

Water User Agreement

Between

Acton Farmers Irrigation Cooperative Limited

and

**The Person/Company/Other Entity named
and described in the First Schedule together
with the Successors and Permitted Assigns
of that Party**



WATER USER AGREEMENT

PARTIES

- (1) **ACTON FARMERS IRRIGATION COOPERATIVE LIMITED** at Ashburton (*the Company*)
- (2) **THE PERSON/COMPANY/OTHER ENTITY** named and described in the First Schedule together with the successors and permitted assigns of that party (*the Farmer*)

BACKGROUND

- A The Company is a party to a licence agreement with BCI to take 3 cumecs of Water from the Rakaia River under the BCI Consents for irrigation on terms and conditions set out in the BCI Licence including that the Farmer using the water will at all times hold shares in BCI.
- B The Company has agreed to supply Water to the Farmer for the purposes of irrigating the Property as defined in this Agreement and as set out in the Schedules subject to the terms and conditions set out in the BCI Licence and otherwise on terms and conditions set out in this Agreement.

IT IS AGREED

1 DEFINITIONS

- 1.1 In this Agreement unless the context otherwise requires:

Acton Scheme Area means that area in Mid Canterbury South of the Rakaia River and East of State Highway 1 including existing properties serviced by the Scheme and such new properties as the Company may determine in its discretion;

ADC means Ashburton District Council;

ADC Licence means the Company's agreement with ADC for the Company to occupy, use and construct the Scheme utilising parts of the stock water infrastructure in the Acton Scheme Area owned or controlled by ADC;

Agreement means this agreement to supply Water by the Company to the Farmer and includes any variations and replacement to this agreement that may be applicable from time to time;

BCI means Barrhill Chertsey Irrigation Limited and includes its successors and assigns;

BCI Consents mean the resource consents enabling BCI to take water out of the Rakaia River for irrigation purposes as set out in Schedule 2 including any renewals, variations or replacements of such consents;

BCI Licence means the Company's licence from BCI to take 3 cumecs of Water from the Rakaia River under the Resource Consents;

BCI Shares means the shares in BCI specified in Schedule 1;

Best Practice means the exercise of that degree of skill, diligence, prudence, foresight and economic management which would reasonably and ordinarily be expected from a skilled operator of an irrigation scheme;

Board means the Board of Directors of the Company;

Business Day means any day of the week, other than Saturday, Sunday or statutory holidays, on which banks are open for business in Ashburton;

Company Consents means the resource consents applicable to the construction and operation of the Scheme whether held by the Company or BCI including without limitation those consents set out in Schedule 3 including all renewals, replacements and variations of such consents;

Connection Point means each point designated by the Company where the irrigation infrastructure connects to the Farmer's Works;

Constitution means the constitution of the Company from time to time;

Default Interest means interest at the highest rate which the Company may be paying on facilities entered into between the Company and its bankers and where such facilities do not exist the rate which the Company would pay on a bank overdraft in both cases together with a margin of 4% per annum. The appropriate interest rate shall be determined on the date of default and thereafter on the last Business Day of each calendar month by reference to the appropriate rate on that date determined as aforesaid;

Distribution Charges means the annual charges relating to the construction of the Distribution System and the servicing and repayment of any debt in respect of the Distribution System;

Distribution System means the pipes, races, valves, gates and other equipment used by the Company from time to time to take Water from the Rakaia River and to distribute the Water to each Connection Point (and includes without limitation each Connection Point) including extensions to the current distribution system;

Excess Water means any water which the Board determines is water which the Farmer is entitled to take but is not being taken and utilised by the Farmer;

Farmer's Works means the works to be constructed by the Farmer that connect at the Connection Point to the Distribution System to enable the Farmer to take Water from the Distribution System;

Force Majeure Event means any event or circumstance, or combination of events and circumstances:

- (a) that causes or results in preventing or delaying a party from performing any of its obligations under this Agreement; and
- (b) which is beyond the reasonable control of that party, or the effects of that event or circumstance, or that combination of events or circumstances, could not have been prevented or delayed, overcome or remedied by the exercise by the party of a standard of care and diligence consistent with Good Industry Practice, which occurs after the date of this Agreement and, provided that the event or circumstance or combination of events or circumstances meets the foregoing criteria, included:
 - (i) an act of God;
 - (ii) strike or lockout, act of public enemy, war (whether declared or undeclared), blockade, revolution, riot, insurrection, malicious damage, civil commotion;
 - (iii) lightning, landslide, cyclone, storm, flood, fire, earthquake, explosion, tidal wave, epidemic or freezing;

- (iv) action, inaction, demand, restraint, restriction, requirement, prevention, frustration or hindrance by any Governmental Agency or other competent authority;
- (v) order of the Court;
- (vi) embargo, unavailability or shortage of essential equipment, or other materials, goods, labour or services, lack of transportation or communication;
- (vii) any breakage of plant, equipment, machinery, lines or pipes, washout, subsidence or cave in or water pressure stoppages; or
- (viii) restraint on access to property;

HSWA means the Health and Safety at Work Act 2016;

Licences means the BCI Licence and ADC Licence;

Management Plan means any farm Management Plan implemented from time to time by the Company and provided to the Farmer; or required to be provided by the Farmer and approved by the Company, and required to be observed by the Farmer in respect of the Farmer's farm practices and management and the use of Water supplied by the Company;

Metering Equipment means the metering equipment to be installed by the Company at the Farmer's Connection Point for the purpose of measuring the total quantity of Water supplied by the Company to the Farmer's Connection Point;

Operating Costs means the annual costs of operating the Scheme and the Distribution Scheme including all management and maintenance costs;

Property means the property set out in Schedule 1;

Rate means the Bank of New Zealand Limited's wholesale primary rate per annum for commercial overdrafts;

Resource Consents means the BCI Consents and the Company Consents;

Scheme means the distribution of Water within the Acton Scheme Area via the Distribution System;

Scheme Management Plan is a plan prepared by the Company for the management and operation of the Scheme as updated from time to time by the Company and to be observed by the Farmer;

Shares means shares in the Company;

Special Charges means any extra ordinary charges which the Board determines should be paid by all Farmers or by any group of Farmers relating to the Scheme;

Storage Agreement means every agreement entered into by the Company under which water is stored for the Company for release at such times as normal run of the river water flows would not otherwise be available to the Company for extraction;

Storage Charges means the charges payable by the Company to BCI or Trustpower Limited or any other entity for storing and releasing water into the Rakaia River;

Stored Water means water which has been stored for the Company and which can be

released for delivery to farmers as determined by the Company when water is not otherwise available pursuant to a Stored Water Agreement;

Statutory Requirements means all requirements to be met by the Company in relation to the Resource Consents or under any other regulations, by-laws, directions or plans introduced by any local authority, regional council, Government department or other statutory body and includes requirements under the Licences;

Water means any Water supplied under this agreement for irrigation purposes;

Water Charges means the charges payable under this Agreement including Distribution Charges, Operating Costs, Special Charges, Storage Charges, BCI Charges and Charges payable by the Farmer for Excess Water;

Year means each 12 month period commencing on the 1st day of September in each year.

