

Dated *5 November*

2004

**MEMORANDUM OF AGREEMENT
(2004)**

CENTRAL PLAINS WATER TRUST

CENTRAL PLAINS WATER LIMITED

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MEMORANDUM OF AGREEMENT (2004)

DATED

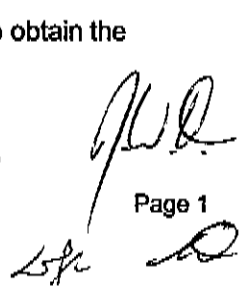
2004

PARTIES

- (1) **CENTRAL PLAINS WATER TRUST** (the "Water Trust")
- (2) **CENTRAL PLAINS WATER LIMITED** ("CPWL")

BACKGROUND

- A. The Water Trust has been formed by Declaration of Trust dated 15 April 2003 ("the Trust Deed") to facilitate the implementation of the Central Plains Water Enhancement Scheme ("the Scheme") and to hold the Resource Consents.
- B. Pursuant to clause 4.1 of the Trust Deed, the objects of the Water Trust are:
 - (a) *to encourage, support and facilitate sustainable development of the water resources of the Regions for the benefit of the inhabitants;*
 - (b) *to provide and facilitate opportunities for agricultural and horticultural diversity in the Regions;*
 - (c) *to provide and facilitate education to the inhabitants of the Regions in relation to water issues affecting the Regions;*
 - (d) *to appropriately balance enhancement of economic benefits for the Regions with enhancement of ecological, social and recreational values for the Regions.*
- C. CPWL has been incorporated initially for the purpose of assisting the Water Trust to carry out the concept refinement of the Scheme and to conduct the application for the Resource Consents to be obtained in the name of the Water Trust. Prior to the Resource Consents being obtained it is anticipated that the Parties may also take certain steps towards the financing, construction, ownership and operation of the Scheme.
- D. In addition, it is anticipated that after the completion of Stage 1 CPWL (and/or its subsidiaries or companies otherwise related to or established by CPWL) will constitute the permanent entity which will finance, construct, commission and operate the Scheme.
- E. The Parties have formed the Executive Team to:
 - (a) Allow the Water Trust and CPWL to work closely together to obtain the Resource Consents; and
 - (b) Enable the Water Trust to assist CPWL in raising the investment required to obtain the Resource Consents.



- F. A Memorandum of Agreement dated 11 July 2003 ("the 2003 Memorandum") set out the initial understandings of the Water Trust and CPWL regarding:
- (a) Their relationship;
 - (b) The terms and conditions upon which the Water Trust will make the benefit of the Resource Consents exclusively available to CPWL;
 - (c) The concept refinement for the Scheme and application for Resource Consents; and
 - (d) The permanent roles of the Water Trust and CPWL in relation to the Scheme.
- G. CPWL proposes to issue a registered prospectus to raise investment from the public generally but with particular focus on raising moneys from potential farmer irrigators within the area to be serviced by the Scheme.
- H. As envisaged by the 2003 Memorandum, the relationship between the Water Trust and CPWL has continued to develop. The Parties now consider that it is necessary to further clarify their relationship and, in particular, the terms on which the Water Trust will make the Resource Consents available to CPWL. The Parties have therefore agreed to enter into this Memorandum which is intended to replace the 2003 Memorandum.

TERMS OF MEMORANDUM

PART A – OUTLINE OF ROLES

1. WATER TRUST

- 1.1 While the application for the Resource Consents in the name of the Water Trust is to be conducted by CPWL, the Water Trust will assist CPWL in its conduct of the application wherever possible. The Water Trust will own the Resource Consents but, in consideration for CPWL's services in procuring the Resource Consents, the Water Trust will make the Resource Consents available to CPWL on an exclusive basis for the initial and any renewed term of the Resource Consents subject to the terms and conditions set out in this Memorandum.
- 1.2 The Water Trust has been established as, and will continue to operate as, a charitable trust for the benefit of the present and future inhabitants of the Regions and to pursue the particular charitable objects set out in the Trust Deed.

2. CPWL

- 2.1 CPWL will be the vehicle to raise the funds necessary to obtain the Resource Consents.
- 2.2 CPWL will have conduct of the application for the Resource Consents in close consultation with the Water Trust.
- 2.3 Although a final decision is yet to be made, it is envisaged that on completion of Stage 1 the functions of CPWL may be split:

- (a) Into one or more operational entities responsible amongst other things for the establishment of the Scheme and for delivery of Scheme water to users; and
 - (b) Into one or more infrastructure owning entities.
- 2.4 CPWL and/or its subsidiaries or companies otherwise related to or established by CPWL is/are intended to be the permanent infrastructure-owning entities for the Scheme and for that purpose will have the exclusive right to use the Resource Consents on the terms and conditions set out in this Memorandum.

