices or demands to the Guarantor or the Guarantor giving any notices to any of them;
- (b) for the purposes of any payment to be made by the Guarantor;

- (c) prior to a Guarantor Event of Default occurring, for the purposes of determining the period by which a meeting of Holders may or must be called under the Master Trust Deed and for the purposes of ascertaining the day on which such a meeting is to be held; and
- (d) for the purposes of the definition of Guarantor Event of Default.

Excluded Rights means the rights of the Trustee:

- (a) to make a determination as to the occurrence or otherwise of a Guarantor Event of Default;
- (b) to make any claim under, enforce or agree to any amendment to the Guarantee;
- (c) to agree to any amendment to this Supplemental Deed which would alter the amount or the due date of any Note Moneys, other than the declaration of any Note Moneys to be immediately due and payable (which declaration, for the avoidance of doubt, shall not constitute an amendment of the due date);
- (d) which are provided for the purpose of enabling the Trustee to protect its own interests;
- (e) to make any amendment to this definition or the definition of Guarantor Event of Default;
- (f) to consent to the substitution of any Substituted Obligor pursuant to clause 23 of the Master Trust Deed;
- (g) to determine the amounts due in relation to indemnities granted in favour of the Trustee under this Supplemental Deed;
- (h) to receive any amounts (including expenses) due to the Trustee for its own account in accordance with the provisions of this Supplemental Deed; and
- (i) to make a claim for expenses under this Supplemental Deed.

Guarantee means the financial guaranty to be granted by the Guarantor in favour of the Trustee on behalf of the Holders.

Guarantee Term shall have the meaning given to the phrase Term of this Financial Guaranty in the Guarantee.

Guaranteeing Group means the Issuer and each Guaranteeing Subsidiary.

Guaranteeing Subsidiaries has the same meaning given to that term in the Security Trust Deed.

Guarantor means XL Capital Assurance Inc.

Guarantor Event of Default means the occurrence of any of the following events:

- (a) the Guarantor fails to pay any amount owing by it under the Guarantee within two Business Days of the date such sum is due (including any grace period) in accordance with the terms and conditions of the Guarantee; or
- (b) the Guarantor:

- (i) files any petition or commences any case or proceeding under any provision or chapter of any Bankruptcy Law (as defined below);
 - (ii) makes any assignment for the benefit of its creditors; or
 - (iii) is the subject of a final and non-appealable order, judgment or decree appointing any receiver, trustee, assignee, custodian, sequestrator, liquidator, rehabilitator, administrator or similar official under any Bankruptcy Law (**Custodian**) for the Guarantor or for all or any material portion of its property or authorising the taking of possession by a Custodian of the Guarantor; or
- (c) the Guarantor disclaims, disaffirms, or repudiates the Guarantee and/or alleges that the Guarantee does not constitute its legal, valid and binding obligations.

In this definition, "Bankruptcy Law" means the laws of the state of New York, the United States Bankruptcy Code or any similar present or future federal or state bankruptcy, insolvency, re-organisation, moratorium, rehabilitation, dissolution, conservation, fraudulent conveyance or similar law, statute or regulation enacted in the United States for the relief of debtors.

Interest Payment Date means, in relation to a Note, 28 March, 28 June, 28 September and 28 December in each year prior to the Maturity Date for each Tranche and, with the first interest payment falling on 28 December 2005 and the last falling on the Maturity Date for each Tranche.

Interest Rate means in relation to:

- (a) a Seven Year Guaranteed Bond, the higher of:
 - (i) a minimum interest rate to be set by the Issuer on 8 September 2005; and
 - (ii) the aggregate of the Seven Year Swap Rate and a margin (to be set by the Issuer on 8 September 2005) as determined by the Issuer; and
- (b) a Twelve Year Guaranteed Bond, the higher of:
 - (i) a minimum interest rate to be set by the Issuer on 8 September 2005; and
 - (ii) the aggregate of the Twelve Year Swap Rate and a margin (to be set by the Issuer on 8 September 2005) as determined by the Issuer.

Issue Date means, in relation to a Note, 28 September 2005, or such other date set by the Issuer.

Issue Notice means the notice relating to the issue of the Notes as set out in Schedule 2.

Master Trust Deed means the master trust deed dated 16 February 2004 entered into between the Issuer and the Trustee.

Maturity Date means, in relation to:

- (a) a Seven Year Guaranteed Bond, 28 September 2012; and
- (b) a Twelve Year Guaranteed Bond, 28 September 2017.

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Note Moneys means, at any time, the Principal Amount, interest and other moneys payable on the Notes and all other moneys payable to, or at the direction of, the Trustee or to any Holder, at that time under or pursuant to this Supplemental Deed and a reference to **Note Moneys** includes any part of them.

Official Cash Rate means, from time to time, the official cash rate issued by the Reserve Bank of New Zealand at that time.

Registrar means Computershare Investor Services Limited or any successor agent appointed under the Agency Agreement.

Reimbursement Agreement means the guaranty and reimbursement agreement dated on or about the date of this Supplemental Deed entered into between the Issuer and the Guarantor.