1.2 In the construction of this Agreement, unless the context requires otherwise:

clauses: reference to a section, clause, sub-clause, schedule or a party is a reference to that section, clause, sub-clause, schedule or party to this deed unless stated otherwise;

headings: headings appear as a matter of convenience and do not affect the construction of this Agreement;

inclusion: referring to anything after the word "including" does not limit what else might be included and any such reference is without limitation to what else might be included;

joint and several: any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;

legislation: a reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision;

negative obligations: a reference to a prohibition against doing anything includes a reference to not permitting, suffering or causing that thing to be done;

parties: a reference to a party to this deed or any other document includes that party's successors and permitted assigns;

person: a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

related terms: where a word or expression is defined in this deed other parts of speech and grammatical forms of that word or expression have corresponding meanings;

schedules: the schedules and any annexures to this deed form part of this deed;

singular, plural and gender: the singular includes the plural and vice versa, and words importing one gender include the other gender.

2 HOLDING OF SHARES

2.1 The supply of Water by the Company to the Farmer is conditional upon the Farmer holding:

- (a) One Share in the Company for every litre per second of Water supplied to the Property as is set out in Schedule 1;
 - (b) BCI Shares as is set out in Schedule 1 for every litre per second of Water supplied for the Property.
- 2.2 The Farmer agrees that the Company may change the number of Shares required to be held by a Farmer to qualify for the supply of Water provided the same standards as to the number of shares to be held shall apply to all farmers taking water from the Scheme.
- 2.3 The supply of Water under this agreement is conditional upon the Farmer continuing to hold the Shares as set out in Schedule 1 or specified under clause 2.2 to the intent that if the Farmer shall at any time cease to hold those Shares, or cease to use the Water to irrigate the Property, except as provided for under clause 2.4(d), then the Company may exercise a number of rights including suspending the supply of water, varying that supply or terminating the supply of Water to the Farmer. If the Company ceases to supply Water to a Property, except where a Farmer requests a suspension in the supply of water for a specified period, then the Company may redeem or require the Farmer surrender the Shares in accordance with the Constitution.
- 2.4 Water to which a Farmer is entitled shall be transferable by the Farmer only in the circumstances set out below:
 - (a) **Sale of Property:** Where the Property is being transferred with the Shares held by the Farmer relating to that Property by that transferee signing a Water Agreement and holding the Property and Shares in the same names; or
 - (b) **Transfer to another Property:** To another property owned or farmed by the Farmer with the prior written consent of the Company, which consent may be withheld without giving any reason or be given on such conditions as the Company determines, provided that the property to which the Water is delivered is within the Acton Scheme Area and can be economically serviced from the Distribution System; or
 - (c) **Transfer of Shares and Water Rights:** The Shares and the right to Water attached thereto may be transferred to a person or entity that owns or farms a property in the Acton Scheme Area subject to:
 - (i) the prior written consent of the Company which consent may be withheld without giving any reason or may be given on such conditions as the Company determines including the entering into of a Water User Agreement; and
 - (ii) the Distribution System having the capacity and capability of delivering that water to the property in the Acton Scheme Area as requested by the proposed transferee of shares.
 - (d) **Licensing of Water:** A Farmer may license the right to Water to a person who farms a property within the Acton Scheme Area which is serviced by the Distribution System subject to:
 - (i) the prior written consent of the Company;
 - (ii) that licensee signing such documents as may be required by the Company;
 - (iii) the Farmer holding that right to Water continuing to be liable to pay all Water Charges and being responsible for compliance by that licensee with all obligations under this agreement;

- (iv) any licensing of that Water being notified to the Company prior to the start of an Irrigation Season or as approved by the Board;
- (v) such other terms and conditions as the Company considers appropriate;
- (vi) the licensing is for a specified term as notified to and approved by the Company;
- (vii) the distribution of that Water will comply with and meet the requirements of all Statutory Requirements and any Regulatory Policies; and
- (viii) the Distribution System having the capacity and capability of delivering that water to the farm of that licensed person.

2.5 Where a Farmer requests the Company to deliver Water to a Property within the Acton Scheme Area that is not connected to the Distribution System then the following provisions shall apply:

- (a) the Company may decline or accept such request on such terms and conditions as the Company determines;
- (b) as part of the terms and conditions in giving approval the Company may require the Farmer making such request to:
 - (i) pay all costs and expenses in installing a Connection Point or other connection and any race or pipeline, including any Metering Equipment as specified by the Company, from the Distribution System to the relevant Property;
 - (ii) obtain all easements, consents and approvals (to be registered in favour of the Company) required to install, lay, maintain and replace any structure, race or pipeline;
 - (iii) vest all easements and any new structures including the extended races and pipelines in the Company;
 - (iv) obtain and implement all electricity and media easements including the installing of all media lines, electricity lines and telemetry needed or required to support the delivery of water;
 - (v) pay all charges in connecting the Farmers Works to the Connection Point for delivery of water; and
 - (vi) obtain all resource consents, and other statutory and regulatory consents required or necessary to carry out and implement that extension to the Distribution System.
- (c) The approval of the Company may be given subject to such other terms and conditions (including any variation to the requirements of sub-clause 2.5(b)) as the Company considers appropriate.

2.6 Where under clause 2.5 the Company is required to upgrade the Distribution System then notwithstanding that the Farmer may be required to meet the cost of upgrading the Distribution System all rights to, and property in, the upgrade, up to the Farmer's side of the Connection Point, shall be the property of the Company.

3 SUPPLY OF WATER

- 3.1 The Water to be supplied by the Company to the Farmer shall only be used for stock water (subject to clause 8.1(b)) and irrigating the Property and shall not be used for any other purpose except with the consent of the company the giving of such consent being at the sole discretion of the Company.
- 3.2 The supply of Water is always subject to the availability of Water, compliance with the Resource Consents and the Licences, any Management Plan, the Scheme Management Plan and with all Statutory Requirements.
- 3.3 Water will only be available to the Farmer during such periods as the Company has Water available for supply to the Farmer and the Company does not guarantee that Water will be supplied at the delivery rate or pressure referred to in Schedule 1.
- 3.4 The Company will use reasonable endeavours to deliver the volume of water, and where applicable at the rate and pressure, as set out in Schedule 1 but the Company shall have no liability, whether in contract, tort (including negligence), equity or otherwise, arising from or in relation to, any failure or inability to supply the Water at the rate and at the pressure specified in Schedule 1.
- 3.5 The volume of water, rate at which water may be taken and pressure at the Connection Point is set out in Schedule 1 and such Water is to be supplied at such intervals as the Company may from time to time determine in accordance with clause 4.
- 3.6 The Farmer shall not apply water, including any water which has been taken from other sources, at a rate exceeding 0.6 litres per second for each hectare of the Property irrigated by the Farmer.