PART B – DETAILS OF WATER TRUST ROLE

- 3. ROLE OF WATER TRUST PRIOR TO THE ISSUE OF THE RESOURCE CONSENTS (STAGE 1)**
- 3.1 Prior to the issue of the Resource Consents, subject to the issue of the Resource Consents on terms and conditions satisfactory to the CPWL and the Water Trust and in pursuance of its broad objectives, the Water Trust will do the following in conjunction and close consultation with CPWL:
- (a) Assist CPWL in raising the investment required to make the application for the Resource Consents;
 - (b) Assist CPWL in conducting the application for the Resource Consents in accordance with clause 6.1(a);
 - (c) Enter into further agreements with CPWL recording the terms and conditions on which the Water Trust makes the Resource Consents exclusively available to CPWL but, subject always to clause 14, such terms and conditions shall be consistent with the terms and conditions of the Resource Consents themselves and shall not be detrimental to the commercial viability of CPWL's operation; and
 - (d) Assist CPWL with any steps CPWL elects to take towards Stage 2 in anticipation of the issue of the Resource Consents.
- 4. ROLE OF WATER TRUST AFTER THE ISSUE OF THE RESOURCE CONSENTS (STAGE 2)**
- 4.1 After the issue of the Resource Consents on terms and conditions acceptable to CPWL and the Water Trust and in pursuance of its broad objectives, the Water Trust will do the following in consultation with CPWL:
- (a) Assist CPWL in raising the investment necessary for Stage 2;
 - (b) Assist CPWL in the construction, commission and operation of the Scheme;
 - (c) Monitor the activities of CPWL, including establishing a complaints procedure to receive complaints in relation to adverse effects of the Scheme;
 - (d) Monitor Scheme users' compliance with the terms of Water Use Agreements to ensure compliance with the terms of the Resource Consents;

- (e) Advise CPWL of any actual or suspected breach of the terms of a Water Use Agreement and request that CPWL take appropriate steps to require that such breach be remedied;
- (f) Propose projects which it considers will further its charitable objects to CPWL from time to time and request that CPWL give consideration to funding such projects in accordance with clause 7.1(k);
- (g) Request that CPWL pay a host fee (at a level to be determined by agreement between the Parties) from its annual revenue to a fund to be established and administered by the Water Trust for charitable purposes within the Water Trust's objects;
- (h) Subject to CPWL complying with its obligations under clause 7.1(h)(ii), at the expiry of the term of the Resource Consents apply for a renewal of the Resource Consents or for such consents or approvals reasonably required to replace the Resource Consents and make such consents or approvals available to CPWL on the same terms as this Memorandum or any agreement in substitution or amendment to this Memorandum;
- (i) Defend the Resource Consents from any challenge that might threaten the suspension of the Resource Consents;
- (j) Allow CPWL to manage and administer the Resource Consents; and
- (k) Allow CPWL to grant water users rights to use the water available under the Resource Consents on terms consistent with the conditions attached to the Resource Consents.

5. ROLE OF WATER TRUST ONCE SCHEME FULLY OPERATIONAL

- 5.1 Subject always to clause 14.1, once the Scheme is fully operational, CPWL will fund the Water Trust's reasonable administration costs.
- 5.2 The administration costs payable pursuant to clause 5.1 are to be calculated on the basis that the Water Trust will:
 - (a) Have no less than 6 and no more than 8 trustees who shall be paid on the basis of an honoraria independently assessed and set by an appropriately qualified professional together with meeting allowances, such meeting allowances to be set at the same rate as that applying to SDC Councillors from time to time; and
 - (b) Meet no more frequently than four times per year.

PART C – DETAILS OF CPWL ROLE

6. ROLE OF CPWL PRIOR TO THE ISSUE OF THE RESOURCE CONSENTS (STAGE 1)

- 6.1 Prior to the issue of the Resource Consents and in pursuance of its broad objectives, CPWL will do the following in conjunction and close consultation with the Water Trust:
 - (a) Conduct the application for the Resource Consents on behalf of the Water Trust including:

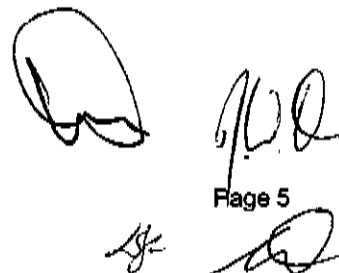
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- (i) Payment of all expenses in connection therewith incurred or committed to by CPWL;
 - (ii) Negotiating with parties objecting to the issue of the Resource Consents; and
 - (iii) Seeking appropriate variations to the form of application for the Resource Consents as required;
- (b) Act as the vehicle to raise the funds necessary to meet the costs of applying for the Resource Consents; and
 - (c) Take such steps towards Stage 2 as it considers necessary in anticipation of the Resource Consents being obtained.

