

Applicant Details

Surname	Given Name(s)
<input type="text"/>	<input type="text"/>
or Company	
<input type="text"/>	
Postal Address	
<input type="text"/>	
Town	State
<input type="text"/>	<input type="text"/>
	Postcode
	<input type="text"/>
Telephone	Facsimile
<input type="text"/>	<input type="text"/>
Mobile	ABN
<input type="text"/>	<input type="text"/>
Email (Please use block letters)	
<input type="text"/> @ <input type="text"/>	

Licence Details

Stream, Irrigation Area, District or Zone
<input type="text"/>
Licence No., Irrigation Water Service or Farm Holding
<input type="text"/>
**IMPORTANT: Please attach a recent statement from your Water Authority

Acknowledgements

I acknowledge that I have read and understood the trading rules set out under the heading "Terms & Conditions" on the website of The Water Exchange Pty Limited, currently at www.waterexchange.com.au

I acknowledge that I have read and understood the terms of the Agreement by which I am bound if I make transactions on the water exchange and which are attached to this form.

All signatories, please sign: _____

If a company, please affix seal and sign below:

Signed: _____	Signed: _____ <i>(Director)</i>
_____	_____ <i>(Secretary)</i>
_____	Date: ____/____/____
Witness: _____	
Date: ____/____/____	



The Common Seal is affixed above by authority of the Board and in the presence of a director and the secretary

Bank Details

To enable direct deposit of sale proceeds, please nominate a bank account:

Account Name

BSB Number **Account Number**

-

	OFFICE USE ONLY
	Date: ____/____/____ PIN: _____

THESE TERMS AND CONDITIONS APPLY TO ALL TRADES ON AND FROM 1 JULY 2005

The following are the Terms and Conditions upon which THE WATEREXCHANGE PTY LIMITED ACN 003 476 864 ("the Operator") provides the Services at the Site. Users should note that the Terms and Conditions may be amended from time to time and should review them every time the Services are used. In order to be provided with the Services Users must accept these Terms and Conditions by executing this Agreement and returning it to the Operator.

DEFINITIONS

"Agreement" means the agreement coming into effect by virtue of Clause 1.1(a)
"Allocation " means the water allocation available for Trade or Traded by way of temporary transfer for the current Water Year.
"Buy Order" means an offer by a User to buy an Irrigation Right.
"Buyer" means any person whose Buy Order for an Irrigation Right is successful.
"Entitlement " means the water entitlement available for Trade or Traded by way of permanent transfer.
"Irrigation Right " means the Entitlement or the Allocation as the case may be.
"Registration Form " means the registration form on the Site to be completed by a person who wants to become a User.
"Regulating Authority " means the Minister of the Crown or the State Government department or agency which processes administrators determines upon or otherwise deals with the Application for Transfer of the Irrigation Right.
"Sell Order" means an offer by a User to sell an Irrigation Right.
"Seller" means any person whose Sell Order for an Irrigation Right is successful.
"Services" means the services provided by the Operator via the Site for or in connection with the Trading of Irrigation Rights.
"Site" means the internet site via which the Operator provides the Services, currently <http://www.waterexchange.com.au>.
"Terms" means these Terms and Conditions.
"Trade" means the sale or purchase of an Irrigation Right via the Site and "Traded", "Trading" and "Trader" have corresponding meanings.
"User" means any person who has been registered by the Operator to place a Buy Order or a Sell Order.
"Water Year" means the period of one year specified in the Water Sharing Plan governing the Trade or otherwise published from time to time by the Regulating Authority in either case as the accounting and delivery year for supply of water to holders of irrigation entitlements.
"You" means the User bound by this Agreement.

1. ACKNOWLEDGEMENTS

1.1 You acknowledge and agree that:

- (a) You and the Operator are bound at the time of your Trade by the Terms current at the time of your Trade;
- (b) The other party to your Trade will rely on You being bound by this Agreement;
- (c) The Operator does not function as either buyer or seller of Irrigation Rights and is merely a facilitator providing transactional facilities to Users.