4 DELIVERY SYSTEM FOR WATER

- 4.1 The Company may from time to time provide to all Farmers who are entitled to Water from the Scheme a policy relating to the supply of that Water, taking into account the following factors:
- (a) the restrictions that may be placed on the supply of that Water due to insufficient Water being available for take from the Rakaia River under the Resource Consents and the requirement for that Water to be equitably distributed to all Farmers entitled to that Water;
 - (b) the requirement under the Management Plan and Scheme Management Plan for restricting the supply of Water;
 - (c) any requirements under any Statutory Requirements for restricting the supply of that Water;
 - (d) the right to manage the supply of that Water so it is supplied at varying intervals and rates and for varying periods during the Year to meet as far as may be practicable the requirements of Farmers during the Year.
- 4.2 The Company shall not be liable to any farmer for any failure to deliver Water provided the Company shall use all reasonable endeavours to ensure Water will be supplied if available.
- 4.3 The Company will at all times seek to act in an equitable manner as between all Farmers entitled to Water so that they all receive a fair proportion of Water, based on the volume to which they are entitled, during each Irrigation Season. If the Farmer acts in a way that could

prejudice or breach in any manner the Resource Consents or Licences held by the Company, or acts in breach of any Management Plan or the Scheme Management Plan of the Company then the Company may restrict the supply of Water to that Farmer after giving reasonable notice to that Farmer of the requirement to so comply with those requirements.

5 EXCESS WATER

- 5.1 This clause applies to any water which the Board determines is water to which a Farmer is entitled that is not being taken and utilised by that Farmer. That water being Excess Water may be dealt with by the Company provided that the right of the Farmer to take the Water under this agreement is not detrimentally affected but subject to the provisions of Clause 5.2.
- 5.2 The Company may enter into arrangements relating to Excess Water by:
- (a) allocating or licensing the right to use that Excess Water on such terms and conditions as the Company considers appropriate;
 - (b) establishing a trading platform or system (including policies and guidelines for implementing the same) for trading rights to any Excess Water;
 - (c) determining the terms and conditions under which that Excess Water is allocated and/or distributed within the Acton Scheme Area; and
 - (d) requiring those farmers who are allocated Excess Water to pay such charges as the Board determines for the supply of that water.
- 5.3 Where, due to the mechanical failure or other inability to deliver water in respect of the Scheme, a farmer fails to receive an equitable quantity of available water then that shortfall shall be made up before Excess Water is made available to other farmers.
- 5.4 The allocation of Excess Water under clause 5.1 is entirely at the discretion of the Company and there shall be no right of the Farmer to demand the supply of any Excess Water. The Company shall use reasonable endeavours to act in an equitable manner when allocating Excess Water.

6 INSTALLATION OF FARMER'S WORKS

- 6.1 The Farmer shall be responsible at its cost for installing and maintaining all of the Farmer's Works as may be required by the Farmer to take and distribute Water beyond the Connection Point.
- 6.2 The Farmer shall only use the volume of Water as set out in Schedule 1 and to be supplied by the Company on the Property and in distributing the Water on that Property the Farmer shall:
- (a) only distribute that Water in accordance with Best Practice in compliance of the Resource Consents, the Licences, the Statutory Requirements and the requirements of any statutory body;
 - (b) utilise a system and equipment, and apply and use methodologies as may be prescribed by the Company as being Best Practice from time to time;
 - (c) comply with any Management Plan approved by the Company under Clause 7 and the Scheme Management Plan;
 - (d) comply with the policy notified to farmers under clause 4.1.

- 6.3 The Farmer shall not operate any plant, equipment, Farmer's Works or other works on the Farmer's Property in a manner that could affect the distribution of Water by the Company, damage any part of the Distribution System or in a manner that may be detrimental to the Distribution System of the Company.
- 6.4 The Farmer and the Company shall ensure that all irrigation on the Property to which Water is distributed shall be carried out in accordance with Best Practice and also in accordance with any Management Plan and related environmental requirements from time to time applicable to the distribution of Water and which traverses all terms and provisions of Resource Consents, Statutory Requirements, Best Practice and Company policies including the Scheme Management Plan that may be applicable from time to time.

7 **MANAGEMENT PLANS**

Farm Management Plan

- 7.1 Each Farmer who is taking Water from the Company may be required to prepare and implement a farm Management Plan for irrigated land use to demonstrate how the Farmer is actively managing use of the Water to achieve high standards of environmental management and optimise on the Property production from irrigation. For this purpose:
- (a) the Farmer will submit a farm Management Plan to the Company within 60 Business Days from such date as specified by the Company;
 - (b) the Farmer will also submit a copy of the farm Management Plan to BCI;
 - (c) the farm Management Plan shall provide a risk management plan and approach to environmental protection enhancement on the Property;
 - (d) the farm Management Plan may include the following matters:
 - (i) irrigation management;
 - (ii) soils management;
 - (iii) nutrient management;
 - (iv) collected animal effluent management;
 - (v) biodiversity and ecosystem management;
 - (vi) Waterway and riparian management;
 and shall include:
 - (vii) such other matters as the Company may require from time to time; and
 - (viii) any matters required to be included under the BCI Consents as advised by the Company or BCI to the Farmer.
- 7.2 Each Farmer shall also in addition to the requirements in any approved Farm Management Plan comply with all other industry quality assurance programmes, codes of practices, specific regulatory and legal requirements, and all other requirements to ensure Best Practice is maintained in respect of the operation of irrigation on the Farmer's Property.
- 7.3 The Company and BCI shall each have the following rights in respect of a Management Plan submitted by the Farmer:

