

**CONSTITUTION OF MORVEN, GLENAVY.
IKAWAI IRRIGATION COMPANY LIMITED**

Constitution Of Morven, Glenavy. Ikawai Irrigation Company Limited

Pursuant to the Companies Act 1993

1. Definitions and interpretation

Definitions

1.1 In this constitution, unless the context otherwise requires, the following words and expressions have the meanings given to them in this clause:

- "A Share" means a Share giving the holder the right to irrigate one hectare and such rights and obligations as set out in clause 3.2.
- "Act" means the Companies Act 1993.
- "amalgamation" means the completed act of the Company and one or more other companies amalgamating pursuant to Part XIII of the Act and continuing as one company, which may be one of the amalgamating companies or may be a new company.
- "annual meeting" means a meeting of shareholders held pursuant to clauses 14.1 and 14.2.
- "associated person" means any person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or under common control of a shareholder/s or director. A person shall be deemed to control another person for the purpose of this definition, if the first such person possesses, directly or indirectly, the power to appoint a majority of directors to the second person, or otherwise direct or cause the direction or management of the policies of the second person, whether through the ownership of voting securities, control of the appointment of trustees to a trust, by contract or otherwise.
- "balance date" means the date adopted by the Company as the end of its financial year for the purpose of its annual financial statements. [Section 2 of the Act]
- "Board" means the directors numbering not less than the required quorum acting as the Board of directors of the Company, and where one director is a quorum it means that director so acting alone. [Section 127]
- "call" means a resolution of the Board under clause 9.1 requiring shareholders to pay all or part of the unpaid amount of the issue price of any shares and, where the context requires, means the obligation of a shareholder to meet the amount due pursuant to such a resolution.
- "chairperson" means the chairperson of the Board, elected or appointed under clauses 19.2 and 19.4.
- "class" and "class of" means a class of shares having attached to them identical rights,

shares”	privileges, limitations, and conditions. [Section 116]
"Company"	means Morven, Glenavy. Ikawai Irrigation Company Limited.
"Co-op act"	Means the Co-operative Companies Act 1996
"consents"	means the resource consents held by the Company together with all the renewals, variations or amendments to those consents and includes all conditions relating to those consents.
"constitution"	means this constitution of the Company and all amendments to it from time to time.
"director"	means a person appointed and continuing in office for the time being, in accordance with this constitution, as a director of the Company.
"distribution"	<p>in relation to shares held by a shareholder, means:</p> <ul style="list-style-type: none"> (a) the direct or indirect transfer of money or property, other than shares, by the Company to or for the benefit of that shareholder; or (b) the incurring of a debt by the Company to or for the benefit of a shareholder, <p>whether by means of a purchase of property, the redemption or other acquisition of shares, a distribution of indebtedness, or by some other means. [Section 2(1)]</p>
"dividend"	means a distribution by the Company other than a distribution to which section 59 or section 76 of the Act applies. [Section 53]
"Encumbrance"	means any encumbrance held by the Company over the shareholders property to secure the payment of water charges and certain other obligations of the shareholder
"infrastructure"	means the canals, races, turn-outs, bridges, off takes, siphons, dams, ponds, controls or other infrastructure used to convey water through the scheme.
"interest group"	<p>in relation to any action or proposal affecting rights attached to Shares, means a group of shareholders:</p> <ul style="list-style-type: none"> (a) whose affected rights are identical; and (b) whose rights are affected by the action or proposal in the same way; and (c) who comprise the holders of one or more classes of Shares.

For the purposes of this definition:

- (a) one or more interest groups may exist in relation to any action or proposal; and
- (b) if —

- (i) action is taken in relation to some holders of Shares in a class and not others; or
- (ii) a proposal expressly distinguishes between some holders of Shares in a class and other holders of Shares of that class,

holders of Shares in the same class may fall into 2 or more interest groups. [Section 116]

"interests register"	means a register kept by the Company at its registered office as required by section 189(1)(c) of the Act.
"irrigation season"	means the period from the 1 st day of August in one year to the 31 st day of May in the following year or such other period as the Company may from time to time determine.
"land"	means a property within the scheme.
"major transaction"	in relation to the Company, means: <ul style="list-style-type: none"> (a) the acquisition of, or an agreement to acquire (whether contingent or not), assets the value of which is more than half the value of the Company's assets before the acquisition; or (b) the disposition of, or an agreement to dispose of (whether contingent or not), assets of the Company, the value of which is more than half the value of the Company's assets before the disposition; or (c) a transaction which has or is likely to have the effect of the Company acquiring rights or interests or incurring obligations or liabilities, the value of which is more than half the value of the Company's assets before the transaction;

but does not include:

- (d) any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the property of the Company.

Nothing in paragraph (c) of this definition applies by reason only of the Company giving, or entering into an agreement to give, a charge secured over assets of the Company the value of which is more than half the value of the Company's' assets for the purpose of securing the repayment of money or the performance of an obligation. [Section 129(2), (2A) and (3)]

"managing director"	means a director who is appointed under clause 1 as an employee of the Company, with the responsibility for the management of the Company (together with any other employee).
"month"	means calendar month.
"ordinary resolution"	means a resolution that is approved by a simple majority of the

	votes of those shareholders entitled to vote and voting on the question. [Section 105(2)]
"owner"	means the owner of a property within the scheme area.
"register"	means the register of Shares required by clause 6 of this constitution and section 87 of the Act to be kept.
"Registrar"	means the Registrar of Companies appointed under section 357(1) of the Act.
"scheme or scheme area "	means the properties serviced by irrigation infrastructure owned and operated by the Company.
"Share"	means A Shares and such other classes of Shares as may be issued pursuant to clause 3.10.
"shareholder"	means a person: <ul style="list-style-type: none"> (a) registered in the register as the holder of one or more Shares; or (b) until the person's name is entered in the register, a person named as a shareholder in the application for registration of the Company at the time of registration of the Company; or (c) until the person's name is entered in the register, a person who is entitled to have that person's name entered in the register under a registered amalgamation proposal as a shareholder in an amalgamated Company. [Section 96]
"solvency test"	means an examination to be applied to the financial state of the Company, which will be satisfied if: <ul style="list-style-type: none"> (a) the Company is able to pay its debts as they become due in the normal course of business; and (b) the value of the Company's assets is greater than the value of its liabilities, including contingent liabilities, and in respect of which regard has been had to the matters referred to in section 4(2) of the Act. <p>For the purpose of this definition "debts" and "liabilities" have the meanings given to those terms in sections 52(4) or 108(5) of the Act as applicable.</p>
"special meeting"	means any meeting (other than an annual meeting) of shareholders entitled to vote on an issue, called at any time by the Board, or by any other person who is authorised by the Board to call meetings of shareholders. [Section 121]
"special resolution"	means a resolution of shareholders approved by a majority of 75 per cent of the votes of those shareholders entitled to vote and voting on the question.
"Waihao Downs ward"	means the area known as Waihao Downs within the Scheme Area

- as shown outlined in red on the map shown at Annexure A.
- "water" means water taken in accordance with the Company's consents.
- "water supply agreement" means an agreement between the Company and the shareholder allowing access to water as revised or updated from time to time in accordance with its terms.
- "working day" means a day of the week other than:
- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
 - (b) a day in the period commencing with the 25th day of December in any year and ending with the 2nd day of January in the following year;
 - (c) if the first day of January in any year falls on a Friday, the following Monday; and
 - (d) if the first day of January in any year falls on a Saturday or Sunday, the following Monday and Tuesday. [Section 2(1)]

1.2 In this Constitution unless the context otherwise requires:

- (a) headings are inserted for convenience only and shall be ignored in construing this Constitution;
- (b) the singular includes the plural and vice versa;
- (c) one gender includes the other genders;
- (d) a reference to a person includes an individual, partnership, firm, company, corporation, association, trust, estate, state or agency of a state, government or government department or agency, municipal or local authority and any other entity, whether or not incorporated and whether or not having separate legal personality;
- (e) "written" and "in writing" includes any means of reproducing words, figures or symbols in a tangible and visible form; and
- (f) a reference to a clause is to that clause in this Constitution unless stated otherwise.

