

**DATED**

**16th JULY 2009**

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**BETWEEN    The Syndicate Members as described in the First Schedule**

**GEOHERMAL AGREEMENT**

**McKECHNIE QUIRKE & LEWIS**  
**CORNER FENTON & PUKAKI STREETS**  
**ROTORUA**  
Telephone:    07-349-4400  
P.O. Box:       242, Rotorua  
DX:              JP30036, Rotorua

pal 2009\0707L1

**THIS AGREEMENT** made this    16TH            day of            JULY            2009

**BETWEEN:**    Those persons more particularly described in the First Schedule  
                  (together with their successors and assigns called "the Syndicate  
                  Members")

**BACKGROUND**

1.        The Syndicate Members wish to form an unincorporated society to be        known as  
            "The Bore 871/687 Users Group" ("the Syndicate").
2.        Geothermal Bores 871 and 687 ("the Bores") are located on the properties more  
            particularly described in the Second Schedule hereto, such properties being owned by  
            members of the Syndicate.
3.        The Syndicate Members wish to record the arrangements reached between them in

relation to the utilisation of the Bores and the geothermal energy drawn from them, and the rules by which the Syndicate will operate.

## **AGREEMENT**

**The Syndicate Members** agree as follows:

1. All Heat Exchanger equipment, reticulation, piping and wiring associated with the Bores ("the Associated Plant") are the property of the Syndicate. The Bores shall be the responsibility of and under the control of the Syndicate. No Syndicate Member will make any claim against the Syndicate in respect of the ownership of the Associated Plant nor the Bores and the Associated Plant shall together be known as "The Plant".

2. The Syndicate Members grant to each other the right to convey thermal hot water and/or steam and/or effluent from or to the Bores through, along and over their respective properties by such routes as may be agreed between the Syndicate Members from time to time but failing agreement by arbitration **PROVIDED HOWEVER** that no guarantee shall be implied on the part of any of the Syndicate Members that any party hereto shall be entitled to convey thermal hot water and/or steam and/or effluent from or to the Bores across any property other than properties belonging to the Syndicate Members.

3. No Syndicate Member shall make any alterations or additions in connection with the internal reticulation of the geothermal energy derived through this Agreement within any individual dwelling without the prior consent in writing of the Syndicate.

4. The Syndicate shall keep clean and maintained the Plant at the cost of the Syndicate. In addition the Syndicate shall promptly pay all Local Authority, Territorial Authority and Government levies made in respect of the Plant.

5. The Syndicate Members shall meet annually in June of each year ("the Annual General Meeting") and elect from their number a Management Committee ("the Committee") to manage the operation of the Plant and the arrangement evidenced by this Agreement ("the Scheme").

6. The Syndicate through the Committee shall levy equally all individual Syndicate Members from time to time in respect of all costs and expenses associated with the operation

of the Plant. Such levies shall be fixed in advance at the Annual General Meeting following submission to the Annual General Meeting of a budget by the Committee. The levies shall be payable and recoverable upon demand. Any surplus monies in any given year shall be retained by the Committee and applied to any costs and expenses associated with the Plant.

7. The Committee shall arrange from time to time on behalf of the Syndicate a source for the electrical power necessary to operate the Scheme. The Syndicate, through the Committee, shall pay or reimburse the owner of the source of such electrical power at a rate to be agreed upon by the Committee (on behalf of the Syndicate) with such owner.

8. The Syndicate Members agree that they shall execute all such documents and give all such consents as shall be necessary to enable any Purchaser from time to time of any of the lands described in this Agreement to obtain a transfer of an existing licence or the issue of a new licence to enable such Purchaser to become a Syndicate Member. The Syndicate Members do hereby appoint the members of the Committee from time to time to be the irrevocable attorney for the parties for the purposes of executing any such documents and consents. The Committee may decline to consent to any transfer of Syndicate Membership while any money is due and owing to the Syndicate by the Member seeking to transfer such membership. Upon consent to the transfer of Syndicate Membership by the Committee, the transferring Syndicate Member shall cease to be a member of the Syndicate and the transferee shall become a member of the Syndicate.