2. ELIGIBILITY

2.1 You are permitted to use the Services if:

- (a) You are over the age of eighteen (18) years and are otherwise legally entitled to enter into contracts;
- (b) All of the information provided by You in the Registration Form is true and accurate.

3. USER SECURITY

- 3.1 As a User You will receive a user number ("User ID") and personal identification number ("PIN"), which you should keep confidential.
- 3.2 You are deemed to be responsible for any Buy Order or Sell Order submitted under your User ID and PIN.
- 3.3 You agree immediately to notify the Operator of any unauthorized use of your USER ID or PIN.

4. TRANSACTIONS

- 4.1 The Operator retains the right at any time and without notice and without liability to any person to withdraw the Services from any User.
- 4.2 The Operator does not investigate the ability of a User to complete any Trade and You use the Site at your own risk.
- 4.3 If the Trade is in respect of an Entitlement:
 - (a) You shall be deemed at the time of the Trade to have entered into the Agreement for Sale of Water Entitlement ("the Sale Agreement") suitably completed to reflect the detail of the transaction, the form of the Sale Agreement being set out on the Site;
 - (b) You authorise and direct the Operator to complete the Sale Agreement with detail of the Trade and to sign a copy of the Sale Agreement on your behalf and to forward same to the other party to the Trade;
 - (c) the Operator shall forward your copy of the Sale Agreement (signed by the Operator on behalf of the Traders) to You within fourteen (14) days after the date of the Trade;
 - (d) It is your responsibility to make application to the Regulating Authority for the permanent transfer of the Entitlement.
- 4.4 If the Trade is in respect of an Allocation You authorise the Operator to sign and to forward to the Regulating Authority on your behalf the Application for the transfer of the Allocation in the form of the appropriate document(s) and supporting documents (if any) specified by the Regulating Authority. You acknowledge that the Operator shall not take any further action in relation to the transfer.
- 4.5 Whether or not the transfer has been approved by the Regulating Authority the Buyer will pay the Operator the purchase price for the Allocation within three (3) days after the Trade has occurred (time being of the essence), but shall not take title to the Allocation until the Regulating Authority has approved the Application. The Buyer acknowledges that if he fails to pay the purchase price within the said three (3) day period, he will have committed a breach of a fundamental term of this Agreement which will thereupon be deemed to be at an end and the Allocation may be resold with the Buyer being liable to pay to the Seller any loss on resale plus any costs and expenses associated with the resale.

- 4.6 The purchase price paid by the Buyer pursuant to Clause 4.5 shall be held by the Operator in trust pending the approval of the Application for the transfer by the Regulating Authority at which time the Operator shall account to the Seller for the purchase price. If the Application for transfer is refused by the Regulating Authority, the Operator shall refund to the Buyer any purchase price paid pursuant to Clause 4.5.
- 4.7 You shall pay to the Operator:
 - (a) The fee payable to the Operator by the User as specified in the Fees and Payment Section of the Site at the time of the Trade;
 - (b) Any fee payable to the Regulating Authority in connection with the sale of the Allocation;
 - (c) The Operator's estimate of any taxes levies charges or like debits imposed on the Operator by the State or Commonwealth governments on or in connection with the Trade;
 - (d) One half of any goods and services tax payable by the Operator on the supply of goods or services by the Operator under this Agreement.
- 4.8 You shall pay the Operator the amounts referred to in clause 4.7 within three (3) days (time being of the essence) after a Trade, provided that if the transfer is not completed for any reason other than your default the amount paid pursuant to Clause 4.7 must be refunded by the Operator to You.