Security Default means an event of default (however defined) under the Security Trust Deed.

Security Trust Deed means the security trust deed dated 10 March 2005 between the Issuer and The New Zealand Guardian Trust Company Limited, as security trustee.

Seven Year Guaranteed Bond means a Note designated by the Issuer as a Seven Year Guaranteed Bond.

Seven Year Swap Rate means the average of the bid and offered swap rate displayed at or about 11.00am on 26 September 2005 on Reuters page PYNZSWAP for an interest rate swap with a maturity date approximately equal to the Maturity Date of the Seven Year Guaranteed Bonds adjusted for a quarterly interest payment as determined by ANZ National Bank Limited and Westpac Banking Corporation, as joint lead managers.

Subordinated Bonds means subordinated bonds issued by the Issuer under the unsecured subordinated bonds trust deed dated 11 March 2005 and made between the Issuer and The New Zealand Guardian Trust Company Limited, as trustee, as modified or supplemented from time to time.

Subscription Moneys means the moneys paid by a Holder in respect of the subscriptions for the Notes.

this Supplemental Deed means this deed and, for the avoidance of doubt, includes the terms and, provisions of the Master Trust Deed as applied herein in accordance with, and subject to, clause 1.1.

Total Net Worth means the sum of shareholders' equity, preferred securities, minority interests and Subordinated Bonds as set out in the consolidated Financial Statements of the Group, but excluding any unrealised gains and losses relating to hedging activities and any unrealised gains and losses arising on the translation of foreign currency borrowings.

Transaction Documents means this Supplemental Deed, the Guarantee, the Security Trust Deed and the Agency Agreement, and for the purposes of clause 23 of the Master Trust Deed only, includes the Reimbursement Agreement.

Twelve Year Guaranteed Bond means a Note designated by the Issuer as a Twelve Year Guaranteed Bond.

Twelve Year Swap Rate means the average of the bid and offered swap rate displayed at or about 11.00am on 26 September 2005 on Reuters page PYNZSWAP for an interest rate swap with a maturity date approximately equal to the Maturity Date of the Twelve Year

Guaranteed Bonds adjusted for a quarterly interest payment as determined by ANZ National Bank Limited and Westpac Banking Corporation, as joint lead managers.

1.3 **Modification of other terms in Master Trust Deed**

In this Supplemental Deed, the terms **Holder, Information Memorandum, Notes** and **Register** have the meanings given in the Master Trust Deed but, in this Supplemental Deed, refer only to the Notes of this Series, to the Holders of those Notes, to the Information Memorandum relating to this Series and to the Register in relation to this Series.

2. **Form of notes**

2.1 **Issue of Notes**

The total Principal Amount of Notes that may be issued is \$180 million.

2.2 **Type of Notes**

The Notes are Fixed Rate Notes.

2.3 **Tranches**

Two Tranches of Notes may be issued being, Seven Year Guaranteed Bonds and Twelve Year Guaranteed Bonds.

2.4 **Retail Notes**

The Notes are Retail Notes. The Notes may only be offered for sale or sold in New Zealand to New Zealand residents in conformity with all applicable laws and regulations.

2.5 **Minimum Principal Amount**

The Minimum Principal Amount for each Tranche of the Notes is \$5,000 and thereafter shall be in integral multiples of \$1,000 for each Tranche.

2.6 **Unsubordinated Notes**

The Notes are Unsubordinated Notes.

2.7 **Security Trust Deed**

The Issuer extends the benefit of the Security Trust Deed to the Trustee in accordance with clause 17.1 of the Security Trust Deed and accordingly:

- (a) the Trustee is a "Beneficiary" and is entitled to the benefit of the security interest, guarantees and other undertakings of the Guaranteeing Group given under and pursuant to the Security Trust Deed in respect of this Supplemental Deed; and
- (b) this Supplemental Deed and each Note constitutes a "Senior Secured Debt Facility" for the purposes of the Security Trust Deed.



2.8 Guarantees

The Notes will be guaranteed by the Guarantor pursuant to the Guarantee and by the Guaranteeing Subsidiaries (if any) pursuant to the Security Trust Deed.

2.9 Enforcement of Holders' rights

No Holder shall be entitled to enforce any of its rights or remedies under this Supplemental Deed directly against any member of the Guaranteeing Group or the Guarantor unless the Trustee fails to enforce such rights or remedies after having become bound to do so in accordance with this Supplemental Deed.

2.10 Form of transfer

A Holder may transfer any Note held by her or him by:

- (a) a written instrument of transfer in any commonly used form that complies with the standard form and procedures of the Registrar;
- (b) means of the FASTER system operated by New Zealand Exchange Limited; or
- (c) any other method of transfer of marketable securities that is not contrary to any law and that may be operated in accordance with any listing rules of New Zealand Exchange Limited and that is approved by the Issuer.