1.3 Subject to this clause 1, expressions contained in this Constitution bear the same meaning as specified in the Act as amended from time to time.

1.4 If the Act changes in a way that would, but for this clause, cause section 31 of the Act to apply to any clause then that clause shall be deemed to be amended in the same manner as the change in the Act so that the Constitution does not contravene or become inconsistent with the Act.

PART II: CAPITAL SHARES AND DIVIDENDS

2. Capital and Issue of Shares

Rights, powers and duties

- 2.1 The Company, the Board, each director and each shareholder have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this constitution. [Section 27]
- 2.2 The Company, while registered under the Co-op Act shall have the rights, powers, duties and obligations set out in the Co-Op Act and this constitution.

Co-operative Company

- 2.3 The Company is authorised, and the shareholders of the Company authorise the Company, to register a co-operative company under Section 6 of the Co-op Act.
- 2.4 The Company may carry out all or any of the co-operative activities set out in Section 3 of the Co-op Act either directly or indirectly, and the principal activity of the Company shall be such co-operative activities.

Full capacity

- 2.5 Subject to this Constitution the Act, any other enactment and the general law, the Company has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction. [Section 16]

Water Supply Agreements

- 2.6 All shareholders are required to enter into the Company's then current water supply agreement, immediately upon becoming shareholders in the Company.
- 2.7 The entry into the Company's then current water supply agreement shall be a condition precedent to the supply of water by the Company to the shareholder's land.
- 2.8 The shareholder acknowledges that the Company may at any time review the terms and conditions of the water supply agreement including:
- (a) to take account of changes and ensure compliance with relevant laws, district or regional plans or the Consents;
 - (b) to take account of farming and irrigation practice (to be determined by the Company in its sole discretion);
 - (c) to make such changes or fix any errors as may be necessary from time to time;
 - (d) to take account of any requirements of any bank, financial institution or other third party providing secured financing to the Company from time to time.
- 2.9 The shareholders shall be bound by such amendments on receiving written notice of the change or alternatively at the discretion of the Company shall be required to enter into a new water supply agreement and pay all the Company's costs in respect of that new water supply agreement.
- 2.10 In the event of any conflict between the then current water supply agreement and any Encumbrance held by the Company the water supply agreement shall prevail.

3. Capital and issue of Shares

Classes of Shares

- 3.1 The Share capital of the Company will initially consist of one class of Shares being A Shares.

A Shares

- 3.2 The following rights and obligations shall attach to A Shares:
- (a) One vote per A Share;
 - (b) Each A Share shall be issued at the current nominal Share price such as the Board determines in accordance with clause 3.9;
 - (c) A holder of A Shares shall pay water charges to the Company on a per Share basis (to be determined by the directors in their absolute discretion) being an annual charge and as more particularly set out in clauses 3.3 to 3.8;
 - (d) The right to an equal Share in dividends as authorised by the Board;
 - (e) The right to an equal Share in the distribution of the surplus assets of the Company on winding up;
 - (f) A Shares may only be issued, transferred to, and held by an owner of a property which forms part of the scheme;
 - (g) Each Share shall entitle the holder to an allocation of water (whether border dyke or spray) at a rate or volume that may be determined by the directors in their absolute discretion and subject to the terms of the Water Supply Agreement;
 - (h) The holder of A Shares shall enter into the Company's then current water supply agreement in accordance with clause 2.6 to 2.10;
 - (i) The holder of A Shares (with the company's consent in its absolute discretion and on payment of any applicable water charges) is entitled to irrigate more than one hectare per Share on his or her land by irrigating at a lower application rate. By way of example, a farmer with 10 Shares is entitled to irrigate 10 hectares at .6L/per second, or if he so chooses, 12 hectares at .5L per second.

Water charges

- 3.3 The shareholder shall pay to the Company water charges on a per Share basis at an amount to be determined in the Company's sole discretion to recover all capital, operating and specific farm expenses. The Company may determine a different rate between shareholders, taking into account such factors as it deems appropriate including volume of water, efficiency, reliability, pressure, cost of delivery and location.
- 3.4 The water charges shall be payable at such time and in such manner as the Company may from time to time determine.
- 3.5 Capital expenses incurred by the Company include, without limitation:
- (a) construction and Consent costs in respect of the Scheme Infrastructure;
 - (b) interest and capital payments on any bank loan, other loan or financing taken out by the Company to fund capital projects (i.e. Scheme Infrastructure);and
 - (c) any one-off capital charges for spreading water in accordance with clause 3.2(i).
- 3.6 Operating expenses incurred by the Company include, without limitation, all costs in relation to:
- (a) maintenance and repairs of the Scheme infrastructure;

- (b) electricity and other utility costs;
 - (c) any royalty or tax introduced and levied on water to be taken as part of the Scheme;
 - (d) costs of running and administering the Company;
 - (e) monitoring and compliance costs;
 - (f) costs incurred by directors and directors' fees;
 - (g) costs payable to professionals and service providers to the Company; and
 - (h) any rental, premises costs (including utilities), if applicable.
- 3.7 Specific expenses incurred by the Company which are particular to a specific shareholder in respect of the supply of water (which are not appropriate for the Company to pay) including, without limitation, all costs in relation to:
- (a) specific construction and Consent costs in respect of the Scheme Infrastructure required to ensure and maintain access to water by the Farmer;
 - (b) maintenance and repairs of Scheme Infrastructure;
 - (c) delivery or operating costs (e.g. electricity); and
 - (d) costs incurred as a result of the Farmer breaching this Agreement and/or the Consent Conditions in relation to its water take and use including enforcement costs.
- 3.8 The water charges determined in clause 3.3 shall be payable by the shareholder to the Company whether or not the shareholder takes the water during the Irrigation Season and notwithstanding that the supply of water may be cut off from the land or suspended pursuant to the provisions of the water supply agreement or for any other reason outside of the Company's control.
- Board may issue Shares**
- 3.9 Subject to this Constitution, the Board may from time to time issue at a nominal value A Shares (and rights and options to acquire A Shares) to an owner of a property within the scheme or a person who is proposing to join the scheme.
- 3.10 The Board may issue additional classes of Shares to A Shares (and rights and options to acquire Shares, including redeemable Shares) at any time, to any person and in such numbers as the Board thinks fit, provided that such issue is approved by special resolution.
- 3.11 The Board may issue A Shares and any other such Shares in accordance with clause 3.9 and other classes of Shares in accordance with clause 3.10 as provided for by the Co-op Act and for such purpose:
- (a) The A Shares shall have a nominal value of \$2,155.00 each.
 - (b) Other classes of Shares shall have a nominal value or other value as determined by the Board.
- 3.12 The Company may vary the nominal value of the Shares in accordance with section 15(3)(a) of the Co-Op Act.

4. **Purchase of own Shares**

Purchase by Company of its Shares

- 4.1 The Company may purchase or otherwise acquire its Shares in accordance with, and subject to, sections 58 to 66, 107, and 110 to 112 of the Act.

Cancellation of Shares

- 4.2 Shares acquired by the Company pursuant to clause 4.1 will be deemed to be cancelled immediately on acquisition by the Company (except to the extent they comprise Treasury Stock in the terms of Sections 67A-67C of the Act) but any Shares so cancelled may be reissued by the Company.