- (a) to require alterations and additions to that plan to ensure that it meets with Best Practice and Company policies;
 - (b) to impose further terms and conditions that must be included in that Management Plan to ensure that the farm Management Plan meets Best Practice and also meets all requirements under any statute, regulation, by-law or other Statutory Requirements including the directions or requirements of any regulatory authority.
- 7.4 The Farmer and the Company agree to comply with all codes of practice and guidelines which are applicable to the use of Water for irrigation and will also comply with any restriction or request given to the Farmer by any regulatory authority in respect of farm management practices on the Property.
- 7.5 The Company may publish a Scheme Management Plan for management of the irrigation Scheme. The Company will at all times be responsible for the enforcement of any applicable Scheme Management Plan and, to the extent required, the Farmer will comply with the terms and provisions of the Scheme Management Plan. The Farmer acknowledges that the Scheme Management Plan is an essential element for the continuity of the Resource Consents and the Licences and must be complied with in all material respects.
- 7.6 In the event that the Farmer breaches any of the terms and conditions of this agreement or any of the provisions contained in the Management Plan (if applicable) or Scheme Management Plan then:
- (a) the Company may give notice of breach to the Farmer as set out in clause 21 and if necessary terminate this Agreement as set out in clause 22; and
 - (b) BCI may give notice of the breach to the Farmer (copied to the Company).
- 7.7 If BCI notifies the Company that any notice issued by BCI under clause 7.6 has not been complied with by the Farmer, the Farmer agrees that the Company may cease supplying Water to the Farmer until the breach specified in the BCI notice is remedied.

8 MANAGEMENT OF THE SUPPLY OF WATER

- 8.1 The Farmer acknowledges and accepts in respect of the supply of Water by the Company that:
- (a) it is the obligation of the Farmer to determine from the Company the volume of Water available, whether any restrictions apply, and if any Excess Water is available;
 - (b) the Water may not be potable and may not be used for stock or for any purpose except irrigation;
 - (c) requests for the delivery of Water by the Company shall be undertaken in accordance with such procedures as the Company may establish and maintain from time to time;
 - (d) if the availability of Water to the Company for distribution to farmers is diminished or must be suspended in any way then the Company shall make Water available to the Farmers only insofar as it is practicable for it to do so and in an equitable manner between all farmers entitled to that Water. If the Company has to reduce supply then it shall be entitled to do so in such manner and in such shares and proportions as in its sole discretion the Company may determine;
 - (e) if under any resource consents relating to the Property there is a restriction as to the volume of water per day that can be applied per hectare on that Property or any other like restriction then if the Farmer has more than one supply of water for irrigation and breaches any such restriction the Company may reduce the volume of Water delivered to the Farmer or cease supplying Water until that restriction is met.

- 8.2 The Farmer shall have no right of action against the Company nor any entitlement for damages or compensation of any nature whatsoever in any of the following circumstances:
- (a) a failure by the Company to supply Water in terms of this Agreement; or
 - (b) as a result of any reduction in the supply of Water; or
 - (c) if there shall be any matter relating to the quantity or quality of Water supplied to the Farmer.
- 8.3 The Water shall be available at such Connection Point as the Company may from time to time determine and shall be measured by a device specified by the Company and maintained by the Company. The Company shall have the right at any time to enter the Property and change the device used for measuring and controlling water supplied to the Farmer.
- 8.4 The Farmer shall not alter or interfere with such metering equipment or allow any person to do so. The Farmer shall be responsible for any damage caused to the metering equipment (fair wear and tear excepted) and shall pay the costs incurred by the Company in replacing the metering equipment if damaged due to the act or omission of the Farmer.
- 8.5 The Farmer shall not take from a Connection Point more Water than the Farmer's entitlement pursuant to this Agreement or otherwise than in accordance with any Resource Consent, Management Plan or Scheme Management Plan.
- 8.6 The Company shall read the metering equipment at such intervals as the Company determines and advise the Farmer of the volume of Water used. The information from the metering equipment shall be taken to be correct unless there is a manifest error in that information.

9 INTERRUPTION TO SUPPLY OF WATER

- 9.1 The Company may interrupt or reduce the supply of Water at any time the Company reasonably considers it necessary to do so for planned and unplanned interruptions in accordance with this clause.

Planned Interruptions

- 9.2 The Company may interrupt or reduce the supply of Water at any time in situations where the Company determines the need for the interruption in accordance with Best Practice to:
- (a) enable the Company to inspect, effect alterations, maintenance, repairs or additions to any part of the Irrigation Infrastructure; or
 - (b) avoid the risk of danger to persons, damage to Property or interference with the regularity or efficiency of the supply of Water; or
 - (c) preserve and protect the proper working of the Irrigation Infrastructure.

Unplanned Interruptions

- 9.3 The Company may interrupt or reduce the supply of Water at any time in situations where the Company does not know of the need for the interruption in advance, including without limitation:
- (a) faults in the Distribution System caused by equipment failure, accident, storm or similar event; or
 - (b) emergencies; or

- (c) an event of Force Majeure.
- 9.4 Where the Company interrupts delivery pursuant to clause 9.2 the Company shall give prior written notice to the Farmer and the Company shall liaise with the Farmer over the timing of the interruption to minimise inconvenience to the Farmer.
- 9.5 Where the Company interrupts supply pursuant to clause 9.3, as soon as it is practicable the Company shall report to the Farmer:
- (a) the area affected by the interruption;
 - (b) the reasons for the interruption; and
 - (c) the expected duration of the interruption.
- 9.6 In all situations of interruptions the Company shall use reasonable endeavours to minimise the period of interruption.

10 RESPONSIBILITY OF FARMER

- 10.1 The Farmer shall be responsible for all work carried out on the Farmer's Property from the Connection Point including the installation of all plant, equipment, pipes, electrical connections and other works to distribute Water on the Farmer's Property and for any other works to be carried on that Property for the use of the Water provided by the Company.
- 10.2 Where Water is made available to the Farmer away from the Property boundary the Farmer shall be responsible at the Farmer's cost for arranging all pipes, connections and other equipment to deliver Water over the Property or any adjacent Property to that point of supply and for obtaining any easements or rights necessary for the delivery of such Water.
- 10.3 Subject to clause 2.1, the Farmer shall at all times hold the number and classes of Shares as set out in Schedule 1 or as specified from time to time by the Company. Such Shares must be held at all times while this Agreement remains in force.
- 10.4 If the Property shall be sold the Farmer shall ensure that at the same time:
- (a) notice of that sale is given to the Company;
 - (b) the Shares shall be transferred to the purchaser of the Property;
 - (c) the purchaser of the Property shall be required to enter into a new water agreement with the Company in the form then applicable.
- 10.5 The Company may withhold the supply of Water if the Farmer sells the Shares, or the Property, without at the same time complying with the foregoing provisions.
- 10.6 If part of the Property, and rights to Water, are to be transferred the Farmer must agree with the Company the basis for a new Water agreement to be executed, the Shares to be held and the Water to be supplied to the parts of the Property affected by such sale. The Company may withhold the supply of Water until Shares are held by, and a Water agreement is entered into, with the purchaser of part of the Property and the rights under this Agreement have been reviewed to take into account the transfer of part of the Property. If the continuity of the supply of Water becomes uneconomic the Company may refuse to consent to the transfer of any rights to Water.
- 10.7 If under any Statutory Requirements the volume of water available to the Farmer for irrigation under any consents, including the Resource Consents and the Licences, is restricted or limited then the Farmer agrees to limit the water taken under all consents to ensure the

Statutory Requirements or any other conditions or requirements of any consents (including the Resource Consents) are met and complied with in all respects.