3. Payment and Tax

3.1 Interest prior to Issue Date

The Issuer agrees to pay to the person named in each completed Application Form which is accepted by the Issuer, no later than 10 Business Days after the Issue Date, an amount in respect of each Note allotted in respect of that Application Form, which is equal to interest at the Official Cash Rate on the Subscription Moneys paid to the Issuer for the period from, and including, the date on which the Subscription Moneys were deposited in the Issuer's bank account to, but excluding, the Issue Date on the basis of the number of days elapsed and a 365-day year. Any payment payable in respect of a joint application for Notes will be made to the first named of the joint applicants stated in the relevant Application Form.

3.2 Method of payment

- (a) All payments in respect of any Note held by a Holder shall be paid by the Registrar to a bank account specified by that Holder by written notice from time to time. A Holder may at any time amend any notice so given, provided that no amendment of a notice shall have effect unless another bank account is specified by that Holder. For the avoidance of doubt, there will be no obligation to make any payments to any Holder by way of cheque.
- (b) No notice or amendment of a notice given under clause 3.2(a) will have effect in respect of any payment unless received by the Registrar on or before the Record Date for that payment. Any notice given under clause 3.2(a) will be deemed to be automatically cancelled upon transfer of all of a Note or, in the case of transfer of part of a Note, in respect of the part transferred. A notice from one of several Holders of the same Notes shall be deemed to be given by all such Holders.

- (c) If, for whatever reason, at any time a Holder has not provided details of a bank account to the Registrar, any Note Moneys payable to that Holder shall be deemed to be unclaimed money for the purpose of clause 9.4 of the Master Trust Deed.

3.3 Deductions or withholdings

All sums payable under a Note or under this Supplemental Deed must be paid:

- (a) free of any restriction or condition;
- (b) free and clear of, and (except to the extent required by law or as provided in clauses 3.4, 3.5 or 3.6) without any deduction or withholding on account of, any taxes; and
- (c) (except to the extent required by law or as provided in clauses 3.4, 3.5 or 3.6) without deduction or withholding on account of any other amount whether by way of set-off or otherwise.

3.4 Non-resident withholding tax

New Zealand non-resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are not resident in New Zealand, including any person who is non-tax resident and who beneficially derives interest under any Note jointly with one or more other persons one of whom is tax resident.

3.5 Resident withholding tax

New Zealand resident withholding tax will be deducted from payments of interest (or payments deemed by law to be interest) to Holders who are tax resident unless the Holder is able to establish to the satisfaction of the Issuer, or the Registrar on its behalf, either by means of an appropriate exemption certificate or otherwise before the Record Date for the relevant payment that no such tax need be deducted.

3.6 No gross-up

The Issuer will not be required to and will not make any additional payment by way of gross-up or otherwise with respect to the deduction or withholding from any payment made in respect of the Notes under clauses 3.4 or 3.5. If, in respect of any Note, the Registrar or the Issuer becomes liable to make any payment of, or on account of, tax payable by any Holder, then the Registrar and the Issuer shall be indemnified by the relevant Holder in respect of such liability. Any moneys paid by the Registrar or the Issuer in respect of such liability may be recovered from that Holder as a debt due to the Registrar or the Issuer (as the case may be) and may be withheld from any further payments to that Holder. Nothing in this clause 3.6 will prejudice or affect any other right or remedy of the Registrar or the Issuer.

3.7 Maximum rate

Deductions of non-resident or resident withholding tax will be made at the maximum rates from time to time applicable unless a Holder provides evidence to the Issuer or the Registrar (acceptable to it) that a lesser rate is applicable.

3.8 Tax status

The Issuer and the Registrar shall be entitled for the purposes of this clause to rely, without further enquiry, upon any evidence produced or statement made by, or on behalf of, a Holder in relation to that Holder's tax status or tax residency.



4. Conditions precedent

4.1 Conditions precedent

The Issuer is not entitled to issue any Notes until the Trustee has confirmed to the Issuer in writing that it has received the following in form and substance satisfactory to it:

- (a) a duly executed original of this Supplemental Deed and the amendment to the Agency Agreement in relation to the Notes;
- (b) the duly executed original of the Guarantee;
- (c) a certified copy of the Security Trust Deed;
- (d) copies of the prospectus and the investment statement adopted by the Issuer in relation to the issue of the Notes;
- (e) a certificate from a director of the Issuer in respect of such matters as the Trustee shall have reasonably required;
- (f) a legal opinion from the Issuer's solicitors addressed to the Trustee regarding the enforceability of this Supplemental Deed;
- (g) legal opinions from United States in-house counsel of the Guarantor addressed to the Trustee and the Issuer in respect of the enforceability under relevant United States laws of the Guarantee and the United States taxation status of payments to be made by the Guarantor under the Guarantee; and
- (h) a copy of each of the certificates given by the Companies Office under the Securities Act in respect of:
 - (i) this Supplemental Deed; and
 - (ii) the prospectus adopted by the Issuer in relation to the issue of the Notes.

4.2 Conditions precedent on issuance

In addition to the requirements set out in clause 4.1, the Issuer shall not issue any Notes unless the representations and warranties contained in clause 10.1 of the Master Trust Deed and clause 5.1 of this Supplemental Deed are true and correct in all material respects by reference to the facts and circumstances existing as at the Issue Date for the Notes.