5. **Transfer of Shares**

Sale, Subdivision or Lease of Land

- 5.1 If the shareholder wishes to sell or subdivide a property to which Shares relate, then:
- (a) the Company shall be under no obligation to pay for any costs relating to on-farm or other works required to be made to ensure the continuity of water supply following a change in the ownership of the property to which the Shares relate or any part thereof;
 - (b) appropriate provisions shall be made for the granting of all requisite water easements (if any) and other rights;
 - (c) the shareholder shall ensure that if its Shares (or the appropriate parcel(s) of Shares in the event of a subdivision) are to be transferred to the purchaser of the property to which the Shares relate (or the relevant part of the property in the event of a subdivision):
 - (i) the Company is given ten working days' notice ("Notice") (unless otherwise agreed in writing between the parties) prior to the settlement date of such transfer of Shares, providing the following details:
 - (1) the number of Shares to be transferred;
 - (2) the purchaser(s) name and contact details;
 - (3) details sufficient to identify the relevant property to which the Shares relate in the event of a subdivision;
 - (4) the settlement date of the sale of the property to which the Shares relate (or part thereof) and transfer of Shares.
 - (ii) the intending purchaser(s) enters into the Company's then current water supply agreement and completes any audit requirements as required by the current Consent Conditions or the Canterbury Regional Council on or before the settlement date of such transfer of Shares (unless otherwise agreed in writing by the Company);
 - (iii) a Share transfer is executed by the purchaser(s) in the proper form for registration by the Company;

- (iv) the intending purchaser(s) pays and discharges all the Company's costs and charges related to the granting of the Company's consent to the transfer of the Shares and all legal costs and disbursements relating to the purchaser(s) entering into the Company's then current water supply agreement; and
 - (v) the intending purchaser(s) (unless paid by the Farmer) pays all of the costs of completing any audit requirements as required by the current Consent Conditions or the Canterbury Regional Council on or before the settlement date of such transfer of Shares.
- (d) for the avoidance of doubt, the intending purchaser's entry into a new water supply agreement and compliance with any audit requirements as required by the current Consent Conditions or the Canterbury Regional Council as at the time of the transfer of the Shares shall be a condition precedent to the supply of water and to the approval of the transfer of Shares to the intending purchaser(s) by the Company.
- 5.2 If the shareholder shall lease or part with possession of the property to which the Shares relate or any part thereof other than by sale then the shareholder shall ensure that the lessee or occupier of the property to which the Shares relate or any part thereof shall comply in all respects with the terms of the Water Supply Agreement and to the extent permissible by law shall indemnify and hold the Company harmless from any breach of the Water Supply Agreement by the lessee or occupier.
- 5.3 The Company may withhold the supply of water if the shareholder sells the Shares or property to which the Shares relate otherwise than in accordance with the provisions of the Constitution.
- 5.4 The Company may withhold the supply of water until the Purchaser holds the Shares and has entered into the current Water Supply Agreement.
- 5.5 If the continuity of the supply of water becomes uneconomic the Company may refuse to consent to the transfer of any rights to Shares and water.

Transfer of Surplus A Shares

- 5.6 Notwithstanding clauses 5.1 to 5.5, shareholders shall be entitled to transfer any A Shares, separately from the land to which the Shares relate, to:
- (a) existing A Share shareholders; or
 - (b) persons who are not currently shareholders in the Company but who own land sufficiently close to the Scheme to irrigate from it and wish to become part of the Scheme as shareholders in the Company.
- 5.7 The shareholders acknowledge that the transfer of the surplus A Shares shall be subject to the consent of the Company in its sole and absolute discretion and that in giving its consent the Company may require:
- (a) that the rights attaching to the Shares be varied taking into account the availability of water in the relevant area or part of the scheme; and/or
 - (b) that specific arrangements are entered into and agreed between the Company and the transferee in relation to the off-take of the water and the access to the Company's infrastructure.

Entry in register

- 5.8 Subject to clause 5.9, Shares may be transferred by entry of the name of the transferee on the register.

Signed transfer

- 5.9 For the purpose of transferring Shares, a form of transfer signed by the present holder of the Shares or the holder's personal representative must be delivered to the Company or to the agent of the Company who maintains the register.

Form of transfer

- 5.10 The form of transfer may be in any usual or common form, or any other form approved by the Board.
- 5.11 The form of transfer must be signed by the transferee if registration as holder of the Shares would impose a liability on the transferee to the Company.

Board's right to refuse or delay registration of transfer

- 5.12 The Board may, within thirty (30) working days of the receipt of a form of transfer of Shares, refuse or delay the registration of the transfer if:
- (a) the holder of the Shares has failed to pay an amount due to the Company in respect of those Shares;
 - (b) the Board considers that to effect the transfer would result in a breach of the law;
 - (c) the Board considers that it is not in the best interests of the Company to register the transfer; or
 - (d) clause 7.4 has not been complied with or the form of transfer has not been properly executed or does not comply with clauses 5.10 and 5.11; or
 - (e) the transferee has not entered into the Company's then current water supply agreement; or.
 - (f) the transferee has not acquired a beneficial interest in the transferor's land to which the Shares relate.
- 5.13 A resolution of the Board to refuse or delay a transfer of Shares must set out in full the reason for doing so, and a copy of the resolution must be sent to the transferor and transferee within five (5) working days of the date of the resolution being passed.

Registration of transfer

- 5.14 Subject to clauses 5.9 to 5.11, on receipt of a duly completed form of transfer, the Company must enter the name of the transferee on the register as holder of the Shares, unless the Board has resolved in accordance with clauses 5.12 and 5.13 to refuse or delay the registration of the transfer of the Shares.

Company may redeem and surrender Shares

Subject to this constitution:

- 5.15 The Company may redeem Shares:
- (a) at the option of the Company if permitted by their terms of issue; or
 - (b) at the option of the holder of the Shares if permitted by their terms of issue;

- (c) on a date for redemption specified by a special resolution which alters this constitution by adding such a date, or (to the extent permitted by law), on a date for redemption specified as such in the terms of issue of such Shares,

for a consideration that is specified, calculated by reference to a formula, or required to be fixed by a suitably qualified person who is not associated with or interested in the Company, in accordance with the Act.

- 5.16 The Company may exercise an option to redeem Shares issued by the Company in relation to one or more holders of Shares, in accordance with the Act.
- 5.17 The Board shall accept the surrender of any Shares in the Company having a nominal value in the circumstances and in accordance with section 20(2) and 20(3) of the Co-op Act and if otherwise so required under the Co-op Act.
- 5.18 The Board may, in its absolute discretion, accept the surrender of any Shares in the Company having a nominal value in the circumstances and in accordance with section 20(1) of the Co-op Act and if otherwise so permitted under the Co-op Act.
- 5.19 The Board may, in its absolute discretion, in the circumstances and in accordance with section 21 of the Co-op Act require any shareholder to surrender all or any of the Shares in the Company have a nominal value held by that shareholder including, without limitation, where:
- (a) The shareholder has ceased to hold an interest in land within the scheme area and is no longer taking services from the Company under a water supply agreement or
 - (b) The shareholder has failed to comply in a material respect with requirements relating to transactions with the Company contained in any water supply agreement between the Company and the shareholder after being given at least fifteen (15) working days' notice by the Company of the default under that water supply agreement with that default not being remedied within that fifteen (15) working day period. Any further default or materially the same nature shall give the Company the right to exercise its rights under this clause without further notice to the shareholder in default.
- 5.20 The consideration for the surrender of any Shares in the Company having a nominal value shall be the nominal value of those Shares.
- 5.21 The Company shall be permitted to not cancel any Shares in the Company having a nominal value and surrendered and to hold any such Shares surrendered subject to the provisions of Section 24 of the Co-op Act.

6. Share register

Maintain register

- 6.1 The Company must maintain a register which records all Shares issued by the Company and which states:
- (a) whether, under this Constitution or the terms of issue of any Shares, there are any restrictions or limitations on their transfer; and
 - (b) where any document that contains the restrictions or limitations may be inspected.
- 6.2 The Company may appoint an agent to maintain the register.