5. WARRANTIES

- 5.1 The only warranties that the Operator makes in relation to the Site or the Services are that:
 - (a) The Services will be provided with reasonable skill and care; and
 - (b) The Site and the Services will operate substantially in the manner described in the Guidelines and Policies Section of the Site.
- For the avoidance of doubt and without limiting the generality of the above the Operator does not warrant that :
- (c) The Site or the Services will always be available, accessible, secure or operate without error;
 - (d) The Seller has an unencumbered title over any Irrigation Right offered for sale;
 - (e) Any Irrigation Right is available for transfer or is able to be transferred;
 - (f) The sale or transfer of any Irrigation Right does not infringe the rights of a third party;
 - (g) Any Trade will be completed.
- 5.2 You warrant that you have satisfied yourself by enquiries of the Regulating Authority that there is no impediment in principle to the transfer of the Irrigation Right.

6. INDEMNITY RELEASE AND LIMITATION OF LIABILITY

- 6.1 You indemnify the Operator against all losses and damages and legal or other costs and expenses incurred by the Operator resulting from any act or omission of yours or the breach by You of any warranty agreement or obligation.
- 6.2 You release the Operator from all claims and actions which (in the absence of negligence or wilful act or default or breach of duty or breach of warranty under Clause 5.1 by the Operator) You may otherwise have had against the Operator arising from the use of or inability to use the Site or the Services or from the inability to transfer the Irrigation Right or from inaccurate information provided by a User or from disputes between Users or from any unauthorised interference with the Site or the Services or from any other reason in connection with the provision of the Services whether or not the same occurs in the course of performance of this Agreement or in circumstances which are foreseeable by the Operator.
- 6.3 If the claim or action arises as a result of the negligence or wilful act or breach of duty or breach of warranty under Clause 5.1 by the Operator, the Operator's liability will be limited (at the Operator's option and cost) to one of the following:
 - The supply of the Services again; or
 - The payment of the costs of having the Services supplied again.

7. COMPLIANCE WITH LAWS

- 7.1 You must comply with all applicable laws relating to the matters governed by this Agreement.

8. INTELLECTUAL PROPERTY

- 8.1 You grant the Operator a non-exclusive, worldwide, royalty-free, irrevocable right to use and publish in the Operator's name all material supplied by You or relating to a Trade to which You are a party.
- 8.2 You shall not do anything which would or would be likely to infringe the intellectual property rights of the Operator or any other person in the Site and the Services and material used in connection therewith including but without limiting the generality of the foregoing:
 - (a) Copying material on the Site;
 - (b) Using such material outside the provisions of this Agreement;
 - (c) Collecting and using information published on the Site.

9. GOVERNING LAW

- 9.1 This Agreement shall be governed by and construed according to the laws of New South Wales regardless of where this Agreement is made. You and the Operator irrevocably submit to the exclusive jurisdiction of the Courts of the said State. Any proceedings in respect of any matter or thing relevant to this Agreement must be commenced in the said State within 12 months from the date on which the cause of action arose.

The following are the Terms and Conditions upon which THE WATEREXCHANGE PTY LIMITED ACN 003 476 864 ("the Operator") and WATERGROUP MANAGEMENT PTY LIMITED ACN 108 861 945 ("the Manager ") provides the Services at the Site. Users should note that the Terms and Conditions may be amended from time to time and should review them every time the Services are used. In order to be provided with the Services Users must accept these Terms and Conditions by executing this Agreement and returning it to the Operator.