11 WATER CHARGES

- 11.1 The Company shall prior to the commencement of each Year determine and fix Water Charges at such figures as the Company shall reasonably determine, having regard to the amounts required to fund its funding and operational requirements for that year which Charges shall be charged to, invoiced and paid by the Farmer monthly or at such other time or times as the Company may require and shall be payable monthly. The Charges shall include, and be levied on, the following basis:
- (a) Distribution Charges to cover the capital servicing costs of the Distribution System and all charges for the Licences;
 - (b) Operating Costs relating to the management and operation of the Distribution System and distributing Water through the Distribution System;
 - (c) BCI Charges under the BCI Licence as determined under clause 13;
 - (d) for Stored Water on a cubic metre basis pursuant to a Stored Water Agreement;
 - (e) for Excess Water on a litres per second basis based on the volume of Excess Water supplied as the Company shall determine from time to time;
 - (f) any Special Charges;
 - (g) the Water Charges may be reviewed annually and may increase by such sum as the Company shall determine having regard to:
 - (i) the annual cost of the Scheme including financing and debt repayments;
 - (ii) any necessary capital works required in respect of infrastructure within the Scheme;
 - (iii) external factors such as interest rates, contract charges for use of other facilities or similar charges then the charges; and
 - (iv) fees payable under the Licences.
 - (h) the Distribution Charges, Operating Costs and BCI Charges are payable regardless of the volume of Water supplied or used;
 - (i) Water Charges shall be paid by direct debit from the bank account specified by the Farmer and the parties will sign all forms necessary to enable Water Charges to be paid by this method;
 - (j) if required by the Company or BCI to do so, the Farmer shall pay all BCI Charges direct to BCI rather than the Company, in satisfaction of the Company's obligations to BCI under the BCI Licence;
 - (k) the Farmer agrees that any BCI Charges paid by the Farmer to the Company will be accounted for by the Company to BCI.
- 11.2 If the Farmer does not make payment of the Water Charges on due date then, (provided written demand has been made) the Company shall be entitled to charge the Farmer interest on any amount outstanding from due date until payment in full at the Default Rate. Such sum

may be recovered as a liquidated debt due by the Farmer to the Company and is a secured payment under the encumbrance provided by the Farmer under clause 17.

- 11.3 The Farmer acknowledges that the charges payable under clauses 11.1 (a), (b), (c), (d) shall be payable by the Farmer notwithstanding that:
- (a) the Farmer may not have consumed any Water during the relevant charging period; or
 - (b) the Company may have been unable to supply Water to the Farmer for all or part of the relevant charging period (provided that such non supply was not due to the wilful default of the Company).
- 11.4 All charges shall be on a plus GST basis.
- 11.5 The Operating Costs under clause 12.2(b) shall be assessed and paid as follows:
- (a) an annual assessment shall be made by the Company of the Operating Costs that will be payable by each farmer for the next year and those charges shall be paid on a monthly basis by farmers to the Company;
 - (b) if at the end of each year it is found there has been an overcharge then the overcharge shall be credited towards the next year's charges for farmers, which shall be reduced accordingly;
 - (c) if at the end of the year there has been an undercharge then the undercharge shall be recovered in the next year by the charges to farmers being increased to compensate for the under recovery in the previous year.
- 11.6 A Special Charge shall be payable as determined by the Board and may be an extra ordinary charge payable by all farmers, or a specified group of farmers, in such manner and proportions as the Board determines is equitable.
- 11.7 Notwithstanding a Special Charge may be payable by a specified group of farmers from time to time, in particular for the provision of extra ordinary services, the Company reserves the right to charge such farmers on a like for like basis with other farmers who receive the same or substantially similar services.

12 **STORED WATER**

- 12.1 The Company may agree to supply and the Farmer may agree to take and use Stored Water on the terms and conditions set out in this Agreement and a Stored Water Agreement, and as otherwise determined by the Company from time to time.
- 12.2 The supply of Stored Water is subject to and conditional on:
- (a) the Farmer being party to and complying with a current Water Agreement between the Farmer and the Company;
 - (b) the Farmer completing an application for Stored Water in the form set out in Schedule 4;
 - (c) the Company entering into agreements in respect of the supply of Stored Water on terms and conditions satisfactory to the Company in all respects;
 - (d) Stored Water being supplied in accordance with the terms and conditions of any agreement the Company may enter into in respect of the Stored Water; and

- (e) The Farmer and the Company entering into a Stored Water Agreement in respect of any Stored Water.
- 12.3 The supply of Stored Water is conditional upon the Farmer continuing to hold the Shares as set out in Schedule 1 or specified under clause 2.2 to the intent that if the Farmer shall at any time cease to hold those Shares, or cease to use the Water to irrigate the Property, except as provided for under clause 2.4(d), then the Company may exercise a number of rights including suspending the supply of Stored Water, varying that supply or terminating the supply of Stored Water to the Farmer.
- 12.4 The Company shall notify the Farmer of any policy and process for ordering Stored Water. If the Farmer orders Stored Water the Company shall release such Stored Water provided it is economic for the Company to do so having regard to, but not limited to, the aggregate volume of Stored Water ordered.
- 12.5 The Farmer shall pay Storage Charges in addition to other charges payable under this Agreement based on the cost to the Company incurred in securing and supplying Stored Water to the Farmer including:
- (a) a proportion of cost of securing the Stored Water; and
 - (b) a proportion of the actual cost of the Stored Water supplied to the Farmer.