Contents of register

- 6.3 The register must state, with respect to each class of Shares:
- (a) the names (alphabetically arranged) and the latest known address of each person who is, and each person who has been within the last ten (10) years, a shareholder;
 - (b) the number of Shares held by each shareholder within the last ten (10) years; and
 - (c) the date of any:
 - (i) issue of Shares to;
 - (ii) repurchase or redemption of Shares from; or
 - (iii) transfer of Shares by or to;
- 6.4 each shareholder within the last ten (10) years; and in relation to the transfer, the name of the person to or from whom the Shares were transferred.

Directors' duty to supervise register

- 6.5 It is the duty of each director to take reasonable steps to ensure that the register is properly kept and that the transferees' names are promptly entered on it in accordance with clause 5.14.

Register prima facie evidence

- 6.6 Subject to section 91 of the Act, the entry of the name of a person in the register as holder of a Share is prima facie evidence that the legal title to the Share is vested in that person.

Register evidence of rights

- 6.7 The Company may treat the registered holder of a Share as the only person entitled to:
- (a) exercise the right to vote attaching to the Share;
 - (b) receive notices in respect of the Share;
 - (c) receive a distribution in respect of the Share; and
 - (d) exercise the other rights and powers attaching to the Share.

Trust not to be registered or recognised

- 6.8 No notice of a trust, whether express, implied, or constructive, may be entered on the register.
- 6.9 Except as required by law, no person will be recognised by the Company as holding any Share upon trust or holding any interest in a Share (whether equitable, contingent, future or partial) except the absolute legal right to the entirety of the Share vested in the registered holder.
- 6.10 A personal representative of a deceased holder of Shares is entitled to be entered on the register as the holder of such Shares as a personal representative.
- 6.11 The registration of a trustee, executor, or administrator as a personal representative of a deceased shareholder does not constitute notice of a trust.

7. Share certificates

Application for Share certificate

- 7.1 A shareholder may apply to the Company for a certificate relating to some or all of the shareholder's Shares.

Issue of Share certificate

- 7.2 The Company must, within twenty (20) working days after receiving an application for a Share certificate under clause 7.1, send to the shareholder a certificate stating the name of the Company, and the class and number of Shares to which the certificate relates.
- 7.3 If the application relates to some but not all of the applicant's Shares, the Company must separate the Shares shown in the register as owned by the applicant into separate parcels; one parcel being the Shares to which the Share certificate relates, and the other parcel being any remaining Shares.

Transfer to be accompanied by Share certificate

- 7.4 Notwithstanding clause 5.14 and Section 84 of the Act, where a Share certificate has been issued, a transfer of the Shares to which it relates must not be registered by the Company unless the form of transfer is accompanied by the Share certificate relating to the Shares or by evidence as to its loss or destruction and, if required, an indemnity in a form required by the Board.

Surrendered Share certificate

- 7.5 Where Shares to which a Share certificate relates are transferred, and the Share certificate has been sent to the Company to enable registration of the transfer, the Share certificate will be cancelled and no further Share certificate will be issued except at the request of the transferee.

8. Transmission of Shares

- 8.1 In the case of the death of a shareholder, the survivor (where the deceased was a joint holder) or the legal personal representative of the deceased (where the deceased was a sole holder) will be the only person recognised by the Company as having any title to the deceased's interest in the Shares. Nothing contained in this clause 8.1 will release the estate of a deceased joint holder from any liability in respect of any Share which had been jointly held by the deceased with other persons.
- 8.2 The assignee of the property of a bankrupt shareholder is entitled to be registered as the holder of the Shares held by the bankrupt.

9. Call on Shares

Board may make calls

- 9.1 Subject to the terms of issue of any Shares, the Board may resolve to require the holders of unpaid or partly paid Shares to pay all or part of the amount unpaid on the Shares. The terms of the resolution will constitute the terms of the obligation to pay the call (including payment by instalments). The call may be revoked or postponed at any time by the Board.

Notice of calls

- 9.2 Subject to the terms of issue of any class of Shares and to clause 9.9, unless all the holders of a class of Shares subject to a call unanimously agree, a call (or the postponement or revocation of a call) will apply to all the holders of Shares of the class equally.
- 9.3 Notice of the call must be given to the shareholder at the time of the call or to a subsequent holder of the Shares. Failure to give notice to a shareholder will not invalidate a call but it will not be payable by that shareholder until the notice has been served on the shareholder.
- 9.4 Notice of a call sent by post to a shareholder to the address recorded in the register as the address of the shareholder will be deemed to have been received by the shareholder the day after it was posted.

Liability for calls

- 9.5 The joint holders of Shares are jointly and severally liable to pay all calls in respect of the Shares.
- 9.6 If a call is not paid before or on the day appointed for payment, the person from whom the sum is due will be liable to pay interest on the sum (from the day appointed for payment until the time of actual payment) at such rate as the Board determines either at the time of the call or subsequently.
- 9.7 The liability for a call which has become due and payable attaches to the current shareholder and not a prior shareholder, notwithstanding that at the date of the call (or the date the call fell due for payment) another person was the holder of the Shares or that the notice of the call was served on the then shareholder and not the current shareholder.
- 9.8 Following the registration on the register of a change of ownership of Shares in respect of which a call has been made, a notice of the call is not required to be served on the new shareholder.

Agreement to differentiate between calls

- 9.9 The Board may, on the issue of Shares, by agreement with the shareholders concerned, differentiate between the holders of the same class as to the amount to be paid on the Shares and the times for payment.

10. Suspension of right to dividends, forfeiture and lien**Notice of suspension of right to dividends**

- 10.1 If a shareholder fails to pay any call (or instalment of a call) on the day appointed for payment, the Board may at any time after that date, while any part of the call or instalment payable by the shareholder remains unpaid, suspend payment of any dividends or other distributions payable to the shareholder until so much of the call or instalment as is unpaid together with any interest which may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment have been paid to the Company in full.

Application of suspended dividends

- 10.2 All dividends and other distributions which would have been payable in respect of Shares which are subject to a suspension of the right to dividends or distributions must be

withheld and applied by the Company to reduce the amount owing under the call, including amounts owing under clause 10.4.

Lifting suspension of right to dividends

- 10.3 When the total dividends and distributions withheld and applied under clause 10.2 equal the total amount owing under the call, the suspension of the right to dividends and distributions will be lifted, and all rights to be paid dividends and distributions on the Shares will resume.
- 10.4 The amount owing under the call for the purposes of clauses 10.2 to 10.4 may include any interest which may have accrued and all expenses which may have been incurred by the Company by reason of non-payment by the shareholder of the amount owing under the call.

Forfeiture

- 10.5 If a shareholder fails to pay any call or instalment of a call on the day appointed for payment of it the Board may, while any part of the call or instalment remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid together with any interest, which may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment.
- 10.6 The notice shall name a further day (not earlier than the expiration of fourteen (14) working days from the date of service of the notice) on or before which the payment required by the notice is to be made and shall state that in the event of non-payment at or before the time appointed the Shares in respect of which the call was made will be liable to be forfeited.
- 10.7 If the requirements of the notice are not complied with, any Share in respect of which the notice has been given may, at any time after the date for payment given in notice and before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends and any other distributions in respect of the forfeited Shares not actually paid before the forfeiture.

Disposal of forfeited shares

- 10.8 A forfeited Share may be sold, or otherwise disposed of, on whatever terms and in whatever manner the Board resolves.
- 10.9 At any time before a sale or disposition forfeiture may be cancelled on whatever terms the Board resolves.

Liability in respect of forfeited shares

- 10.10 A person whose Shares have been forfeited ceases to be a shareholder in respect of the forfeited Shares, but remains liable to pay to the Company:
- (a) all money which, at the date of forfeiture, was payable by him or her to the Company in respect of the Shares; and
 - (b) costs and expenses incurred by the Company:
 - (i) in connection with the forfeiture of the Shares; and
 - (ii) in connection with the attempts to enforce payment of the calls or instalments.
 - (c) The Board may waive all or part of the payment of the costs and expenses.

- (d) His or her liability ceases if and when the Company receives payment in full of all the money which is specified in this clause 10.10 in respect of the Shares.