7. ROLE OF CPWL AFTER THE ISSUE OF THE RESOURCE CONSENTS (STAGE 2)

7.1 After the issue of the Resource Consents on terms and conditions acceptable to CPWL and the Water Trust and in pursuance of its broad objectives, CPWL will do the following in consultation with the Water Trust:

- (a) Seek and obtain funding for the construction and completion of the Scheme, including any available Central Government funding;
- (b) Take all necessary steps to be a network utility operator and apply to be granted the status of a requiring authority for the purposes of the Resource Management Act 1991 and otherwise;
- (c) Apply for designation of such parts of the Scheme Area as may be necessary to construct the Scheme infrastructure as part of the Selwyn District Council planning process;
- (d) Make any acquisitions of land necessary to construct the Scheme including, if required, under the Public Works Act 1981;
- (e) Become the permanent infrastructure owning entity for the Scheme;
- (f) Construct, commission and operate the Scheme;
- (g) In consideration for its services in obtaining the Resource Consents, become the exclusive user of the Resource Consents on the terms and conditions set out in this Memorandum;
- (h) As exclusive user of the Resource Consents:
 - (i) Comply with all of the terms and conditions of the Resource Consents;
 - (ii) At its cost, conduct any variations to and renewals of the Resource Consents on behalf of the Water Trust; and
 - (iii) At its cost, and as required, defend the Resource Consents from any challenge that might threaten their continued validity;
- (i) Ensure that:



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- (i) The Scheme distributes and uses water as efficiently as is reasonably practicable;
 - (ii) The annual operational cost of supplying Scheme water to users is financially viable for both CPWL and water users; and
 - (iii) All of the conditions contained in the Resource Consents are complied with by water users.
- (j) Report and provide audited financial statements to the Water Trust as required by the agreement reached between the Parties in accordance with clause 12.1(d);
 - (k) Consider projects proposed by the Water Trust pursuant to clause 4.1(f) and, if such projects are considered by the Board of CPWL to be in the interests of the Scheme and do not affect the financial viability of the Scheme and its operation, contribute to the funding of such projects;
 - (l) Consider requests by the Water Trust that it pay a host fee in accordance with clause 4.1(g); and
 - (m) Respond to any issues arising in respect of the operation of the Scheme as reasonably required by the Water Trust in its monitoring role.
- 7.2 Provided potential water users within the Scheme Area have been given the first right to use that water, CPWL may allocate the water in the best interests of CPWL. CPWL may allocate water to users outside the Scheme Area after prior consultation with the Water Trust.

8. FORWARD PLANNING DURING STAGE 1 AND STAGE 2

- 8.1 In the period prior to the completion of the construction of the Scheme, CPWL will provide the Water Trust with a forward plan of its planned works and activities at appropriate intervals or as reasonably requested by the Water Trust. Any material departure by CPWL from such forward plan will require the consent of the Water Trust.

PART D – RELATIONSHIP PROVISIONS

9. ACKNOWLEDGEMENTS

- 9.1 Except to the extent of any express authorisation or delegation, neither Party has the authority (actual or implied) to bind or act on behalf of the other.
- 9.2 The Water Trust acknowledges that CPWL's directors:
- (a) Owe their primary duties to CPWL and that as a general principle their duties to CPWL (and/or any other fiduciary and statutory duties which they may owe) will take precedence over any obligations to the Water Trust and that they may require to consider any direction received by CPWL from the Water Trust in that light;
 - (b) Will require at all times to be satisfied that:

- (i) CPWL has or has arranged adequate funding to enable CPWL to incur any expenses associated with Stage 1 or Stage 2 and will only be required to enter into commitments that can be met from funding available to CPWL; and
- (ii) The terms and conditions imposed on the use of the Resource Consents by the Water Trust or attached to the Resource Consents at the time of issue do not and are not like likely to jeopardise the viability of the Scheme; and
- (c) Will have personal obligations (for example under the Securities Act 1978) in respect of certain activities of CPWL, such as issues of securities to the public, and will be required in their capacity as directors of CPWL to comply with such obligations.

10. EXECUTIVE TEAM

10.1 To facilitate appropriate consultation between the Water Trust and CPWL during:

- (a) Stage 1; and
- (b) Stage 2,

The Parties will continue to use the Executive Team as a forum where the Parties can discuss strategy, the progress of the Resource Consent applications, construction of the Scheme and the costs and expenses incurred in connection therewith.