4.3 Issue notice

Promptly after the issuance of Notes on the Issue Date, the Issuer agrees to send to the Trustee a copy of the Issue Notice.

5. Representations and undertakings

5.1 Representations and warranties

In addition to the representations and warranties in clause 10.1 of the Master Trust Deed, the Issuer represents and warrants to the Holders and the Trustee that no Event of Default in relation to this Series has occurred and is continuing.

5.2 Undertakings by Issuer in favour of the Holders

Pursuant to clause 11.2(a) of the Master Trust Deed, the Issuer undertakes, in relation to this Series, that it:

(a) **Comply with laws**

will duly and punctually comply with all laws (including all laws relating to the environment and the payment of taxes) binding upon it the non-compliance with which is likely to materially adversely affect the general interests of the Holders;

(b) **Core Business**

will, and will procure that each Guaranteeing Subsidiary (if any) will, at all times engage primarily in the business of ownership or management of electricity and gas utility network systems (both wholesale and retail), the management of utility networks or systems and the carrying out of any ancillary activities or the making of any supplies, products or property or the performance of any services in respect of the operation of networks or systems;

(c) **Total Net Worth**

will not, at any time after the occurrence of a Guarantor Event of Default and while it is continuing unremedied, permit Total Net Worth to be less than \$400,000,000;

(d) **Financial Statements**

notwithstanding clause 11.3 of the Master Trust Deed, will deliver to the Trustee:

- (i) not later than four months after the end of each of its financial years, a copy of the latest Financial Statements of the Issuer and the latest consolidated Financial Statements of the Group for the preceding financial year, in each case made up as at the last day of that financial year and duly audited; and
- (ii) not later than three months after the end of each of its financial half-years, a copy of the latest Financial Statements of the Issuer and the latest consolidated Financial Statements of the Group for the preceding half-year, in each case made up as at the last day of that half-year;

provided that the Issuer will not be required to deliver to the Trustee the consolidated Financial Statements of the Guaranteeing Group for that financial year or financial half-year, as the case may be, unless a Guarantor Event of Default has occurred and is continuing unremedied; and

(e) **Report**

will deliver to the Trustee not later than the times of delivery of the latest Financial Statements pursuant to clauses 5.2(d)(i) or 5.2(d)(ii), a report signed by two Directors in the form set out in schedule 1 (or such other form as the Issuer and the Trustee may agree) stating the matters referred to therein as at the end of, and in respect of, the relevant year or half-year, as the case may be.

5.3 No Substitution

The Issuer shall not substitute any Substituted Obligor in respect of the Notes under clause 23 of the Master Trust Deed without the prior written consent of the Guarantor (such consent

not to be unreasonably withheld or delayed) provided that such consent shall not be required if a Guarantor Event of Default has occurred and is continuing unremedied.

6. Events of default

6.1 Events of Default

Pursuant to clause 12.1(j) of the Master Trust Deed, the following are additional Events of Default in relation to this Series:

(a) **Other breach**

the Issuer or any Guaranteeing Subsidiary commits any breach of, or omits to observe, any of its material undertakings or obligations under this Supplemental Deed (other than those referred to in clause 12.1(a) of the Master Trust Deed) and, in respect of any such breach or omission which is capable of being remedied, such breach or omission is not remedied within 30 days of the Issuer or that Guaranteeing Subsidiary (as the case may be) becoming aware of that breach or omission;

(b) **Misrepresentation**

any representation, warranty or statement made or deemed to be repeated by or in respect of the Issuer in this Supplemental Deed is or was untrue or incorrect in a material respect when made, deemed repeated or delivered and this has a material adverse effect on the Issuer; and

(c) **Invalidity of documents**

any material provision of any Transaction Document:

- (i) ceases to have effect in whole or in part, other than by performance or as permitted by its terms; or
- (ii) becomes wholly or partly void, voidable, illegal, invalid or unenforceable (other than by reason only of a party waiving any of its rights), or the performance of any such provision becoming illegal,

or the Issuer, or any person on its behalf, makes any allegation or claim to that effect;

(d) **Reimbursement Agreement**

the occurrence of any event of default (however described in the Reimbursement Agreement) which is continuing unremedied provided that at the relevant time no Guarantor Event of Default has occurred and is continuing unremedied; and

(e) **Security Trust Deed default**

the Issuer or any Guaranteeing Subsidiary commits any breach of, or omits to observe, any of its obligations under clauses 3, 5, or 6 of the Security Trust Deed.

7. Guarantee claims and payments

7.1 Holding of Guarantee

The Trustee will hold the Guarantee for the benefit of the Holders. The Trustee will return the Guarantee to the Guarantor for cancellation upon expiry of the Guarantee Term.