9. The Syndicate (through the Committee) and its duly authorised workmen and servants shall be entitled to enter upon the lands of the parties hereto for the purpose of cleaning and maintaining the Plant and disconnection of any services **PROVIDED THAT** such entry shall be at reasonable times (other than in emergencies) and the work effected promptly and tidily. The Syndicate (through the Committee) shall take every care to avoid damage and disturbance to the properties during the installation of any steam lines and at any time when servicing or maintenance work is carried out and shall make good all disturbance or damage done to the satisfaction of the relevant registered proprietor.

10. This Agreement shall remain in full force and effect for so long as the Bores or any of them shall continue to produce sufficient steam and hot water for the use of the Syndicate

Members and no guarantee shall be implied therein by any party that the supply of steam and/or hot water shall be provided in the event that the Bores do not provide sufficient steam and/or hot water.

11. No party hereto shall register a Caveat against the title to the land of any other party hereto in respect of this Agreement.

12. In the event that the Bores produce or yield up a quantity of thermal hot water and/or steam and/or effluent surplus to the requirements of the parties, then the Syndicate (through the Committee) and with the approval of the majority of Syndicate Members at a special general meeting may arrange for the connection of other persons to the Bores, such persons to then become parties to this Agreement and members of the Syndicate. Any such persons shall meet the cost of reticulation piping to their own properties and shall pay to the Syndicate, for the interest which they will acquire from the other Syndicate Members in the Plant, such sum as the Committee may determine.

13. The Committee shall have the right to disconnect from the supply of steam/hot water/effluent any party hereto who has not paid his/her levied share of the costs of the Scheme in the event that such payment has not been made within one (1) calendar month after demand having been made in writing.

14. The Committee shall consist of the Chairman, Secretary, Treasurer and three (3) other members of the Syndicate or such other number as shall from time to time be fixed by the Syndicate at the Annual General Meeting.

15. The Committee may call a Special General Meeting of the Syndicate at any time, and shall call such a meeting when requested in writing to do so by not less than twelve (12) Syndicate Members. Twenty-one (21) days notice of a Special General Meeting must be given, either by advertisement in the local newspaper or by letter to each of the Syndicate Members.

16. No business shall be transacted at the Annual General Meeting, a Special General Meeting or any meeting of the Committee unless a quorum is present at the time when the meeting proceeds to business. A quorum for the Annual General Meeting or a Special General

Meeting shall be eight (8) members and for any meeting of the Committee shall be three (3) members.

17. Books of accounts shall be kept by the Committee of all sums received and expended by the Syndicate and the matters in respect of which such receipt and expenditure takes place.

18. At the Annual General Meeting in each year the Committee shall lay before the Syndicate an audited statement of income and expenditure.

19. An auditor shall be appointed by the Syndicate at each Annual General Meeting.

20. Each Syndicate Member shall have one vote at any meeting of the Syndicate Members for each property owned which is connected to the Scheme. Where a property is owned by more than one person, those persons shall have one vote between them and shall be deemed to be one Syndicate Member for each property so owned.

21. The legal costs, expenses and disbursements of and incidental to this Agreement shall be borne and paid for by the Syndicate through the Committee.

22. In the case of any question arising between the parties in relation to this Agreement such question shall be referred to arbitration pursuant to the provisions of the Arbitration Act 1996 or any statutory re-enactment thereof.

**IN WITNESS WHEREOF** this Agreement has been executed the date and the year first hereinbefore mentioned.

|                       |                  |
|-----------------------|------------------|
| C ALDRIDGE            | ** Vicki Hubbard |
| P ANDERSON            |                  |
| P ANDERSON            |                  |
| M BARLOW              |                  |
| M J BELL              |                  |
| S & M BENNETT         |                  |
| LANGFORD FAMILY TRUST |                  |
| E BURGESS             |                  |

|                         |
|-------------------------|
| P & M CALLAGHAN         |
| M & E CAMPBELL          |
| A DELZOPPO              |
| B D FRASER              |
| DM & TJ GAHAN           |
| E GOOCH                 |
| ANNA HEAP               |
| ANNA HEAP               |
| D & B HINDLE            |
| O & V JOHANSON          |
| G KERSHAW               |
| VL & ML PROPERTY LTD    |
| A & B MIDDLETON         |
| C P WAETFORD            |
| R & M MUNRO             |
| MAUREEN MCLEOD          |
| D J MAC DONALD          |
| J OTTOSSON              |
| C RETEMEYER             |
| SUE RYDER               |
| DORIS SCOTT             |
| B SOLOMON               |
| D J SPIERS              |
| R & A TIBBLE            |
| C TOMPSETT              |
| Y L ENTERPRISES LIMITED |
| B WISHART               |