11. CPWL REMUNERATION

- 11.1 The Water Trust and CPWL are to negotiate in good faith with a view to their agreeing the remuneration to be received by CPWL from the Water Trust for conducting the Resource Consent applications and any other agreed matters. Although full agreement on the terms of the remuneration is yet to be reached, it is anticipated that:
- (a) In undertaking its activities on behalf of the Water Trust, CPWL will incur costs and expenses in its own right in connection with the Resource Consent applications; and
 - (b) CPWL will have the exclusive right to the use of the Resource Consents (once obtained) in return for agreeing to incur such expenses in its own right.

PART E – RELATIONSHIP CHANGE AND TRANSITION

12. COMPLETION OF STAGE 1

12.1 The Parties acknowledge that upon the completion of Stage 1, a fundamental change will take place in the nature of the relationship between the Water Trust and CPWL and in particular:

- (a) A further updated version of this Memorandum may be entered into, setting out in further detail the terms and conditions upon which the Resource Consents will be made exclusively

available to CPWL consistent with the terms and conditions on which the Resource Consents have been issued;

- (b) CPWL will be from that time acting as an independent party, at arms' length from the Water Trust, but subject at all times to the terms and conditions upon which CPWL and the Water Trust have agreed that the Resource Consents will be made available to CPWL;
- (c) As exclusive user of the Resource Consents, CPWL will indemnify and keep indemnified the Water Trust in respect of any cost or liability incurred by the Water Trust due to:
 - (i) Any non-compliance by CPWL with the terms and conditions of the Resource Consents;
 - (ii) Any non-compliance by CPWL with any relevant statute, regulation, code of practice or by law; or
 - (iii) Any act, error or omission of CPWL; and
- (d) The Water Trust and CPWL will agree a revised reporting and meeting regime pursuant to which regular meetings shall be held between the Water Trust's representatives and representatives of CPWL to discuss the ongoing conduct of the Scheme by CPWL provided that if CPWL has observed all its obligations under this Memorandum and any other agreement between the Parties it shall not be required to report to the Water Trust more than twice per year.

12.2 As reasonably required by the Water Trust, and in accordance with the terms of this Memorandum, CPWL shall:

- (a) Facilitate and allow independent reviews and audits of its operations and accounts for the purposes of verifying compliance with its obligations under this agreement; and
- (b) Provide such information, access and assistance as may reasonably be required for that purpose.

13. REVIEW

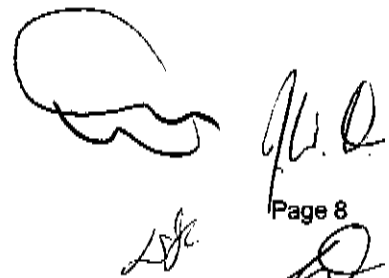
13.1 On:

- (a) The completion of Stage 1;
- (b) Each seventh anniversary of the date of this Memorandum; and
- (c) The expiry or other termination of the Resource Consents,

Either Party may require, by written notice to the other, a review of the relationship between the Parties and in such a case the Parties shall meet to review their relationship and respective roles within 30 working days of the date of such notice.

13.2 A review pursuant to clause 13.1 may address:

- (a) The continuing role of the Water Trust;



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- (b) The ownership of the Resource Consents but not the exclusive right to use the Resource Consents held by CPWL; or
- (c) Any other matter arising out of this Memorandum which the Parties agree should be subject to review pursuant to this clause.

PART F – RESOURCE CONSENT PROVISIONS

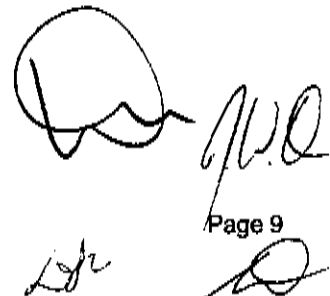
14. USE OF RESOURCE CONSENTS

14.1 Notwithstanding any other provision of this Memorandum, the terms upon which the Water Trust makes the Resource Consents available to CPWL shall be:

- (a) Consistent with the efficient and economic use of water within the Scheme Area; and
- (b) Consistent with the terms of the Resource Consents.