DEFINITIONS

"Access Licence " means the licence or other right which authorises the extraction of water from a Water Source.
"Agreement" means the agreement coming into effect by virtue of Clause 1.1(a)
"Buy Order" means an offer by a User to buy a Non Current Allocation.
"Buyer" means any person whose Buy Order for a Non Current Allocation is successful.
"Custodian" means the entity (which must be a publicly listed trustee corporation) appointed from time to time by the Manager.
"Indemnity Fee " means the fee (determined from time to time by the Manager and notified on the Site) not exceeding 5% of the purchase price for a Non Current Allocation.
"Indemnity Pool " means the Pool of funds for a Nominated Water Year managed by the Custodian into which all Indemnity Fees relating to Trades for that Nominated Water Year are paid.
"Nominated Water Year " means a Water Year other than the Water Year current at the date of the Trade and other than a Water Year commencing more than five years after the last day of the Water Year current at the date of the Trade.
"Non Current Allocation " means the actual water allocation (if any) which attaches to a specified Share Component in a specified Water Source in the Nominated Water Year.
"Non Current Allocation Pool " means the Pool of Non Current Allocations for a specified Water Source in a Nominated Water Year.
"Original Seller " means the first seller of a Non Current Allocation deriving from that person's Access Licence.
"Register" means the Register of Non Current Allocations on which is recorded the information specified in Clause 5.2.
"Registration Form " means the registration form on the Site to be completed by a person who wants to become a User.
"Regulating Authority " means the Minister of the Crown or the State Government or the State Government department or agency which gazettes a Water Sharing Plan or which processes administers determines upon or otherwise deals with the Application for Transfer of the Non Current Allocation as the case may be.
"Sell Order" means an offer by a User to sell an Irrigation Right.
"Seller" means any person whose Sell Order for a Non Current Allocation is successful and where the context permits includes the Original Seller.
"Services" means the services provided by the Operator and the Manager respectively via the Site for or in connection with Trading.
"Share Component " means the share (expressed in megalitres) of the Water Source in respect of which the Non Current Allocation is sold.
"Site" means the internet site via which the Operator and the Manager provide the Services, currently <http://www.waterexchange.com.au>
"Terms" means these Terms and Conditions.
"Third Party Interest " in an Access Licence means an interest in that Access Licence and/or in water allocations associated therewith held by any person other than the holder of that Access Licence.
"Trade" means the sale or purchase of a Non-Current Allocation via the Site and "Traded" and "Trading" have corresponding meanings.
"Ultimate Buyer " means the person who is entitled to the Non Current Allocation at the commencement of the Nominated Water year.
"User" means any person who has been registered by the Operator to place a Buy Order or a Sell Order.
"Water Allocation Account " means the account kept by the Regulating Authority specifying the quantity of water available for delivery from time to time to the holder thereof.
"Water Sharing Plan " means the plan for the sharing of water in a Water Source as gazetted by the Regulating Authority.
"Water Source" means the water source specified in the Water Sharing Plan.
"Water Year" means the period of one year specified in the Water Sharing Plan governing the Trade or otherwise published from time to time by the Regulating Authority in either case as the accounting and delivery year for supply of water to holders of irrigation entitlements.
"You" means the User bound by this Agreement.

10. ACKNOWLEDGEMENTS

- 10.1 You acknowledge and agree that:
- (a) You and the Operator and the Manager are bound at the time of your Trade by the Terms current at the time of your Trade;
 - (b) The other party to your Trade will rely on You being bound by this Agreement;
 - (c) The Operator does not function as either buyer or seller of a Non Current Allocation and is merely a facilitator providing transactional facilities to Users.

11. ELIGIBILITY

- 11.1 You are permitted to use the Services if:
- (a) You are over the age of eighteen (18) years and are otherwise legally entitled to enter into contracts;
 - (b) All of the information provided by You in the Registration Form is true and accurate.

12. USER SECURITY

- 12.1 As a User You will receive a user number ("User ID") and personal identification number ("PIN"), which you should keep confidential.
- 12.2 You are deemed to be responsible for any Buy Order or Sell Order submitted under your User ID and PIN.
- 12.3 You agree immediately to notify the Operator of any unauthorized use of your User ID or PIN.