7.2 Payment by Issuer

- (a) If a Guarantor Event of Default has occurred and is continuing unremedied, the Issuer shall pay to the Registrar, as paying agent for the Trustee, for the account of the Trustee no later than 12.00pm on the Interest Payment Date, an amount equal to the interest payable in respect of the Notes on that Interest Payment Date, and no later than 12.00pm on the Maturity Date, an amount equal to the Principal Amount payable in respect of the Notes on the Maturity Date.
- (b) In all other circumstances, the Issuer shall pay to an interest bearing account of the Registrar, as paying agent for the Trustee, for the account of the Trustee no later than 12.00pm on the Business Day falling prior to the Interest Payment Date, an amount equal to the interest payable in respect of the Notes on that Interest Payment Date, and no later than 12.00pm on the Business Day falling prior to the Maturity Date, an amount equal to the Principal Amount payable in respect of the Notes on the Maturity Date. Any interest accrued overnight on the amount deposited by the Issuer shall be for the account of the Issuer and paid to the account nominated by the Issuer for this purpose.

7.3 Notification from paying agent

The Trustee shall procure that the Registrar, as paying agent for the Trustee, notifies the Trustee prior to 3.00pm on the Business Day on which any payment of interest or any Principal Amount is due under clause 7.2 if it has not received in full the payment due on that date.

7.4 Failure to pay

In the event that the Trustee or the Registrar on its behalf has not received payment in full from the Issuer in accordance with clause 7.2, the Trustee shall:

- (a) obtain a copy of the Register from the Registrar in order to facilitate any claims on behalf of the Holders under the Guarantee; and
- (b) immediately make demand of the Guarantor under the Guarantee in accordance with the provisions therein.

7.5 Avoided payments

If any payment of interest or the Principal Amount made to a Holder by, or on behalf of, the Issuer is subsequently rescinded, avoided or otherwise restored to the Issuer, that payment (the **Avoided Payment**) will be deemed not to have discharged or affected the liability of the Issuer to the Trustee on behalf of the Holders in respect of which that payment was made. In that event:

- (a) the Trustee, the relevant Holder and the Issuer will be restored to the position in which each would have been, and be entitled to exercise all the rights which each would have had, if such payment had not been made by the Issuer to that Holder;

- (b) the Trustee shall immediately make demand of the Guarantor under the Guarantee for payment of an amount equal to the Avoided Payment in accordance with the provisions therein and shall assign to the Guarantor, on behalf of the Holders, all of its rights in relation to such Avoided Payment in accordance with the provisions of the Guarantee; and
- (c) that Holder agrees and acknowledges that the Guarantor shall make payment to the Trustee in accordance with the Guarantee and the Trustee shall apply any moneys received in accordance with clause 7.6.

7.6 Application of moneys

Notwithstanding anything to the contrary in this Supplemental Deed, all moneys received by the Trustee from the Guarantor following the making of a claim by the Trustee under the Guarantee shall, immediately upon receipt in cleared funds, be paid by the Trustee to the relevant Holders on whose behalf the Trustee made the claim pro rata to the amounts owing to them respectively and which were the subject of the claim under the Guarantee.

7.7 Acknowledgement

The Trustee acknowledges for the benefit of the Guarantor and the Holders that:

- (a) it shall have no lien or other security or any other property right otherwise than as bare trustee in any moneys received by it from the Guarantor; and
- (b) it shall make all payments to the Holders entitled thereto free of any deduction, set-off or condition except to the extent required by law and shall not seek to apply such moneys in reduction of amounts owing to it for its own account (whether to pay any costs, expenses, liabilities or advances of the Trustee or any other person or otherwise).

7.8 Subrogation

The Guarantor is, to the extent that it makes any payment to the Trustee in respect of amounts owed to a Holder, subrogated to the rights of that Holder in respect of those payments. The Issuer agrees to such subrogation and agrees to execute such instruments and to take such actions as the Guarantor may reasonably request to evidence such subrogation and to perfect the right of the Guarantor to receive any amounts paid or payable as a result.

7.9 Payment by Guarantor

- (a) Notwithstanding any provision of this Supplemental Deed, any payment in respect of the Principal Amount of, or interest on, a Note which is made with moneys received pursuant to the Guarantee shall not be considered payment by the Issuer of that amount, and shall not discharge the Issuer in respect of its obligation to make such payment, although any such payment shall operate in pro tanto satisfaction of the rights of the relevant Holder (other than the Guarantor to the extent subrogated thereto or if it becomes the Holder of the relevant Note) against the Issuer.
- (b) The Issuer and the Trustee acknowledge that, without the need for any further action on the part of the Guarantor, the Issuer or the Trustee, the Guarantor shall be paid such Principal Amount and interest in its capacity as subrogee to, and assignee of, the claims of the relevant Holder for payment of such amounts.
- (c) In the event that the Guarantor, having made a payment under the Guarantee, recovers or receives an amount from the Issuer, such amount shall be deemed to

have been received by it under the Reimbursement Agreement, by virtue of its direct claim on the Issuer thereunder, and not to be an amount paid to it as a subrogee or assignee of the relevant Holder for the purposes of this Supplemental Deed.

7.10 Agent to furnish information

The Issuer will procure the Registrar, as agent for the Issuer, to promptly furnish to the Trustee such information in relation to the Notes as may from time to time be requested by the Trustee.