13 **BCI CHARGES**

- 13.1 The BCI Charges payable by the farmers utilising the Scheme shall be the following aggregate amounts:
- (a) an annual charge equal to a fair and proportionate share of the administrative costs of BCI incurred in the administration of BCI;
 - (b) all costs incurred by BCI in administering the Scheme; and
 - (c) a fair and proportionate share of all costs incurred by BCI in meeting all conditions under the BCI Consents and renewing, varying or otherwise protecting the rights under those consents.
- 13.2 These aggregate costs shall be recoverable from farmers receiving Water in proportion to the volume of Water taken by each farmer in each year up to and including 31 March. The Company shall provide to BCI all information on the supply of Water to each farmer to enable such charge to be assessed.
- 13.3 BCI will provide (either directly or via the Company) to all farmers taking Water from the Scheme an annual estimate of the Water Charges to be recovered under clause 13.1 and those charges shall be payable on an annual basis by those farmers to BCI (or to the Company on behalf of BCI) with payments to be made by equal monthly instalments. At the end of each financial year BCI shall report to the farmers the actual costs incurred by BCI under clause 13.1 for the preceding year.
- 13.4 The BCI Charges under clause 13.2 shall be assessed and paid as follows:
- (a) an annual assessment shall be made by BCI of the charges that will be payable by each farmer for the next year and those charges shall be paid on a monthly basis by farmers to the Company on behalf of BCI;
 - (b) if at the end of each year it is found there has been an overcharge then the overcharge shall be credited towards the next year's charges for farmers, which shall be reduced accordingly; and

- (c) if at the end of the year there has been an undercharge then the undercharge shall be recovered in the next year by the charges to farmers being increased to compensate for the under recovery in the previous year.

13.5 The costs recoverable by BCI under clauses 13.1 to 13.3 shall be collected from farmers by the Company as the agent for BCI and forthwith upon receipt of such costs the Company shall account to BCI for any moneys so collected including GST.

14 **ADJUSTMENTS TO CHARGES**

14.1 Notwithstanding the provisions of clauses 12 or 13, throughout the term of this Agreement the Company may vary the Charges to effect an equitable pass through of any increase or decrease in the prices charged to the Company in respect of any of the components of the Water Charge, where increase or decrease in price may occur.

15 **EASEMENTS**

15.1 In consideration for agreeing to supply Water to the Farmer, the Farmer agrees to grant such easements in gross over the Property on terms and conditions as the Company may reasonably require in relation to the laying of pipes, electricity cables and lines, telecommunications, computer media and the installation of plant, equipment and measuring devices relating to the Distribution System, as reasonably required by the Company for the purposes of delivering water for irrigation. Such easements shall be granted with no compensation being payable to the Farmer by the Company. The Company will prepare at its cost any easements and survey plans necessary for those easements and the Farmer will ensure the owner of the Property promptly executes and facilitates registration of those easements. The Company will bear any costs incurred by the Farmer in relation to the registration of those easements.

15.2 If the Farmer shall fail to sign any easement or documents reasonably required by the Company pursuant to the terms of this Agreement then after giving 10 Business Days' notice of its intention to do so any director of the Company may sign those easements or documents on behalf of the Farmer and the Farmer hereby irrevocably appoints each director of the Company as the attorney of the Farmer for those purposes.

15.3 The Company will give notice to the Farmer of the requirement to obtain any easements and consult with the Farmer in respect thereof. The Company will only exercise its power under this clause to obtain such easements as may be reasonably required for the effective operation of the Scheme and will take into account the reasonable requirements of any Farmer in exercising the said rights.

15.4 The Company and its agents and contractors may remove such soil and gravels (material) as required to construct any infrastructure on the Property as provided for in the easement. The Farmer may request the Company to transfer that material and utilise the material within the Property in proximity to the location where the material is extracted. Otherwise the Company shall remove the material from the Property and ownership of that material shall pass to the Company. The parties may by agreement determine other methods of disposal of that material.

15.5 If any material is extracted as set out in clause 15.4 the Company may temporarily store that material on the Property adjacent to the area from which the material is extracted. The Company shall reinstate as near as may be reasonably practicable to its original state the area on which the material is stored after its removal.

16 **HEALTH AND SAFETY**

16.1 The Farmer agrees:

- (a) to consult, cooperate and coordinate activities with the Company so far as is reasonably practicable;
- (b) to ensure its directors, contractors, servants, employees, agents and invitees comply with all reasonable health and safety directions given by the Company;
- (c) to comply with all obligations imposed on the Farmer and its workers (as defined in the HSWA) under the HSWA and all regulations made under that Act and at law as owner of the Land in relation to the health and safety of persons on or in the vicinity of the Land;
- (d) to produce a health and safety management plan for the Land when required by the Company;
- (e) to provide a register of all known hazards in respect of the Land when required by the Company and immediately advise the Company should they become aware of any new hazards having arisen;
- (f) to allow the Company from time to time, if it considers there is an emergency involving health and safety, to temporarily exclude entry by all person to the Easement Land.

17 ENCUMBRANCE

- 17.1 The Farmer agrees that the Company may register an encumbrance (on the Company's standard terms) against the title to the Property to comprise security to the Company for the Farmer's obligations under this Agreement.
- 17.2 The Farmer shall execute all such documents required for the Company to register an encumbrance under this clause 17 and shall procure the consent of any mortgagee of the Property for the registration of such encumbrance.

18 TERM OF AGREEMENT

- 18.1 This Agreement shall come into force and effect on the Commencement Date set out Schedule 1 and shall continue until 28 January 2035 unless terminated earlier in accordance with the terms of this Agreement. If the Resource Consents and Licences are renewed or extended beyond 28 January 2035 so that Water can continue to be delivered on the terms and conditions of this Agreement (or any varied agreement pursuant to clause 28) then this Agreement shall be extended for a further period until the expiry of the earlier of the Licences or of the Resource Consents.

19 RIGHT OF ENTRY

- 19.1 The Company and its servants, agents, employees, contractors and workmen, shall have the right at any time from time to time without being deemed to commit a trespass and without payment of compensation for damages to enter upon the Property or any land owned by or in the control of the Farmer for all or any of the following purposes:
- (a) to gauge or otherwise determine the quantity of Water used by the Farmer;
 - (b) to view the condition of pipes, works and Metering Equipment at the Connection Points;
 - (c) to carry out any maintenance required on the irrigation infrastructure.
- 19.2 The Farmer shall ensure that access to any pipeline, Water race or other structure or device used in the control and management of the Water conveyed in the Distribution System is kept available and in respect of any future structures, works or developments on the Farmer's land

will ensure that such development does not impede, restrict, limit or otherwise in any way inhibit or impair access or adversely affect such pipelines, Water races, structures or devices.

20 ACCESS TO THE DISTRIBUTION SYSTEM

20.1 The Farmer agrees to provide the Company at all reasonable times with safe and unobstructed access onto the Property and/or any land owned by or in the control of the Farmer, to the Distribution System and any part of the Farmer's Works:

- (a) to install, replace, modify, repair or maintain all infrastructure, equipment and associated fittings and any other pipes or equipment forming or to form part of the Distribution System;
- (b) examine, read or test any metering equipment, whether measuring supply under this Agreement or otherwise;
- (c) to protect or prevent danger or damage to persons or property;
- (d) to ascertain the cause of any interference to the supply of Water;
- (e) to disconnect or reconnect the supply of Water;
- (f) any other purpose reasonably connected to the supply of Water by the Company to the Farmer; and
- (g) any other purpose reasonably connected to the supply of water to other farmers by the Company.