13. TRANSACTIONS

- 13.1 The Operator retains the right at any time and without notice and without liability to any person to withdraw the Services from any User.
- 13.2 The Operator and the Manager do not investigate the ability of a User to complete any Trade and You use the Site at your own risk.
- 13.3 The Seller may lodge a Sell Order for the sale of the Non Current Allocation derived from a Share Component for a Nominated Water Year in each case specified by the Seller in his Sell Order.
- 13.4 Where an Original Seller desires to sell a Non Current allocation he must produce to the Operator at the request of the Operator prior to or at the time of lodging a Sell Order evidence satisfactory to the Operator of the Original Seller's beneficial ownership of his Access Licence which must include details of any Third Party Interests.
- 13.5 Where the Seller is not the Original Seller he must be registered on the Register as the holder of the Non Current Allocation all or part of which he desires to sell.
- 13.6 The sale of a Non Current Allocation by the Original Seller is subject to the following conditions warranties and covenants:
- (a) when the Sell Order is matched by a Buy Order a Trade occurs in the manner set out below;
 - (b) the Original Seller must sell the Non Current Allocation to the Manager which must buy such Non Current Allocation from the Original Seller, the completion of the sale of the Non Current Allocation being conditional upon the Buyer of that Non Current Allocation from the Manager paying the purchase price for same pursuant to paragraph (d); simultaneously with the conditional purchase by the Manager referred to in paragraph (b) the Manager must sell the Non Current Allocation to the Buyer at the same purchase price;
 - (d) the Trade by the Original Seller to the Manager becomes unconditional when the Buyer pays to the Operator the purchase price for his purchase of the Non Current Allocation from the Manager which purchase price must be paid within seven (7) days after the sale (time being of the essence) in default of which the Manager may declare the condition attaching to the sale by the Original Seller to the Manager not to have been fulfilled whereupon that Agreement shall be deemed to be at an end and the Manager must pay or cause to be paid to the Original Seller the amount it receives from the Buyer pursuant to paragraph (f);
 - (e) the Operator must pay to the Original Seller the purchase price received from the Buyer pursuant to paragraph (d) within seven (7) days after its receipt thereof such payment to be in satisfaction of the purchase price payable to the Original Seller by the Manager; the Buyer acknowledges that if he defaults in payment of the purchase price as aforesaid he will have committed a breach of a fundamental term of this Agreement which will thereupon be deemed to be at an end and the Buyer must on demand pay to the Operator which must promptly after receipt pay to the Original Seller:
 - (i) any loss on a re-sale by the Original Seller within three (3) months after the Buyer's breach of the Non Current Allocation;
 - (ii) if there is no such re-sale the amount (which must be a positive figure) calculated by subtracting from the purchase price payable by the Buyer the average price per megalitre for which Non Current Allocations for the same Water Source and Nominated Water Year were sold on the Site during that period of three (3) months multiplied by the number of megalitres of the Share Component;
 - (iii) in either case any costs and expenses of the Original Seller associated with the Buyer's breach and the re-sale;AND the Buyer must on demand pay to the Manager on its own account any costs and expenses of the Manager associated with the Buyer's breach and the re-sale;
 - (g) the Original Seller warrants to the Manager that:
 - (i) he is the beneficial holder of the Share Component from which the Non Current Allocation is derived; and
 - (ii) either there are no Third Party Interests or that the consent of the holder of any Third Party Interest has been supplied by the Original Seller to the Operator;
 - (h) the Original Seller promises to the Manager that the Non Current Allocation sold by the Original Seller will be available for use in the Nominated Water Year in default of which the Original Seller must pay on demand to the Manager as the agreed liquidated damages that sum for each megalitre of the Non Current Allocation not available to the Ultimate Buyer which is equal to the highest price for which a megalitre of allocation in that Water Source was sold on the Site during the 12 months prior to the commencement of the Nominated Water Year;
- 13.7 The Seller must pay to the Operator at the time of the Trade:
- (a) the Indemnity Fee; and
 - (b) the amounts specified in Clause 4.8.
- 13.8 The User must pay to the Operator at the time of the Trade:
- (a) the fee payable to the Operator by the User as specified in the Fees and Payment Section on the Site at the time of the Trade;
 - (b) one-half of the Operator's estimate notified to the User of any government taxes levies duties and like charges imposed on the Operator and/or the Manager by the State or Commonwealth governments on or in connection with the Trade;
 - (c) one-half of any goods and services tax payable by the Operator on the supply of goods or services under this Agreement.