Notice of forfeiture

10.11 On the forfeiture of any Share the Board:

- (a) must cause a note of the forfeiture and of the date of the forfeiture to be entered on the Share register; and
- (b) must cause notice of the forfeiture and of the date of the forfeiture to be given to the shareholder in whose name the Share stood in the Share register immediately before the forfeiture; and
- (c) must (upon the disposal of any forfeited Share) cause a note of the manner and of the date of the disposal to be similarly entered.

Declaration of forfeiture

10.12 A statutory declaration in writing that:

- (a) the declarant is a director of the Company; and
- (b) a Share in the Company has been duly forfeited on a date stated in the declaration;

is conclusive evidence of the facts stated in the declaration as against all persons who claim to be entitled to the Share.

Consideration for and transfer of forfeited Shares

10.13 The Company may receive the consideration, if any, which is given for a forfeited Share on any sale or other disposition of the Share.

10.14 The Company may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of.

10.15 The Company must thereupon register the transferees as the holder of the Share.

10.16 The transferee need not see the application of the purchase money, if any.

10.17 The transferee's title to the Share is not affected by an irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the Share.

Sums due other than calls

10.18 These clauses as to forfeiture apply in the case of non-payment of any sum which (by the terms of issue of a Share) becomes payable at a fixed time, as if the sum had been payable by virtue of a call duly made and notified.

Surrender of Shares

10.19 The Board may accept a surrender of any Shares that are liable to forfeiture, or any part of those Shares, upon whatever terms are agreed by the shareholder and the Board.

Non-Payment

10.20 The forfeiture provisions contained in clauses 10.5 to 10.19 shall apply equally as the context requires to the non-payment by a shareholder of any monies due to the Company by the shareholder in respect of water charges or otherwise.

Lien

10.21 The Company has a first and paramount lien upon every Share registered in the name of a shareholder (whether solely or jointly with others) and upon the proceeds of sale of those Shares. This lien is for:

- (a) all money payable (whether presently or not) in respect of Shares held by the shareholder;
- (b) all other money presently payable by the shareholder to the Company on any account whatever; and
- (c) any amount the Company may be called upon to pay under any statute or regulation in respect of Shares of a deceased shareholder or other shareholder (whether or not the period for the payment, fulfilment or discharge has actually arrived).

10.22 The lien extends to all dividends from time to time declared in respect of the Shares.

Sale on exercise of forfeiture or lien

10.23 Subject to this clause 10.23 a forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Board thinks fit.

10.24 Subject to this clause 10.24, the Company may sell, in such a manner as the Board thinks fit, any Shares on which the Company has a lien. No sale may be made until:

- (a) a sum in respect of which the lien exists is due and payable;
- (b) a notice in writing stating, and demanding payment of, the amount due and payable (in respect of which the lien exists) has been given to the current registered holder of the Share (or the person entitled to that Share by reason of the registered holder's death or bankruptcy); and
- (c) fourteen (14) working days have expired since the giving of that notice.

10.25 The net proceeds of the sale of any forfeited Share or any Shares sold for the purpose of enforcing a lien are to be applied in or towards satisfaction of any unpaid calls, instalments (in the case of a lien) or any other money in respect of which the lien existed. The residue, if any, shall be paid to the former holder of the Shares.

10.26 A certificate signed by a director stating that the power of sale provided in this clause 10.26 has arisen, and is exercisable by the Company under this Constitution, or that a Share in the Company has been duly forfeited on the date stated, will be conclusive evidence of the facts stated in the certificate.

10.27 For giving effect to any sale after forfeiture or for enforcing a lien in purported exercise of the powers given in this Constitution, the Board may authorise some person to transfer the Shares sold to the purchaser. The purchaser will be registered as the holder of the Shares comprised in the transfer and will not be bound to see to the application of the purchase money, nor will the purchaser's title to the Shares be affected by an irregularity or invalidity in the proceedings in reference to the sale. The remedy of any person aggrieved by the sale will be in damages only and against the Company exclusively. If the Share certificate for the forfeited Shares is not delivered up to the Company, the Board may issue a new certificate distinguishing it as the Board thinks fit from the Share certificate not delivered up.

11. Distributions

Solvency test

- 11.1 Subject to clauses 11.3 to 11.5, the Board may, if it is satisfied on reasonable grounds that the Company will satisfy the solvency test immediately after the distribution, authorise a distribution by the Company to shareholders of any amount and to any shareholders as it thinks fit.
- 11.2 The directors who vote in favour of a distribution must sign a certificate stating that, in their opinion, the Company will satisfy the solvency test immediately after the distribution. The grounds for that opinion must also be stated in that certificate.

Dividends payable *pari passu*

11.3

- (a) Subject to clause 11.3(b), the Board may not authorise a dividend:
- (i) in respect of some but not all the Shares in a class; or
 - (ii) that is of a greater value per Share in respect of some Shares of a class than in respect of other Shares of that class.
- (b) Unless the amount of the dividend in respect of a Share of that class is in proportion to the amount paid to the Company in satisfaction of the shareholder's liability under this Constitution or under the terms of issue of the Share.

11.4 A shareholder may waive his or her entitlement to receive a dividend by giving a notice in writing, signed by or on behalf of the shareholder, to the Company.

11.5 If all the shareholders of the same class concur in writing in respect of each proposed dividend, the Company may pay a dividend which is distributed other than in accordance with clause 11.3.

Discounts to shareholders

11.6 The Board may, pursuant to a discount scheme, resolve that the Company offer shareholders discounts in respect of some or all of the goods sold or services provided by the Company.

11.7 Subject to clause 11.9, the discount scheme must be one where the Board has previously resolved that the proposed discounts:

- (a) are fair and reasonable to the Company and all shareholders; and
- (b) will be available to all shareholders or to all shareholders of the same class on the same terms.

11.8 The discount scheme may not be approved or continued by the Board unless the Board is satisfied on reasonable grounds that the Company will satisfy, or is satisfying, the solvency test.

11.9 If all shareholders of the class of Shares to which a proposed discount scheme would apply, agree in writing, the Scheme may be put into effect notwithstanding that it does not comply with clause 11.7.

Financial assistance on acquisition of Shares

11.10 The Company may, subject to and in accordance with sections 76 to 80, 107(i)(e) and 108 of the Act, give financial assistance (whether directly or indirectly) to a person for the purpose of, or in connection with, the purchase of Shares issued (or to be issued) by the Company, or by its holding company.

12. Shareholder's rights

Issue of statement of rights to shareholder

12.1 The Company must issue to any shareholder, on request, a statement that sets out:

- (a) the class of Shares held by the shareholder, the total number of Shares of that class issued by the Company, and the number of Shares of that class held by the shareholder;
- (b) the rights, privileges, conditions, and limitations, including restrictions on transfer, attaching to the Shares held by the shareholder; and
- (c) the relationship of the Shares held by the shareholder to other classes of Shares.

12.2 The Company is not obliged to provide a shareholder with a statement under clause 12.1, if:

- (a) a statement that complies with clause 12.1(a) to 12.1(c) has been provided within the previous six (6) months;
- (b) the shareholder has not acquired or disposed of Shares since the previous statement was provided;
- (c) the rights attached to the Shares have not been altered since the previous statement was provided; and
- (d) there are special circumstances which would make it reasonable for the Company to refuse the request.

12.3 A statement issued pursuant to clause 12.1 must state in a prominent place that it is not evidence of title to the Shares or of the matters set out in it.

13. Exercise of powers reserved to shareholders

Powers reserved to shareholders

13.1 Powers reserved to shareholders by the Act or by this Constitution may be exercised at an annual meeting or a special meeting.

13.2 Unless otherwise specified in the Act or this Constitution, a power reserved to shareholders may be exercised by an ordinary resolution.