7.11 Holders

The Holders authorise the Trustee to take such actions necessary to comply with each requirement in the Guarantee and this Supplemental Deed in relation to the making of claims and the making of transfers of securities under the Guarantee.

8. Guarantor control

8.1 Control by Guarantor

Other than in relation to the Excluded Rights, and provided that no Guarantor Event of Default may have occurred and is continuing unremedied:

- (a) the Guarantor shall have sole right to direct the Trustee in respect of all rights, powers and discretions under this Supplemental Deed except as otherwise provided in this clause 8.1, and the enforcement of all remedies granted to the Trustee or the Holders pursuant to clause 12.1 of the Master Trust Deed and clause 7.2 of the Security Trust Deed;
- (b) the Trustee shall act solely on the instructions of the Guarantor in exercising any right or discretion granted to it, or taking any action, under this Supplemental Deed;
- (c) the Trustee shall act solely on the instructions of the Guarantor in giving any instructions or directions to the Security Trustee under the Security Trust Deed;
- (d) the Guarantor may direct the Trustee to waive any Event of Default or any Security Default and their respective consequences except that only the Holders by an Extraordinary Resolution may direct the Trustee to waive a default in the payment of the Principal Amount of, or any interest on, or other amounts due under, the Notes;
- (e) subject to clause 8.1(d), the Holders shall have none of the rights accorded to them to effect matters or take action by Extraordinary Resolution (with any Extraordinary Resolution purported to be passed by the Holders to be of no effect and void), except the Holders may by Extraordinary Resolution, appoint any replacement trustee on the resignation or removal of the Trustee and the Guarantor has absolute control over (and right, title and interest in) the exercise of such rights, except the right to appoint any replacement trustee on the resignation or removal of the Trustee;
- (f) the Trustee shall act solely in accordance with any direction from the Guarantor to preserve or enforce the Notes or the Guarantor's rights or interests under this Supplemental Deed or the Security Trust Deed, including, without limitation, upon the occurrence and continuation of an Event of Default or a Security Default, a request to take any one or more of the following actions:
 - (i) declare the Notes immediately due and payable;

- (ii) institute proceedings for the collection of all amounts then payable on the Notes, or under this Supplemental Deed, enforce any judgment obtained and collect from the Issuer moneys adjudged due; and
- (iii) take any appropriate action to protect and enforce the rights and remedies of the Guarantor under this Supplemental Deed and the Security Trust Deed; and
- (g) all rights of the Trustee or the Holders to agree or not to agree to any requested waiver or modification to or under this Supplemental Deed or the Security Trust Deed shall be exercised solely by the Guarantor to the exclusion of the Holders.

8.2 No liability of Guarantor

When directing the Trustee pursuant to this Supplemental Deed, the Guarantor shall not be required to have regard to the interest of the Holders and shall have no liability to the Holders as a consequence of any direction given by the Guarantor to the Trustee.

8.3 Benefit of this Supplemental Deed

The Issuer and the Trustee (for itself and on behalf of each Holder) acknowledge and agree in terms of section 4 of the Contracts (Privity) Act 1982 that this Supplemental Deed is intended to confer a benefit upon, and is intended to be enforceable by, the Guarantor directly.

9. Additional Trustee Provisions

9.1 Indemnity

The Trustee shall not be bound to act on the instructions or at the direction of the Guarantor unless the Guarantor first undertakes to the satisfaction of the Trustee that it will indemnify and hold harmless the Trustee from and against any and all losses, liabilities, costs, charges, claims, damages, expenses or demands (or actions in respect thereof) which arise out of or in relation to or in connection with the compliance by the Trustee with any direction or request of the Guarantor under this Supplemental Deed or the Guarantee.

9.2 Illegal direction

The Trustee shall not be obliged to comply with any instruction or direction of the Guarantor to do any act or thing which would or may, in the reasonable opinion of the Trustee, be illegal or contrary to any requirement or request of any fiscal or monetary or other governmental authority or treaty. The Trustee agrees to notify the Guarantor forthwith in writing, setting out the grounds therefore, if it intends not to comply for any such reason.

9.3 No liability to Holders

Notwithstanding any provision to the contrary in this Supplemental Deed, when exercising rights under this Supplemental Deed in relation to the Notes in accordance with the instructions of the Guarantor pursuant to this Supplemental Deed, the Trustee shall not be required to have regard to the interests of the Holders and shall have no liability to the Holders as a consequence of any such exercise.

9.4 Reliance by Trustee

The Trustee shall be entitled to assume that any instructions or certificates received by it from the Guarantor which purport to have been given pursuant to this Supplemental Deed

have been given in accordance with their respective terms. The Trustee shall be entitled to assume that any such notification is authentic and has been properly given in accordance with the terms of this Supplemental Deed.