14.2 In consideration for the exclusive right to use the Resource Consents and for the purpose of ensuring compliance with the terms of the Resource Consents, CPWL will:

- (a) Adhere to and uphold best practice environmental standards of such type and to such levels of performance as shall be agreed by the Parties. Such standards (both as to type and performance levels):
 - (i) Must be reasonable and appropriate;
 - (ii) Must be financially viable to implement;
 - (iii) Must not affect the financial viability of water users' use of water from the Scheme;
 - (iv) Will apply across the Scheme Area unless otherwise agreed; and
 - (v) Must be consistent with the principles set out in the **Schedule** hereto.
- (b) Ensure that all Water Use Agreements reflect and implement the requirements and conditions of the Resource Consents to the extent that they are applicable;
- (c) Take all reasonable and effective steps to ensure that users of the Scheme comply with the terms of the Water Use Agreements; and
- (d) Accommodate and/or facilitate any recreational, social, cultural or environmental benefit/s which can be added to the Scheme that either it or the Water Trust identifies and requires provided that the provision of such benefit does not adversely affect the financial viability of CPWL's operation.



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15. REMEDIES FOR BREACH

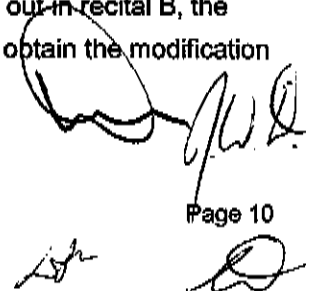
- 15.1 If CPWL commits a material breach of this or any other written agreement between the Parties the Water Trust may, in addition to any other right or remedy the Water Trust may have, at any time or for any period:
- (a) Review and direct the nature and extent of CPWL's ongoing use of the Resource Consents required to operate the Scheme; or
 - (b) For such period as may be reasonably necessary having regard to the nature of the breach, withdraw permission to use all or any of the Resource Consents required to operate the Scheme.
- 15.2 For the purposes of this clause CPWL commits a "material breach" of this or any other written agreement between the Parties if it commits a breach of such agreement or agreements and such breach:
- (a) Has jeopardised or is likely to jeopardise the continuity of the Resource Consents; and
 - (b) In the case of breaches that are capable of remedy only, the breach or breaches are not remedied within 90 days, or such shorter period as may be required to comply with any statutory or regulatory requirement, of the date on which the Water Trust gives CPWL written notice of the breach.
- 15.3 CPWL indemnifies the Water Trust against all actions, claims, costs, proceedings and demands that the Water Trust may suffer as a result of a breach of this or any other written agreement between the Parties.

16. APPLICATION FOR AND DEFENCE OF RESOURCE CONSENTS

- 16.1 CPWL and the Water Trust shall take all reasonable steps required:
- (a) For CPWL to apply for the Resource Consents in the name of the Water Trust on the basis of and subject to the terms and conditions of this Memorandum; and
 - (b) Defend the Resource Consents from any challenge or appeal by any third party.
- 16.2 CPWL must not separately apply for the Resource Consents held or to be held by the Trust, except with the prior written consent of the Trust and in accordance with the terms of this Memorandum. This prohibition extends to any entity controlled or influenced by CPWL.

17. MODIFICATION OF RESOURCE CONSENTS

- 17.1 If during the term of the Resource Consents CPWL considers it necessary or desirable for commercial reasons to modify the Resource Consents or any condition attached to the Resource Consents, then, so long as the modification is consistent with the objects set out in recital B, the Water Trust shall, with the assistance of CPWL, take all reasonable steps to obtain the modification of the Resource Consents or any condition attached thereto.

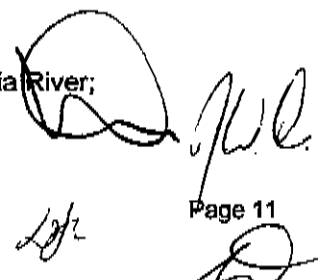


PART G – GENERAL PROVISIONS

18. INTERPRETATION AND DEFINITIONS

18.1 In this Memorandum, unless the context otherwise requires:

- (a) **“CCC”** means the Christchurch City Council;
- (b) **“CEDF”** means the Canterbury Economic Development Fund, a charitable trust of which Canterbury Development Corporation Limited is the trustee;
- (c) **“Central Government”** means the New Zealand government and any Ministries and Departments thereof and also includes any government agencies and funds;
- (d) **“CPWL”** means CPWL and/or its subsidiaries or companies otherwise related to or established by CPWL and approved by the Water Trust;
- (e) **“Executive Team”** means the working group comprised of appointees from among the trustees of the Water Trust and the directors of CPWL;
- (f) **“Party”** means the Water Trust or CPWL and **“Parties”** has the appropriate contextual meaning;
- (g) **“Reimbursement Agreement”** means the reimbursement agreement dated 6 May 2004 under which CPWL agreed to reimburse the Water Trust for certain expenses;
- (h) **“Regions”** means the respective areas within the geographical boundaries of CCC and SDC as at the date of this Memorandum;
- (i) **“Resource Consents”** means the resource consents, or any modifications, variations or renewals thereof, issued under the Resource Management Act 1991 or any Act enacted in substitution or amendment thereof required for, or ancillary to, the construction, commissioning and operation of the Scheme and when the context permits includes any approval or consent from any lawful authority required for or ancillary to the construction, commissioning and operation of the Scheme;
- (j) **“Ritso”** means the Ritso Society Incorporated;
- (k) **“Scheme”** means the Central Plains Water Enhancement Scheme being an irrigation and water enhancement scheme proposed to irrigate approximately 60,000 hectares of land within the Scheme Area including:
 - (i) A large scale storage reservoir in the Waianiwaniwa Valley to provide supply during periods when run of river water is not available to meet demand;
 - (ii) A dam across the mouth of the Waianiwaniwa Valley;
 - (iii) An intake with fish screens and sediment control on the Rakaia River;