### FIRST SCHEDULE

| <u>NAME</u>     | <u>STREET<br/>NUMBER</u> | <u>STREET</u> | <u>POSTAL<br/>ADDRESS</u>                               |
|-----------------|--------------------------|---------------|---------------------------------------------------------|
| C ALDRIDGE      | 3/42                     | MALFROY ROAD  | CA- MR A ALDRIDGE,<br>637 South Road, R D 2,<br>ROTORUA |
| P ANDERSON      | 2/32                     | MALFROY ROAD  | (17 Barron Cres)                                        |
| P ANDERSON      | 3/32                     | MALFROY ROAD  | (17 Barron Cres)                                        |
| M BARLOW        | 30                       | MALFROY ROAD  |                                                         |
| M J BELL        | 2/42                     | MALFROY ROAD  |                                                         |
| S & M BENNETT   | 21C                      | SEDDON STREET |                                                         |
| BRADCORP HLDGS  | 27D                      | SEDDON STREET | (P O BOX 6016)                                          |
| E BURGESS       | 23A                      | SEDDON STREET |                                                         |
| P & M CALLAGHAN | 36A                      | MALFROY ROAD  |                                                         |
| M & E CAMPBELL  | 1/42                     | MALFROY ROAD  |                                                         |

|                                       |      |               |                                       |
|---------------------------------------|------|---------------|---------------------------------------|
| A DELZOPPO                            | 31A  | SEDDON STREET |                                       |
| B D FRASER                            | 21A  | SEDDON STREET |                                       |
| DM & TJ GAHAN                         | 31   | SEDDON STREET | (P O BOX 12145,<br>Rotorua Sth. 3045) |
| E GOOCH                               | 40   | MALFROY ROAD  |                                       |
| ANNA HEAP ) X2 #                      | 5    | LYTTON STREET | (15a Phillip Street)                  |
| ANNA HEAP ) #                         | 5    | LYTTON STREET |                                       |
| D & B HINDLE                          | 36A  | MALFROY ROAD  |                                       |
| O & V JOHANSON                        | 29A  | SEDDON STREET |                                       |
| G KERSHAW                             | 34B  | MALFROY ROAD  |                                       |
| V L & M L PROPERTY<br>LTD (Vince Low) | 5    | LYTTON STREET |                                       |
| A & B MIDDLETON                       | 23B  | SEDDON STREET |                                       |
| K W MORRIS                            | 27A  | SEDDON STREET | (170 RUNCIMAN RD, R<br>D 2, PUKEKOHE) |
| R & M MUNRO                           | 29B  | SEDDON STREET |                                       |
| MAUREEN MCLEOD                        | 27C  | SEDDON STREET |                                       |
| D J MAC DONALD                        | 21B  | SEDDON STREET |                                       |
| J OTTOSSON                            | 27B  | SEDDON STREET |                                       |
| C RETEMEYER                           | 3/38 | MALFROY ROAD  |                                       |
| SUE RYDER                             | 40A  | MALFROY ROAD  |                                       |
| DORIS SCOTT                           | 1/32 | MALFROY ROAD  |                                       |
| B SOLOMON                             | 4/32 | MALFROY ROAD  |                                       |
| D J SPIERS                            | 19   | SEDDON STREET |                                       |
| R & A TIBBLE                          | 1/38 | MALFROY ROAD  |                                       |
| C TOMPSETT                            | 34A  | MALFROY ROAD  |                                       |
| Y L ENTERPRISES<br>LIMITED            | 23C  | SEDDON STREET | (C/- EVES REAL<br>ESTATE RENTAL DIV)  |
| B WISHART                             | 2/38 | MALFROY ROAD  |                                       |

## **SECOND SCHEDULE**

### **Legal Description**

**BORE 871:** All that parcel of land containing 1298 square metres more or less being Lot 16 on deposited Plan 15373 and being part Section 27 Suburbs of Rotorua

**BORE 687:** **FIRSTLY** an estate in fee simple as to an undivided one-third share in all