Special resolutions

13.3 When shareholders exercise a power to approve any of the following, that power may only be exercised by a special resolution:

- (a) an alteration to or revocation of this Constitution or the adoption of a new constitution;

- (b) a major transaction;
- (c) an amalgamation; or
- (d) the liquidation of the Company.

13.4 Any decision made by special resolution pursuant to this clause may be rescinded only by a special resolution, provided that a resolution to put the Company into liquidation cannot be rescinded.

Management review by shareholders

13.5 A shareholder may question, discuss, and comment on the management of the Company at a meeting of shareholders.

13.6 A meeting of shareholders may pass a resolution relating to the management of the Company.

13.7 Notwithstanding section 128 of the Act or any other clause of this Constitution, a resolution relating to the management of the Company passed at a meeting of shareholders (in accordance with clause 13.6) is not binding on the Board.

Dissenting shareholder may require Company to purchase Shares

13.8 Where:

- (a) a shareholder is entitled to vote on the exercise of one or more of the powers set out in:
 - (i) clause 13.3(a) and the proposed alteration imposes or removes a restriction on the activities of the Company; or
 - (ii) clause 13.3(b) or 13.3(c); and
- (b) the shareholders resolved, pursuant to the relevant clause to exercise the power; and
- (c) the shareholder casts all the votes attached to Shares registered in the shareholder's name and having the same beneficial owner against the exercise of the power; or
- (d) where the resolution to exercise the power was passed under Section 122 of the Act and the shareholder did not sign the resolution,

that shareholder is entitled to require the Company to purchase those Shares in accordance with section 111 of the Act.

13.9 Within twenty (20) working days of receiving a notice from a shareholder given under clause 13.8 the Board must:

- (a) agree to buy the Shares of the shareholder giving the notice; or
- (b) arrange for some other person to buy the Shares; or
- (c) apply to the Court under sections 114 or 115 of the Act; or
- (d) arrange, before taking the action concerned, for the special resolution entitling the shareholder to give the notice to be rescinded by a special resolution, or decide in the appropriate manner not to take the action concerned; and
- (e) give written notice to the shareholder of the Board's decision under this clause 13.9.

- 13.10 Where the Board agrees, pursuant to clause 13.9(a), to purchase the Shares it must comply with Section 112 of the Act.

Shareholder proposals

- 13.11 A shareholder may give written notice to the Board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of the shareholders at which the shareholder is entitled to vote.
- 13.12 If the notice is received by the Board not less than twenty (20) working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must (at the expense of the Company) give notice of the shareholder's proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 13.13 If the notice is received by the Board not less than five (5) working days and not more than twenty (20) working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must (at the expense of the shareholder) give notice of the shareholder's proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 13.14 If the notice is received by the Board less than five (5) working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board may, if practicable and (at the expense of the shareholder) give notice of the shareholder's proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting. If not practicable, the Board may require the shareholder to give proper notice (in accordance with clauses 13.12 or 13.13) prior to the next meeting.
- 13.15 If the directors intend that shareholders may vote on the proposal by proxy, they must give the proposing shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.
- 13.16 The Board is not required to include in or with the notice given by the Board a statement prepared by a shareholder which the directors consider to be defamatory, frivolous, or vexatious.
- 13.17 Where the costs of giving notice of the shareholder's proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder must (on giving notice to the Board) deposit with the Company or tender to the Company a sum sufficient to meet those costs.

14. Meetings of shareholders

Annual meeting

- 14.1 The Board must, in accordance with section 120 of the Act, call an annual meeting of shareholders to be held:
- (a) one in each calendar year; and
 - (b) not later than six (6) months after the balance date of the Company; and
 - (c) not later than fifteen (15) months after the previous annual meeting or, in respect of the first annual meeting, not later than eighteen (18) months after the date of the Company's incorporation.

14.2 The Company must hold the annual meeting on the date on which it is called to be held.

Special meetings.

14.3 A special meeting:

- (a) may be called at any time by the Board or a person who is authorised by the Board to call the meeting; and
- (b) must be called by the Board on the written request of shareholders holding not less than five (5) per cent of the votes entitled to be cast on the issue, and made by at least five (5) shareholders.

Chairperson of meetings of shareholders

14.4 If the directors have elected a chairperson, and that chairperson is present at a meeting of shareholders, he or she must chair the meeting.

14.5 If no chairperson has been elected or if, at any meeting of shareholders, the chairperson is not present within fifteen (15) minutes of the time appointed for the commencement of the meeting, the shareholders present may choose one of their number to chair the meeting.

Shareholders entitled to notice of meeting

14.6 The shareholders entitled to receive notice of a meeting of shareholders are those shareholders of the relevant class:

- (a) if the Board has fixed a date for the purpose of establishing an entitlement to receive notice of meeting, whose names are registered on the register on that date; or
- (b) if the Board does not fix a date for the purpose of establishing an entitlement to receive the notice of meeting, whose names are registered on the register at the close of business on the day immediately preceding the day on which the notice is given.

14.7 A date fixed by the Board under clause 14.6(a) must not precede by more than thirty (30) working days nor less than ten (10) working days the date on which the meeting is to be held.

Notice of meeting

14.8 Written notice of the time and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting, and to every director and the auditor of the Company, not less than ten (10) working days before the meeting.

Contents of notice

14.9 The notice referred to in clause 14.8 must state:

- (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and
- (b) the text of any special resolution to be submitted to the meeting.

Irregularities in notice

14.10 An irregularity in a notice of a meeting is waived if a majority of the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if a majority at the meeting ratify the irregularity.

Method of holding meeting

14.11 A meeting of shareholders may be held by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting.

Adjournments

14.12 If a meeting of shareholders is adjourned for less than thirty (30) days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.

Minutes

14.13 The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of shareholders.

14.14 Minutes which have been signed as correct by the chairperson of the meeting are prima facie evidence of the proceedings.

15. Voting at meetings**Quorum**

15.1 The quorum is a meeting of not less than five (5) shareholders entitled to vote who hold at least ten (10) percent of the voting rights, present in person or by attorney or proxy.

15.2 No business may be transacted at a meeting of shareholders if a quorum is not present.

15.3 If a quorum is not present within thirty (30) minutes after the time appointed for the meeting:

(a) in the case of a meeting called pursuant to a requisition of shareholders under clause 14.3(b), the meeting is dissolved:

(b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the directors may appoint.

Voting

15.4 Unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:

(a) voting by voice; or

(b) voting by show of hands.

15.5 A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 15.6.

15.6 At a meeting of shareholders a poll may be demanded by:

(a) not less than five (5) shareholders having the right to vote at the meeting; or

(b) a shareholder or shareholders representing not less than ten percent (10%) of the total voting rights of all shareholders having the right to vote at the meeting; or

- (c) by a shareholder or shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than ten percent (10%) of the total amount paid up on all shares that confer that right.
- 15.7 A poll may be demanded either before or after the vote is taken on a resolution.
- 15.8 If a poll is taken, votes must be counted according to the votes attached to the Shares of each shareholder present in person or by proxy and voting.
- 15.9 The chairperson of a shareholders' meeting is entitled to a casting vote
- 15.10 The holders of Shares shall be entitled to one (1) vote per Share provided that no one shareholder shall have more than six hundred (600) votes plus a further number of votes equal to 50% of the number of shares that shareholder holds over and above six hundred (600) notwithstanding that shareholder holds a greater number of shares.

Proxies and representatives

- 15.11 A shareholder may exercise the right to vote either by being present or by proxy.
- 15.12 A proxy for a shareholder is entitled to attend, be heard, and vote at a meeting of shareholders as if the proxy were the shareholder.
- 15.13 A proxy must be appointed by notice in writing signed by the shareholder, and the notice must state whether the appointment is for a particular meeting or a specified term not exceeding twelve (12) months.
- 15.14 No proxy is effective in relation to a meeting unless a copy of the notice of appointment is deposited at the registered office of the Company not less than forty eight (48) hours before the time of holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in the event of default the instrument of proxy shall be treated as invalid.
- 15.15 An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

MORVEN, GLENAVY. IKAWAI IRRIGATION COMPANY LIMITED

I/We [Name/s], of [Address] being a member/members of the abovenamed Company, hereby appoint [Name] of [Address], or failing him [Name] of [Address], as my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary as the case may be) general meeting of the Company to be held on the [day] day of [month] [year], and at any adjournment thereof.