20.2 In exercising its rights of access the Company shall use all reasonable endeavours to ensure that:

- (a) where practicable the Farmer is given reasonable notice of intention to, and the purpose for which right of access will be exercised;
- (b) as little interference to the Farmer's farming requirements as practicable occurs in carrying out such works; and
- (c) Best Practice is complied with.

21 BREACH OF AGREEMENT

21.1 In the event of the Farmer committing any breach of the terms of this Agreement and such breach continues after written notice from the Company requiring such breach to be remedied, the Company may, without payment of any damages or compensation to the Farmer or any other person:

- (a) reduce the supply of Water to the Farmer either permanently or until such time as such breaches have been made good provided that the Farmer shall nevertheless remain liable to continue paying the Charges in accordance with this Agreement;
- (b) stop the supply of Water to the Farmer either permanently or until such time as all breaches have been made good provided that the Farmer shall nevertheless remain liable to continue paying the Charges in accordance with the Agreement.

21.2 The liability of the Farmer for Charges shall continue as provided by clause 11 notwithstanding any of the above actions by the Company.

22 TERMINATION

- 22.1 The Company shall be entitled at any time immediately to terminate this Agreement if:
- (a) the Farmer ceases to hold shares in the Company or be a shareholder in BCI and ceases in the opinion of the directors of the Company to be associated or connected with the Shares but the Farmer shall remain liable for payment of all monies owing and for any antecedent breach of this Agreement up to the date of termination of this Agreement and for payment of all Charges until such liability is taken over by another Farmer or Farmers;
 - (b) the Farmer takes Excess Water without prior agreement with the Company but the Farmer shall remain liable for all monies owing and for any antecedent breach of this Agreement up to the date of termination of this Agreement;
 - (c) the Farmer interferes with the metering equipment without the consent of the Company or fails to take reasonable care of the metering equipment;
 - (d) after being given at least 15 business days' notice by the Company of a breach of this Agreement the breach is not remedied within that 15 day period. Any further breach of materially the same nature shall give to the Company the right to terminate this Agreement without further notice to the shareholder;
- 22.2 In the event the Farmer has failed to pay a call due on any Shares allotted to the Farmer in accordance with any demand made for such outstanding amount as shall be due on such Shares, such demand remaining unsatisfied for not less than 30 Business Days after being due and payable, the Company may immediately terminate this Agreement but the Farmer shall remain liable for all monies owing and for any antecedent breach of this Agreement up to the date of termination of this Agreement and for payment of all Charges until such liability is taken over by another Farmer or Farmers.
- 22.3 The Company may terminate this Agreement immediately upon notice in writing to the Farmer if the Licences are terminated for any reason.
- 22.4 In the event of the Company terminating this Agreement for any reason then the Company shall not be liable to the Farmer for any costs, damages, claims or compensation of any kind or nature whatsoever nor shall the Farmer have any right of action against the Company.
- 22.5 In the event of the Company terminating this Agreement for any reason then the Company may redeem or require the Farmer surrender the Shares in accordance with the Constitution.

23 ASSIGNMENT

- 23.1 The Farmer shall not assign transfer mortgage, charge or encumber the Farmer's interest in this Agreement without the prior written approval of the Company (which consent shall not be unreasonably withheld). No such consent will be granted where there is any actual or contingent breach of this Agreement payment or liability outstanding and due to be met by the Farmer, until such breach or default is remedied and no such consent to transfer will be provided unless the transferee holds shares in the Company and BCI according to the requirements contained in the constitution of those companies and holds the required Shares and has executed a Water Agreement with the Company.
- 23.2 If there is a change of trustees of a trust who are parties to this Agreement then the rights are assignable to the new trustees provided there is no change to the Property to which Water is being delivered.

24 **NON-WAIVER**

24.1 The failure of either party to insist in any one or more instances upon a strict performance of any of the terms of this Agreement or the waiver by either party of any term or right hereunder or any default by the other party shall not be deemed or construed as a waiver by such party of any such term, right or default in the future.

25 **FORCE MAJEURE**

25.1 If either party is unable to carry out any of its obligations under the agreement because of any event or circumstance of Force Majeure, the agreement shall remain in effect but except as otherwise provided, both parties' obligations, (other than obligations as to payment of Water charges), shall be suspended without liability for a period equal to the circumstance of Force Majeure provided that:

- (a) the non-performing party gives the other party prompt notice describing the circumstance of Force Majeure including the nature of the occurrence and its expected duration and, where reasonably practicable, continues to furnish regular reports with respect thereto during the period of Force Majeure;
- (b) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (c) no obligations of either party that accrued before the Force Majeure caused the suspension of performance are excused as a result of the Force Majeure;
- (d) the non-performing party uses all reasonable efforts to remedy its inability to perform as quickly as possible.

25.2 If the event or circumstance of Force Majeure is of such magnitude or will be of such duration that it is either impracticable or unreasonable for either party to resume its obligations under the Agreement, the parties agree to negotiate in good faith as to how this agreement may be mitigated or terminated having regard to the financial obligations then remaining or continuing that need to be met, utilising if necessary the Dispute Resolution procedures set out in clause 26.

26 **DISPUTE RESOLUTION**

Negotiation

26.1 The Farmer and the Company shall actively and in good faith negotiate to achieve the speedy resolution of any dispute or difference which may arise between them concerning any matter arising under this Agreement.

Mediation

26.2 Every dispute or difference that is not resolved by discussion between the Farmer and the Company may be referred by either party to mediation.

26.3 If a dispute has been referred to mediation then the parties shall endeavour to agree on a mediator and shall submit the matter in dispute to the mediator. The mediator shall discuss the matter with the parties and endeavour to resolve it by agreement between the parties. All discussions in mediation shall be without prejudice, and shall not be referred to in any later proceedings. The parties shall each bear the party's own costs in the mediation, and shall each pay half the costs of the mediator.

Arbitration

- 26.4 The matter in dispute shall be referred to arbitration if:
- (a) the parties have been unable to agree upon a mediator within 10 Business Days of the dispute being referred to mediation; or
 - (b) mediation has taken place and no agreement has been reached.
- 26.5 The dispute or difference shall be referred to a sole arbitrator for resolution if the Farmer and the Company agree on one, or if they cannot agree on the appointment of an arbitrator within 10 Business Days, an arbitrator will be appointed by the President for the time being of the Canterbury Branch of the New Zealand Law Society at the request of either or both of them.
- 26.6 Where the matter has previously been referred to mediation, the mediator shall not be called by either party as a witness, and no reference shall be made to the determination, if any, issued by the mediator in respect of the matter in dispute, during any subsequent arbitration on the matter in dispute.
- 26.7 The Arbitration Act 1996 will apply in the case of any difference or dispute referred to an arbitrator in accordance with this clause and the decision of the arbitrator will be final and binding on the parties.