13.9 The purchase price for the Non Current Allocation must be paid by the Buyer to the Operator within seven (7) days after the Trade has occurred, time being of the essence. The Buyer acknowledges that if he fails to pay the purchase price within the said seven (7) day period, he will have committed a fundamental breach of contract and, save for a sale by the Original Seller which is governed by Clause 4.6, the Agreement between the Seller and the Buyer will be deemed to be at an end and the Buyer must pay to the Seller:

- (i) any loss on a re-sale by the Seller within three (3) months after the breach of the Non Current Allocation;
- (ii) if there is no such re-sale the amount (which must be a positive figure) calculated by subtracting from the purchase price payable by the Buyer the average price per megalitre for which Non Current Allocations for the same Water Source and Nominated Water Year were sold on the Site during that period of three (3) months multiplied by the number of megalitres of the Share Component;
- (iii) in either case any costs and expenses of the Seller associated with the Buyer's breach and the re-sale.

13.10 The Operator must account for the Purchase Price to the Seller promptly after receipt of cleared funds.

13.11 All Trading for a Nominated Water Year shall cease at midnight on the last day of the penultimate calendar month prior to the commencement of that Nominated Water Year.

13.12 You authorise and direct the Manager as and when appropriate to sign and forward to the Regulating Authority on your behalf the Application for the transfer of the Non Current Allocation in the form of the appropriate document(s) and supporting documents (if any) specified by the Regulating Authority.

13.13 If the Application for the transfer of the Non Current Allocation is refused by the Regulating Authority:

- (a) as the result of the default of the Original Seller or other Seller or the Operator or the Manager then the Manager will procure the payment to the Ultimate Buyer from the Indemnity Pool of the amount calculated in accordance with Clause 6.4.
- (b) for any reason other than as stipulated in paragraph (a) the Ultimate Buyer shall not be entitled to receive any amount from the Indemnity Pool and shall have no claim against the Seller to him or the Operator or the Manager.

13.14 If the Application is approved the Ultimate Buyer authorises and directs the Manager to have the Non Current Allocation credited to the Non Current Allocation Pool managed by the Manager such crediting to occur immediately the Regulating Authority announces any allocation for the Water Year to which the Non Current Allocation relates.

13.15 The Manager must transfer from the Non Current Allocation Pool to the Water Allocation Account of the Ultimate Buyer for the Nominated Water Year the Non Current Allocation to which he is entitled or if there is insufficient Non Current Allocation in the Non Current Allocation Pool to satisfy the transfers in full of Non Current Allocations to all of the Ultimate Buyers in a particular Water Source the said transfer from the Non Current Allocation Pool shall be calculated according to the formula –

$$\text{NCAT} = \frac{\text{NCAAP} \times \text{NCAB}}{\text{TNCA}}$$

where NCAT is the Non Current Allocation so transferred and NCAAP is the Non Current Allocation Available in the Pool for the Nominated Water Year for the relevant Water Source and TNCA is Total Non Current Allocation contracted to be transferred at that time to Ultimate Buyers for the Nominated Water Year for the relevant Water Source and NCAB is the Non Current Allocation which the Ultimate Buyer would have received if there had been sufficient Non Current Allocation in the Non Current Allocation Pool AND in addition the Ultimate Buyer shall be entitled to receive from the Manager (but sourced from the Indemnity Pool) that amount which is calculated in accordance with Clause 6.4.

14. REGISTER OF TRADES

14.1 The Manager shall procure the Custodian to administer and maintain the Register on which there shall be recorded details (as specified in Clause 5.2) of every Trade. The Register shall be available for inspection by the public for the fee as published by the Custodian from time to time.