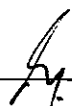
9.5 Cash deposit

In the event that the long term credit rating of the Issuer for the time being published by Standard & Poor's (Australia) Pty Limited (**Issuer's Rating**) has fallen below BBB- or has been withdrawn completely, the Issuer shall, promptly on demand by the Trustee, pay to the Trustee \$200,000 to be held by the Trustee on behalf of the Issuer on the terms set out below:

- (a) the moneys so received by the Trustee shall be placed in a separate bank account (**Account**) with a registered bank in the name of the Trustee and in respect of which the sole account signatories shall be officers of the Trustee;
- (b) the moneys for the time being standing to the credit of the Account may be used by the Trustee for meeting costs and expenses incurred by it in relation to, and its remuneration in respect of, any payment default by the Issuer under the Notes for and to the extent to which the Issuer is liable under this Supplemental Deed and which it has failed to pay within five Business Days of written demand from the Trustee;
- (c) the Trustee shall periodically report to the Issuer in relation to all withdrawals from the Account, giving supporting invoices where possible, and shall generally keep the Issuer informed of amounts from time to time debited from the Account;
- (d) the moneys for the time being standing to the credit of the Account shall bear interest at such rate as the Trustee and the Issuer shall agree with the bank holding the Account, but in the absence of such agreement at such market rate as the Trustee is able to achieve in negotiations with the relevant bank and such interest, less any costs payable in respect of the operation of the Account, shall be paid six-monthly in arrears to the Issuer (or at such other times as the Issuer and the Trustee may have agreed from time to time);
- (e) in the event that, after the Issuer has made payment to the Trustee pursuant to this clause 9.5, the Issuer's Rating rises, or is reinstated, to BBB- or above, the Trustee shall promptly pay the balance of the Account at that time together with accrued interest directly to the Issuer provided that if the Issuer's Rating subsequently falls below BBB- or is withdrawn completely, the Issuer shall pay to the Trustee an amount not more than the amount so repaid to it by the Trustee (exclusive of interest), and for the avoidance of doubt, the maximum aggregate amount payable in aggregate by the Issuer pursuant to this clause 9.5 (net of repayments made pursuant to this clause 9.5(e)) shall be \$200,000; and
- (f) the Trustee shall repay to the Issuer the money standing to the credit of the Account when it is satisfied that the Note Moneys have been paid.

9.6 Security Trust Deed

Subject to clause 8.1, the Trustee, as a "Beneficiary" for the purposes of the Security Trust Deed shall act in accordance with the instructions or directions of an Extraordinary Resolution of Holders in giving any consent, direction or other instruction to the Security Trustee in accordance with the terms of the Security Trust Deed and absent any such instruction or direction may act in its discretion.



9.7 Amendments to Supplemental Deed

In addition to the amendments that may be made to this Supplemental Deed in accordance with clause 20.2 of the Master Trust Deed, this Supplemental Deed may be amended without the consent of the Holders if such amendment is necessary or convenient to reflect any amendment made to, or any release of the Security Trust Deed in accordance with its terms.

10. Miscellaneous

10.1 Counterparts

This Supplemental Deed may be signed in any number of counterparts, all of which together constitute one and the same instrument, and any of the parties may execute this Supplemental Deed by signing any such counterpart.

10.2 Governing law

This Supplemental Deed shall be governed by and construed in accordance with New Zealand law.

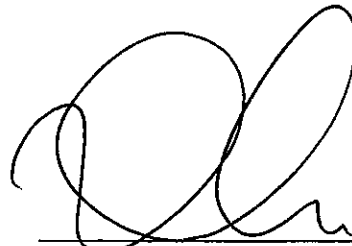
10.3 Submission to jurisdiction

The parties submit to the non-exclusive jurisdiction of the New Zealand courts for the purpose of any legal proceedings arising out of this Supplemental Deed.

Execution

Executed as a deed.

Powerco Limited by:



Signature of Authorised Signatory

Nigel Barbour
Print Name



Witness Signature

TRISTAN DAVISON
Print Name

TREASURY ANALYST
Occupation

NEW PLYMOUTH
Address

Executed under the name and seal
of The New Zealand Guardian
Trust Company Limited by:



[Signature]
Signature of Authorised Signatory
ALL G. KESBING.
Print Name

[Signature]
Signature of Authorised Signatory
JAMES EARL DOUGLAS
Print Name

Witness to both signatures

WITNESS TO BOTH SIGNATURES

FULL NAME: KAREN ANNE DONALD

RESIDENTIAL ADDRESS: 69A HAMLIN RD
Print Name

MT WELLINGTON

OCCUPATION: RECEPTIONIST

Occupation SIGNATURE [Signature]