Signed this [day] day of [month] [year].

Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form as near thereto as circumstances admit:

MORVEN, GLENAVY. IKAWAI IRRIGATION COMPANY LIMITED

I/We [Name/s], of [Address] being a member/members of the abovenamed Company, hereby appoint [Name] of [Address], or failing him [Name] of [Address], as my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary as the case may be) general meeting of the Company to be held on the [day] day of [month] [year], and at any adjournment thereof.

Signed this [day] day of [month] [year].

- * This form is to be used in favour/against the resolution.
- * Unless otherwise instructed, the proxy will vote as he thinks fit.

[Strike out whichever is not desired]

- 15.16 The Company shall not issue a form of proxy in which the name or office of the proxy is filled in.
- 15.17 The instrument appointing a proxy shall be deemed to confer authority to demand or joint in demanding a poll.
- 15.18 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation, or transfer as foresaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 15.19 Any corporation which is a member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of members of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the Company and a corporation so represented at any meeting of the Company shall be deemed to be a shareholder personally present within the meaning of that term as used in this Constitution. Any such person attending a meeting shall, if requested, produce a copy of the resolution authorising his attendance duly certified as such by the secretary or a director of the corporation which he represents.

Votes of joint holders

- 15.20 Where 2 or more persons are recorded in the register as the holders of a Share, the vote of the person named in a Proxy or if there is no Proxy the person named first in the register and voting on a resolution will be accepted to the exclusion of the votes of the other joint holders.

Unpaid sums

- 15.21 If a sum due to the Company in respect of a Share has not been paid, that Share may not be voted at a shareholders' meeting other than at a meeting of an interest group.

16. Appointment and removal

Number of Directors

- 16.1 Subject to clause 19.23 the number of directors may not be fewer than four (4) or more than seven (7).
- 16.2 A director representative from the Waihao Downs ward must form part of the Board for the first two terms following the date of the Constitution. Subsequent to this period, there is no requirement for the Board to include a director representative from the Waihao Downs ward.

Appointment and removal of directors by resolution

- 16.3 A director may be appointed or removed from office by an ordinary resolution.
- 16.4 A resolution to appoint two (2) or more directors may be voted on as one resolution without each appointment being voted individually.
- 16.5 A notice of meeting at which the removal of a director will be considered must state that the purpose of the meeting is the removal of the director.

Disqualification and removal

- 16.6 A person will be disqualified from holding the office of director if he or she:
- (a) is removed under clauses 16.3 to 16.5; or
 - (b) resigns in writing; or
 - (c) becomes disqualified from being a director pursuant to section 151 of the Act; or
 - (d) is prohibited from being a director or promoter of or being concerned with or taking part in the management of a company under sections 382, 383 or 385 of the Act; or
 - (e) dies; or
 - (f) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
 - (g) is under 18 years of age; or
 - (h) is an undischarged bankrupt; or
 - (i) is prohibited by the Companies Act 1955 from being a director or would be so prohibited but for the repeal of that statute.

Shareholding qualification

- 16.7 A director is not required to hold Shares.

Rotation and retirement of Directors

- 16.8 The term of office to which a director is elected shall be three (3) years and every director appointed shall resign and be eligible for re-election at the end of that three (3) year term.
- 16.9 Each retiring director shall retain office until:
- (a) he or she is re-elected; or
 - (b) if he or she is not re-elected, until the shareholders at the meeting at which he or she retires (or any adjournment of that meeting) elects someone in his or her place; or
 - (c) if the meeting does not elect someone in his or her place, until the end of the meeting or an adjournment of the meeting.

Nomination of Directors

- 16.10 No person other than a director retiring at the meeting shall be eligible for election to the office of director at any general meeting unless he or she has been either:
- (a) recommended by the directors for election; or
- nominated in writing by a shareholder qualified to attend and vote at the meeting at which the notice is given.

- 16.11 Every such nomination must be made and signed by two (2) members (other than the person nominated) as nominator and seconder and must be signed by the person being nominated signifying acceptance of nomination. Every nomination paper must be left at the registered office of the Company addressed to the Company accountant no later than twenty one (21) clear days before the meeting. The Board may recommend further nominations if the minimum number requirements at clause 16.1 are not going to be met due to retirements.
- 16.12 If the number of nominations for directors exceeds the number of vacancies the Board will appoint the Company's accountants or two (2) other independent persons to be scrutineers and the scrutineers shall conduct a ballot for such vacancies. The ballot shall be conducted on the basis of a written ballot to be held at the meeting with every member having voting rights as provided for in clause 15.10.
- 16.13 The ballot papers shall at all times remain the property of the Company and shall be numbered and have on them the name of the members to whom they are sent and the number of votes to which the member is entitled. Removal of either the number or the name from the ballot paper shall render the ballot paper invalid.
- 16.14 The ballot paper shall:
- (a) state the number of directors required to be elected;
 - (b) state the names of the candidates in alphabetical order;
 - (c) state the method of voting;
 - (d) provide a space for the shareholder to insert their personal details and cast their vote accordingly.
- 16.15 The ballot paper may contain further information about the candidates for election or otherwise.
- 16.16 The ballot paper shall be filled in and returned by the shareholder at the meeting.
- 16.17 An additional scrutineer shall be appointed from the floor at the meeting and the scrutineers shall collect and tally the ballot papers at the beginning of the meeting.
- 16.18 The scrutineers shall advise the chairman of directors of the result of the ballot and the chairman of directors shall announce the result of such ballot at the meeting, the results of which shall constitute the valid election of those persons elected as directors:
- (a) if any two (2) or more candidates secure the same number of votes their election shall be determined by lot in the manner determined by the Chairman of the General Meeting;
 - (b) the scrutineers' decision on the number of votes cast for each candidate on a ballot and whether any vote is invalid or informal shall be final and binding on the Company and the members;
 - (c) following the announcement of the result of the ballot at the annual meeting or the determination in the case of a tie, the scrutineers shall destroy all ballot papers at the earliest possible opportunity.

Additional Directors

- 16.19 The directors shall have the power at any time and from time to time to appoint any person to be a director as an addition to the existing directors (whether a shareholder director or

independent), but so the total number of directors shall not at any time exceed the number fixed in accordance with this Constitution. Any director so appointed shall hold office only until the next annual meeting and shall then be eligible for re-election but shall not be taken into account in determining the directors who are to retire by rotation at that meeting.

17. Indemnity and insurance

Indemnity of Directors and employees

17.1 The Board may cause the Company to indemnify a director or employee of the Company or a related company for costs incurred by him or her in any proceeding:

- (a) that relates to liability for any act or omission in his or her capacity as a director or employee; and
- (b) in which judgment is given in his or her favour or in which he or she is acquitted, or which is discontinued.

17.2 The Board shall cause the Company to indemnify a director or an employee of the Company or a related company in respect of:

- (a) liability to any person other than the Company or a related company for any act or omission in his or her capacity as a director or employee; or
- (b) costs incurred by the director or employee in defending or settling any claim or proceeding relating to any liability under paragraph (a) above;

not being:

- (c) criminal liability; or
- (d) liability for the breach of section 131 of the Act; or
- (e) liability for breach of any fiduciary duty owed to the Company or related company.

17.3 The Board must ensure that particulars of any indemnity given to any director or employee of the Company or related company are forthwith entered in the interests register.

Insurance of Directors and employees

17.4 The Board may, subject to section 162 of the Act, cause the Company to effect insurance for directors and employees of the Company or a related company in respect of:

- (a) liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee; or
- (b) costs incurred by such directors or employees in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by a director or employee in defending any criminal proceedings that have been brought against the director or employee in relation to any act or omission in his or her capacity as a director or employee and in which he or she is acquitted.