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- (iv) An intake with fish screens and sediment control on the Waimakariri River at the Waimakariri Gorge bridge;
- (v) An intake on the Waimakariri River upstream of the Kowai River to provide water to the Springfield/Sheffield area and an optional gravity feed option to the storage reservoir;
- (vi) A level headrace canal with a nominal operating water surface level of 235m metres above mean sea level connecting the stilling basins in each of the Rakaia and Waimakariri Rivers;
- (vii) An optional pump station within the main head race canal that would pump water into the storage reservoir;
- (viii) A pump station within the Rakaia River channel to provide water to the Windwhistle area;
- (ix) An open race and/or reticulation network to supply approximately 60,000 ha of land for irrigation within the Scheme Area; and
- (x) Opportunities for hydroelectric power stations,

As more particularly described in the prospectus to be issued by CPWL to fund the obtaining of the Resource Consents;

- (l) **"Scheme Area"** means the area of the Central Plains to be serviced by the Scheme within the following boundaries:
 - (i) **The eastern or lower boundary of the Scheme:** Commencing at the end of Thompsons Road, Halkett, adjacent to the Waimakariri River, the boundary will run along Thompsons and Calders Rd, and down Sandy Knolls Rd to Wards Road. The boundary will then run along Wards Road to Kivers Road, along Kivers Road to Highfield Road, along Highfield Road to Telegraph Road, along Telegraph Road to State Highway One, along State Highway One across the Selwyn River to Yankee Crossing Road, along Yankee Crossing Road to Burgess Road, along Burgess Road to Keands Road, along Keands Road to Frasers Road and along Frasers Road to State Highway One, where it will follow State Highway One to the Rakaia River.
 - (ii) **The western or upper boundary of the Scheme:** Commencing at the end of Domain Road, adjacent to the Kowai river, the boundary will run along Domain Road to Springfield Road, along Springfield road to Wyndale Road, along Wyndale Road to Bluff road, along Bluff Road to Barrs Road and then along the bed of the Hawkins River. The boundary will run along the bed of the Hawkins River to Deans Road, along Deans Road to Homebush Road, along Homebush Road to Hororata Road, along Hororata Road to Downs Road, along Downs Road to Steeles Road and along Steeles Road to the Hororata River. The boundary will run along the bed of the Hororata River to State Highway 72, along Washpen Road to Windwhistle Road,

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along Windwhistle Road to Rakaia Gorge Road, and along Rakaia Gorge Road to the Rakaia River terrace.

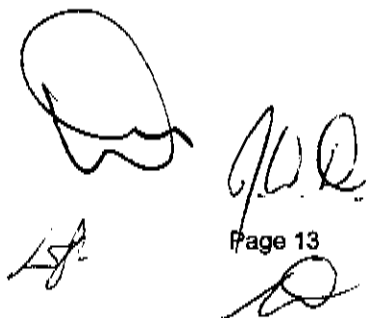
- (iii) **Southern boundary of the Scheme:** The north bank of the Rakaia River.
- (iv) **Northern Boundary of the Scheme:** The south bank of the Waimakariri River.
- (m) **"SDC"** means the Selwyn District Council;
- (n) **"Stage 1"** means the period during which CPWL and the Water Trust complete the concept refinement of the Scheme and obtain the Resource Consents and such other consents as may be required for the construction, commissioning and operation of the Scheme which period includes all relevant appeal periods in relation to the Resource Consents and any other consents;
- (o) **"Stage 2"** means the period commencing on the completion of Stage 1, during which the CPWL will finance, construct, commission and operate the Scheme; and
- (p) **"Water Use Agreement"** means any agreement entered in to by CPWL with a person who uses water from the Scheme.