Address

Schedule 1: Form of Directors' Report

1. Powerco Limited (**Issuer**) and The New Zealand Guardian Trust Company Limited, as trustee are parties to a master trust deed dated 16 February 2004, as supplemented by a supplemental trust deed dated [] 2005 (together, the **Trust Deed**). This report is given by the undersigned Directors of the Issuer pursuant to clause 5.2(e) of the supplemental trust deed dated [] 2005.
2. Unless the context otherwise requires, terms defined in the Trust Deed have the same meaning herein.
3. We, the undersigned, state that as at the last day of the financial [year] [half-year] ending on [] (**Reporting Date**), to the best of our knowledge and belief having made all due inquiries, and, during the immediately preceding financial [year] [half-year]:
 - (a) [Here state any matter, or state if there is no matter, which has arisen relating to the Issuer which would materially and adversely affect the ability of the Issuer to perform its obligations under the Trust Deed and the Notes or which adversely affects the Holders];
 - (b) the Issuer [has][has not] observed and complied with all provisions expressed to be binding upon it under the Trust Deed including the payment of all interest on, and the Principal Amount in respect of, the Notes; [If the Issuer has not so complied and observed the provisions of the Trust Deed set out the particulars of the contravention and proposals to remedy the same]
 - (c) no Event of Default has occurred; [If any Event of Default has occurred, set out the particulars of the Event of Default]
 - (d) no Security Default has occurred; [If any Security Default has occurred, set out the particulars of the Security Default];
 - (e) the Principal Amount of Notes (if any) which have been repaid on maturity is \$[], details of which are set out below:

[set out details of Notes which have been repaid on maturity in the immediately preceding financial year]
 - (f) all interest due on the Notes has been paid;
 - (g) the Register [has][has not] been duly maintained in accordance with the Trust Deed; [If the Register has not been duly maintained set out the particulars of the failure to maintain]
4. As at the date of this report, and having considered the financial position (including contingent liabilities) of the Issuer as a going concern (which the Directors of the Issuer are satisfied will be the case) and such budgets, reports, projections, certificates and assurances as they deem necessary and the anticipated trading transactions and sources of finance arranged or capable of being arranged during the 12 months from the Reporting Date, to the best of our knowledge and belief the Issuer will be able to meet all its liabilities (including maturing Notes and interest on Notes) which fall due or are anticipated to become payable during the 12 months from the Reporting Date in accordance with accepted commercial practice.
5. As at the Reporting Date:
 - (a) the aggregate Principal Amount of the Notes outstanding is \$[]; and

(b) the amount of any unpaid interest relating to the outstanding Notes is
\$[].

6. We, the undersigned, state that as at the Reporting Date, to the best of our knowledge and belief having made due enquiries, no Guarantor Event of Default has occurred and is continuing unremedied.

7. Where, as at the Reporting Date, a Guarantor Event of Default may have occurred and is continuing unremedied, we, the undersigned, state that as at the Reporting Date, to the best of our knowledge and belief having made all due inquiries, and, during the immediately preceding financial [year] [half-year]:

Clause 5.2(c):

Total Net Worth
Minimum permitted

\$[]
\$400,000,000

This report is given on 20[]

Director

Director

Schedule 2: Form of Issue Notice

[Letterhead of Issuer]

TRANCHE 1

To Computershare Investor Services Limited
Attention Dave Mitchell
Telephone (09) 488 8769
Facsimile (09) 488 8787

Re Supplemental Trust Deed Dated [•] 2005 (the Deed)

Terms defined in the Deed have the same meaning in this Issue Notice.

We confirm our instructions to you as Agent to undertake the duties set out in the Agency Agreement in respect of an issue of Notes as described below:

Note Details:

Issuer: Powerco Limited
Note Reference: Seven Year Guaranteed Bonds
Issue Date: 28 September 2005
Maturity Date: 28 September 2012
Type of Note: Fixed Rate
Principal Amount: NZ\$[•]
Interest Frequency: Quarterly
Interest Dates: 28 March, 28 June, 28 September, 28 December
Interest Formula: Quarterly Amount
Interest Rate: [TBA]
First Interest Period: Full coupon payable to Holder as at Record Date
Minimum Denomination: \$5,000
Multiple Denomination: \$1,000

Series and Tranche Details:

Series No: 2
Tranche: 1
Tranche Amount: [TBA]
Issue Amount: NZ\$180,000,000

Yours sincerely

POWERCO LIMITED By:

.....
Authorised Officer

[Letterhead of Issuer]

TRANCHE 2

To Computershare Investor Services Limited
Attention Dave Mitchell
Telephone (09) 488 8769
Facsimile (09) 488 8787

Re **Supplemental Trust Deed Dated [•] 2005 (the Deed)**

Terms defined in the Deed have the same meaning in this Issue Notice.

We confirm our instructions to you as Agent to undertake the duties set out in the Agency Agreement in respect of an issue of Notes as described below:

Note Details:

Issuer: Powerco Limited
Note Reference: Twelve Year Guaranteed Bonds
Issue Date: 28 September 2005
Maturity Date: 28 September 2017
Type of Note: Fixed Rate
Principal Amount: NZ\$[•]
Interest Frequency: Quarterly
Interest Dates: 28 March, 28 June, 28 September, 28 December
Interest Formula: Quarterly Amount
Interest Rate: [TBA]
First Interest Period: Full coupon payable to Holder as at Record Date
Minimum Denomination: \$5,000
Multiple Denomination: \$1,000

Series and Tranche Details:

Series No: 2
Tranche: 2
Tranche Amount: [TBA]
Issue Amount: NZ\$180,000,000

Yours sincerely

POWERCO LIMITED By:

.....
Authorised Officer