17.5 The directors who vote in favour of authorising the effecting of insurance under clause 17.4 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.

- 17.6 The Board must ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of the Company or related company are forthwith entered in the interests register.

Definitions

- 17.7 For the purpose of clause 17.4, “director” includes a former director and “employee” includes a former employee.

18. Powers and duties of the Board

Powers of the Board

- 18.1 Subject to clause 18.2 and any restrictions in the Act or this Constitution, the business and affairs of the Company must be managed by or under the direction or supervision of the Board.
- 18.2 The Board has, and may exercise, all the powers necessary for managing, directing and supervising the management of the business and affairs of the Company except to the extent that this Constitution or the Act expressly requires those powers to be exercised by the shareholders or any other person.

Delegation by Board

- 18.3 The Board may delegate to a committee of directors, a director, an employee of the Company, or any other person any one or more of its powers, other than the powers referred to in the following sections of the Act:
- (a) section 23(1)(c) (change of Company name);
 - (b) section 42 (issue of other Shares);
 - (c) section 44 (shareholder approval for the issue of Shares);
 - (d) section 47 (consideration for the issue of Shares);
 - (e) section 52 (distributions);
 - (f) section 54 (Shares in lieu of dividends);
 - (g) section 55 (shareholder discounts);
 - (h) section 60 (offers to acquire Shares);
 - (i) section 61 (special offers to acquire Shares);
 - (j) section 63 (stock exchange acquisitions subject to prior notice to shareholders);
 - (k) section 65 (stock exchange acquisitions not subject to prior notice to shareholders);
 - (l) section 69 (redemption of Shares at the option of the Company);
 - (m) section 71 (special redemptions of Shares);
 - (n) section 76 (provision of financial assistance);
 - (o) section 78 (special financial assistance);
 - (p) section 80 (financial assistance not exceeding 5 per cent of shareholders' funds);
 - (q) section 84(4) (transfer of Shares);

- (r) section 187 (change of registered office);
- (s) section 193 (change of address for service);
- (t) section 221 (manner of approving an amalgamation proposal); and
- (u) section 222 (short form amalgamations).

18.4 The Board is responsible for the exercise of a power by any delegate (where that power is delegated under clauses 18.3 and 18.4) as if the power had been exercised by the Board, unless the Board:

- (a) believed on reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the directors by the Act and this Constitution; and
- (b) has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.

Directors to act in good faith

18.5 A director, when exercising powers or performing duties, must act in good faith and in what the director believes to be the best interests of the Company.

18.6 Nothing in this clause 18.6 limits the power of a director to make provision for the benefit of employees of the Company in connection with the Company ceasing to carry on the whole or part of its business.

Major transactions

18.7 The Board may not procure or permit the Company to enter into a major transaction unless the transaction is:

- (a) approved by a special resolution; or
- (b) made contingent on approval by a special resolution.

19. Proceedings of the Board

Third Schedule

19.1 The provisions of the Third Schedule to the Act do not apply and are replaced by this clause 19.

Chairperson

19.2 The directors may elect one of their number as a chairperson of the Board.

19.3 The director elected as chairperson holds that office until he or she dies or resigns or the directors elect a chairperson in his or her place.

19.4 If no chairperson is elected or if at a meeting of the Board the chairperson is not present within five (5) minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

Notice of meeting

19.5 A director or, if requested by a director to do so, an employee of the Company, may convene a meeting of the Board by giving notice in accordance with clauses 19.5 to 19.9.

- 19.6 Not less than two (2) working days' notice of a meeting of the Board must be given to every director who is in New Zealand. The notice must include the date, time and place of the meeting and the matters to be discussed.
- 19.7 The giving of a notice of a meeting or an irregularity in the notice is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors entitled to receive notice of the meeting agree to the waiver.
- 19.8 Notice of a meeting may be given by any means, including by telephone. Notice given by a letter addressed to a director at his or her last known residential address will be deemed to have been given on the day following the day the letter is posted.
- 19.9 It is not necessary to give notice of a meeting of the Board to any director for the time being absent from New Zealand.

Method of holding meetings

- 19.10 A meeting of the Board may be held either:
- (a) by a number of directors sufficient to form a quorum, being assembled together at the place, date, and time appointed for the meeting; or
 - (b) by means of audio, or audio and visual communication, by which all the directors participating in the meeting and constituting a quorum, can simultaneously hear each other throughout the meeting.

Quorum

- 19.11 A quorum for a meeting of the Board shall be at least three (3) Directors plus the chairperson of the directors
- 19.12 No business may be transacted at a meeting of directors if a quorum is not present.

Voting

- 19.13 Every director has one vote.
- 19.14 The chairperson shall have a casting vote.
- 19.15 A resolution of the Board is passed if it is agreed to by all directors present without dissent, or if a majority of the votes cast are in favour of it.
- 19.16 A director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board, unless he or she expressly dissents from (or votes against) the resolution at the meeting.
- 19.17 A director may vote in respect of any transaction in which the director is interested and if the director does so the director's vote will be counted and the director will be counted in the quorum present at the meeting.

Minutes

- 19.18 The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of the Board.

Unanimous resolution

- 19.19 A resolution in writing, signed or assented to by all directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

19.20 Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors.

19.21 A copy of any such resolution must be entered in the minute book of Board proceedings.

Other proceedings

19.22 Except as provided in this clause 19 the Board may regulate its own procedure.

Continuing Directors

19.23 The continuing directors will continue to comprise the Board notwithstanding any vacancy in the number of directors. If their number is reduced below the number fixed by or pursuant to this Constitution as the minimum number of directors, the continuing directors will comprise the Board only for the purpose of summoning a special meeting.

20. Interested Directors

Authority to remunerate Directors

20.1 The Board may authorise:

- (a) the payment of remuneration (or the provision of other benefits) by the Company to a director for his or her services as a director (or in any other capacity), if the Board is satisfied that to do so is fair to the Company;
- (b) the directors who vote in favour of authorising a payment under clauses 20.1 and 20.2 must sign a certificate stating that, in their opinion, the making of a payment is fair to the Company and the reasons for that opinion.

20.2 The directors of the Company shall also be entitled to reasonable travelling expenses and such other expenses incurred by them in carrying out the business of the Company.

Other offices with Company held by Director

20.3 Any director may act by himself or herself, or by the director's firm in a professional capacity for the Company; and the director or the director's firm will be entitled to remuneration for professional services as if the director were not a director. Nothing in this clause authorises a director or the director's firm to act as auditor for the Company.

20.4 A director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the director's office of director, for such period and on such terms (as to remuneration and otherwise) as the Board may determine.

20.5 Other than as provided in clauses 20.6 and 20.7, a director is not disqualified by virtue of his or her office from entering into any transaction with the Company. Any such transaction will be valid and enforceable to the same extent as if he or she were not a director and not in a fiduciary relationship with the Company.

Notice of interest to be given

20.6 Subject to the unanimous agreement or concurrence of all entitled persons to the contrary, a director must, forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, cause to be entered in the interests register, and, if the Company has more than one director, disclose to the Board of the Company:

- (a) if the monetary value of the director's interest is able to be quantified, the nature and monetary value of that interest; or
- (b) if the monetary value of the director's interest cannot be quantified, the nature and extent of that interest.

20.7 For the purposes of clause 20.6, a general notice entered in the interests register or disclosed to the Board to the effect that a director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction.

21. **Audit**

21.1 Auditors shall be appointed and their duties regulated in accordance with sections 196 to 207 of the Act.

This document comprising pages numbered from 1 to 35 is certified as the Constitution of Morven, Glenavy. Ikawai Irrigation Company Limited.

Dated this _____ day of _____ 2016

Director

ANNEXURE A

Map of Waihao Downs Ward