19. 2003 MEMORANDUM AND REIMBURSEMENT AGREEMENT

- 19.1 Subject to clause 19.2, this Memorandum replaces the 2003 Memorandum.
- 19.2 The terms of the Reimbursement Agreement are hereby confirmed, subject to clause 5.
- 19.3 This Memorandum together with the Reimbursement Agreement constitutes the full and complete agreement between the Parties with respect to the subject matter of this Memorandum.
- 19.4 No modification or amendment of this Memorandum shall be valid or binding on either Party unless made in writing and duly signed by or on behalf of each Party by its proper and duly authorised officers or representatives.

20. ASSIGNMENT

- 20.1 Neither of the Parties to this Memorandum shall assign its rights under this Memorandum without the written consent of the other Party provided that:
 - (a) Such consent shall not be unreasonably withheld or delayed; and
 - (b) No consent shall be required where such assignment is pursuant to the exercise of a secured creditor's rights pursuant to its security.
- 20.2 The Water Trust may not transfer or assign its interest in the Resource Consents other than for the purposes of a genuine reorganisation or restructuring of the Water Trust.

The block contains several handwritten signatures and initials. At the top right is a large, stylized signature. Below it and to the left are smaller initials, possibly 'LJ'. To the right of the large signature is another signature, possibly 'J.W.R.'. At the bottom right is a signature that appears to be 'D'.

21. NOTICES

21.1 Any notice or other communication required or permitted to be given under this Memorandum shall be in writing. A Party may give or serve a notice upon another Party by:

- (a) Delivering the notice by hand at that other Party's address for service;
- (b) By sending the notice by pre-paid post to the other Party's postal address; or
- (c) By sending the notice by facsimile transmission to the other Party's facsimile number.

21.2 If before 4.00pm local time on a business day in the place of delivery, a Party delivers a notice:

- (a) By hand; or
- (b) By facsimile transmission (and the Party completes the transmission),

the notice will be taken as having been given on the day of delivery or transmission and, in any other case on the next succeeding business day in the place of delivery. If a Party sends a notice by pre-paid post, the notice will be taken to have been served on the third business day (in the place to which it was sent) after the day on which it was posted.

21.3 The Parties' addresses and facsimile numbers for service are until otherwise notified in writing as follows:

- (a) Central Plains Water Trust
C/- GHD Limited,
P O Box 13468,
Christchurch.

Facsimile: 03 377 8575

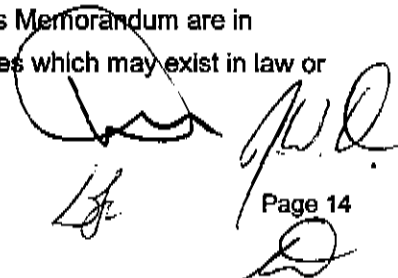
- (b) CPWL
C/- GHD Limited,
P O Box 13468,
Christchurch.

Facsimile: 03 377 8575

22. MISCELLANEOUS

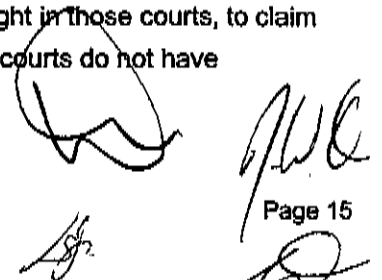
22.1 Either Party may execute a counterpart copy of this Memorandum by photocopying a facsimile of this Memorandum and executing that photocopy. The transmission by facsimile by either Party of a signed counterpart copy of this Memorandum to the other Party shall be deemed proof of signature of the original and the signed facsimile so transmitted shall be deemed an original for the purposes of this Memorandum.

22.2 The rights and obligations and remedies afforded to the Parties by this Memorandum are in addition to and not in derogation of any obligations, rights and remedies which may exist in law or in equity.