27 ELECTRICITY LINES

- 27.1 The parties acknowledge that it may be necessary to upgrade and to construct and maintain new electricity lines and/or underground cables to enable the Company to establish, extend and operate the Scheme. The Farmer will not unreasonably withhold consent to such electricity lines and, where necessary, will grant the persons nominated by the Company reasonable access to the Farmer's land (including without limitation the Property) for the purpose of building and operating such electricity line and any necessary easements in accordance with clause 15. The Company will install such lines and cables to work in with the Farmer's farming operation and to create minimal interference for those operations.

28 VARIATION/REPLACEMENT TO AGREEMENT

- 28.1 The Company reserves the right to vary or replace this Agreement by introducing alterations to or a new agreement that will apply to all farmers taking Water from the Distribution System. Any such variation or replacement to this Agreement shall be carried out in the following manner:
- (a) a copy of the variation or new agreement, or summary thereto, shall be sent by post or email to the last known address (or email address) of the Farmer;
 - (b) the variation or new agreement shall come into effect 10 Business Days after clause 28.1(a) has been complied with by the Company or such later date as specified by the Company; and
 - (c) there shall be no requirement for the Farmer to execute a new agreement or variation and notice as set out in this clause shall be sufficient to create a variation to or new binding agreement between the Farmer and the Company.

29 BCI/PRIVITY OF CONTRACT

- 29.1 The Farmer agrees and covenants that:

- (a) it will comply in all respects with the terms of the BCI Consents and the BCI Licence and that no action will be taken and no omission made that might or could detrimentally affect the BCI Consents or the BCI Licence and in the event that the Farmer breaches the provisions of this clause then BCI shall have a right to take action against the Farmer to rectify the position or shall be entitled to be indemnified by the Farmer for any loss or damage suffered by BCI arising from a breach of this provision;
- (b) it will not have any right of action against BCI in any of the circumstances set out in clauses 7.1(b), 8.2(a), 8.2(b) and 8.2(c) of this Agreement;
- (c) the provisions of clauses 10.3, 10.4, and this clause 29 are for the benefit of the Company and BCI and may be directly enforced by BCI.

30 **CONSUMER GUARANTEES ACT 1993**

- 30.1 Water is being supplied to the Farmer for the purposes of a business and the Farmer agrees, pursuant to section 43(2) of the Consumer Guarantees Act 1993 to exclude the application of that Act for the benefit of the Company.

31 **SEVERABILITY**

- 31.1 Should any part or portion of this Agreement be held invalid, the remainder of the Agreement shall continue in force and effect as if the invalid provision had been deleted provided however that the parties to the Agreement shall negotiate in good faith a valid and enforceable provision and replacement of the invalid provision to achieve as near as reasonably practicable the same effect as the deleted provision.

32 **DELEGATION**

- 32.1 The Company may seek at any time and from time to time to delegate any of its powers rights or discretions hereunder to any person or persons, and the exercise of such power right or discretion by any such person or persons shall be deemed to be a valid exercise thereof by the Company.

33 **COSTS**

- 33.1 Each party shall bear its own costs relating to this Agreement. If a Farmer shall seek any changes to this Agreement the costs of the Company in considering those changes shall be paid by the Farmer and recoverable from the Farmer.

34 **ENTIRE AGREEMENT**

- 34.1 The agreement and the schedules embody the entire agreement between the parties in respect of the supply of Water and no representation or statement, whether written or oral, other than those expressly embodied in this Agreement shall be binding upon the Farmer or the Company unless accepted by that party in writing.

35 **GOVERNING LAW**

- 35.1 This Agreement shall be governed and shall take effect in accordance with the laws of New Zealand and the parties hereto submit to the non-exclusive jurisdiction of the New Zealand Courts.

36 **COUNTERPARTS**

- 36.1 This Agreement may be signed in any number of counterpart copies which, read together, will constitute one and the same document. Any party may enter into this Agreement by signing

SCHEDULE 1**Full name of Farmer:**

Note: If a company put in full name of company. If a trust put in full names of all trustees. If individual(s) put in full names of individuals.

Address of Farmer:**Primary contact name:****Telephone Number:****Facsimile Number:****Email Address:****Property: Area (ha)****Details of Property:
(ADC Property Number)****Water Charges: Pressurised/not pressurised****Minimum pressure at Connection Point (for pressurised shareholders only):****Commencement Date:****Shares to be Held:****share per litre per second****Shares****187 shares per litre per second****BCI Shares**

Minimum holding is 15 Shares with pro-rata holding of BCI Shares

Water to be Available:*(litres per second)*

SCHEDULE 2

Consent No:	Permit To:
CRC990088	Take up to 17 cubic metres per second of water and to divert up to 40 cubic metres per second of water from the Rakaia River, at or about map references NZMS 260 K36:057-393 and NZMS K36:050-393 respectively, for the purpose of irrigation of up to 40,000 hectares and electricity generation.
CRC990089	Discharge up to 80 cubic metres per second of water and sediment to the Rakaia, at or about map reference NZMS 260 K36:058-394
CRC000132	Discharge up to 17 cubic metres per second, and up to seven cubic metres per second of bywash water into the Rakaia River, at or about map reference NZMS 260 L36: 152-283 and NZMS L36:200-240, respectively.
CRC990133	Disturb the bed of the Rakaia River to maintain existing river bank protection and facilitate the diversion of water to an intake structure and discharge of water and sediment between map references NZMS 260 K36:030-400 and NZMS 260 K36:068-387
CRC00134	Disturb the bed of the Rakaia River to facilitate the discharge of water and to form discharge channels, at or about map references NZMS 260 L36:152-283 and NZMS 260 L36:200-240
CRC000133	Place an intake structure on, and disturb the bed of the Rakaia River, at or about map reference NZMS 260 K36:050-393.

SCHEDULE 3

Company Consents

All necessary consents obtained or to be obtained by AIL to enable the delivery of water through the AIL infrastructure for the Works but excluding all of the BCI Consents.

SCHEDULE 4

Application for Lake Coleridge *Stored Water*

Shareholder Name:

Number of Shares:

Volume of Stored Water required
(number of days storage required x litres per second x 86.4):

= _____ days Xn _____ lps X 86.4

= _____ cubic metres

This contract has a term commitment until 19 December 2031.

Signed

Date

Contact Name

Phone Number

Approved by the Company:

Signed

Date