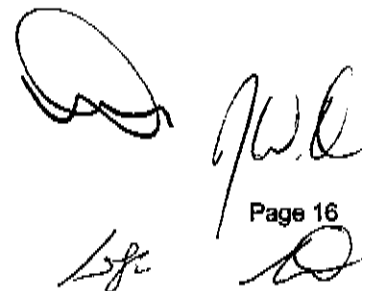


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- 22.3 Any dispute arising out of the interpretation of this Memorandum, including any question regarding its existence, validity or termination, shall be dealt with as follows:
- (a) First the Parties shall attempt to resolve the dispute through negotiations in good faith (with the assistance of a mediator if the Parties agree);
 - (b) If within fifteen (15) working days of the dispute arising the Parties have not been able to resolve the dispute by negotiation then it shall be referred to arbitration in accordance with (c) and (d) below;
 - (c) Arbitration shall commence upon provision of written notice by one Party to the other outlining the issue in dispute and requesting resolution through arbitration;
 - (d) If the Parties are unable to agree upon the appointment of a single arbitrator within 5 working days of the receipt of the written notification in (c) above, or if any arbitrator agreed upon refuses or fails to act within 10 working days of his or her appointment then any Party may request the President for the time being of the Canterbury District Law Society to appoint an arbitrator and the arbitration shall be carried out in accordance with the Arbitration Act 1996;
 - (e) In this clause time shall be of the essence and the Parties hereto agree to be bound by any decision, determination or award given pursuant to the provisions hereof.
- 22.4 In the event of any circumstances arising that were unforeseen by the Parties at the time of entering into this Memorandum the Parties hereby record their intention that they will negotiate in good faith to add to or vary this Memorandum so to resolve the impact of those circumstances in the best interests of:
- (a) The Parties; and
 - (b) The Canterbury community represented by the Parties,
- considered together.
- 22.5 Subject to clause 22.3, if it is held by a court of competent jurisdiction that:
- (a) Any part of this Memorandum is void, voidable, illegal, unenforceable or contrary to or inconsistent with any applicable statute, rule or order of a court of competent jurisdiction; or
 - (b) This Memorandum would be void, voidable, illegal or unenforceable unless part of this Memorandum was severed from this Memorandum,
- that part shall be severed from and shall not affect the continued operation of the rest of this Memorandum unless to do so would materially change the principal commercial arrangements evidenced by this Memorandum.
- 22.6 Subject to clause 22.3, each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New Zealand and courts entitled to hear appeals from those courts. Each Party waives any rights it has to object to any action being brought in those courts, to claim that the action has been brought in an inconvenient forum or to claim courts do not have jurisdiction.

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22.7 This Memorandum shall be governed by and construed in accordance with the laws of New Zealand.

Handwritten signatures in black ink, including a large signature on the left and several smaller ones on the right.

EXECUTION

**SIGNED for and on behalf of
CENTRAL PLAINS WATER TRUST**

} *Plumbe*
Trustee

} *L. Hetherwood*
Trustee

E. Thomas
Witness Signature
Edwin Richard Thomas

O'Brien Place
Christchurch.

Note: Two trustees must sign this document for it to be effective under the terms of the Trust Deed.

**SIGNED for and on behalf of
CENTRAL PLAINS WATER LIMITED**
in the presence of

} *J.W. Doherty*
Director

} *[Signature]*
Director/Authorised
Signatory

Witness signature

Full Name

Address

Occupation

Note: If two directors sign, no witness is necessary. If a director and authorised signatory sign, both signatures are to be witnessed. If the director and authorised signatory are not signing together, a separate witness will be necessary for each signature.

SCHEDULE

(reference clause 14.2(a)(v))

Subject to clauses 14.2(a)(i) to 14.2(a)(iv), best practice environmental standards will be consistent with:

1. An integrated management approach which takes account of economic, environmental, social and cultural values and the off-site impacts of actions;
2. Maintaining and enhancing the sustainable productive capacity of the land, by using natural resources within their capabilities;
3. Communities, including individuals, groups and organisations, are knowledgeable and able to make informed decisions regarding the scheme and its operation;
4. Benchmarking and tracking trends in ecosystem health over time so that there are measurable signals that demonstrate how the health of natural resources in and adjacent to the Scheme Area is being protected;
5. Protecting the natural ecosystems in the Rakaia and Waimakariri Rivers;
6. Protecting or enhancing the quality of ground water and surface water, within and adjacent to the Scheme Area, from adverse effects arising from the Scheme operation;
7. Protecting ground water and surface water levels, within and adjacent to the Scheme Area, from adverse effects arising from the Scheme operation;
8. Protecting the landscapes, communities and individuals from potential adverse effects of the Scheme's infrastructure;
9. Recognising and fostering recreational and other social benefits to communities and individuals arising from the Scheme; and
10. Ensuring that ecologically sustainable development addresses cultural heritage objectives, especially in relation to the needs and concerns of Ngai Tahu. In particular, addressing the environmental and resource management concerns of Ngai Tahu, including the importance of:
 - Kaitiakitanga;
 - the mauri and wairua of mahinga kai and all natural resources; and
 - mahinga kai, wahi tapu and other taonga,especially in relation to the impacts of:
 - pollution, habitat degradation and species extinction;
 - water quality and water quantity degradation; and
 - intensified and changing land use.

Glossary

Kaitiakitanga	guardianship, governance
Mauri	life principle, special character

Wairua	spirit
Mahinga kai	food-gathering area or cultivation
Wahi tapu	sacred areas of tribal significance
Taonga	treasure