14.2 The details which are to be recorded on the Register in respect of each Water Year are:

- (a) the Share Component for each User in respect of which a Non-Current Allocation can be Traded;
- (b) the name of the Seller of each Non Current Allocation;
- (c) the name of the Buyer of each Non Current Allocation;
- (d) the Share Component from which each Non Current Allocation is derived;
- (e) the Nominated Water Year for the Non Current Allocation;
- (f) the Water Source to which the Share Component belongs.

14.3 Each User irrevocably consents to details of any Trade to which he is a party (including his name as one of the parties to the Trade) being recorded on the Register.

15. INDEMNITY POOL

15.1 The Manager shall procure that the Custodian shall administer the Indemnity Pool.

- (a) The Operator must pay to the Manager which must pay to the Custodian for inclusion in the Indemnity Pool all Indemnity Fees received by the Operator.
- (b) The Manager must pay to the Custodian for inclusion in the Indemnity Pool all moneys received by the Manager pursuant to Clause 4.6(h) less the expenses (if any) of collection.

15.3 The Custodian must pay to the Manager moneys requested from time to time by the Manager from the Indemnity Pool for payment by the Manager to the Ultimate Buyer in accordance with Clause 4.15 where the full Non Current Allocation is not available to the Ultimate Buyer due to the default of the Original Seller or other Seller.

15.4 The amount available to the Ultimate Buyer pursuant to Clause 6.3 shall be sourced from the Indemnity Pool and shall be equal to the purchase price paid by the Ultimate Buyer for the Non-Current Allocation or that part thereof which is not delivered to the Ultimate Buyer increased by 2% per annum calculated on daily rests from the date of such payment by the Ultimate Buyer until the date of payment to the Ultimate Buyer pursuant to this Clause multiplied by three.

15.5 If at any time there is insufficient money in the Indemnity Pool to enable the Manager to make the payment to the Buyer pursuant to Clauses 4.15, 6.3 and 6.4 then the Manager must pay the shortfall to the Ultimate Buyer from its own funds.

15.6 Whenever the credit balance of the Indemnity Pool exceeds ten per centum of the total value of Trades for the previous Water Year the Custodian must at the written request of the Manager pay such excess to the Manager.

16. WARRANTIES

16.1 The only warranties that the Operator and the Manager make in relation to the Site or the Services are that:

- (a) The Services will be provided with reasonable skill and care;
- (b) The Site and the Services will operate substantially in the manner described in the Guidelines and Policies Section of the Site.

For the avoidance of doubt and without limiting the generality of the above the Operator and the Manager do not warrant that:

- (c) The Site or the Services will always be available, accessible, secure or operate without error;
- (d) The Seller has an unencumbered title over any Non Current Allocation offered for sale;
- (e) Any Non Current Allocation is available for transfer or is able to be transferred;
- (f) The sale or transfer of any Non Current Allocation does not infringe the rights of a third party;
- (g) Any Trade will be completed.

16.2 You warrant that you have satisfied yourself by enquiries of the Regulating Authority that there is no impediment in principle to the transfer of the Non Current Allocation.

16.3 For warranties by the Original Seller see Clause 4.6(g).

17. INDEMNITY RELEASE AND LIMITATION OF LIABILITY

17.1 You indemnify the Operator and the Manager against all losses and damages and legal or other costs and expenses incurred by the Operator and/or the Manager resulting from any act or omission of yours or the breach by You of any warranty agreement promise or obligation.

17.2 You release the Operator and the Manager from all claims and actions which (in the absence of negligence or wilful act or default or breach of duty or breach of warranty under Clause 7.1 by the Operator and the Manager) You may otherwise have had against those companies arising from the use of or inability to use the Site or the Services or from the inability to transfer the Non Current Allocation or from inaccurate information provided by a User or from disputes between Users or from any unauthorised interference with the Site or the Services or from any other reason in connection with the provision of the Services whether or not the same occurs in the course of performance of this Agreement or in circumstances which are foreseeable by the Operator and/or the Manager.

17.3 If the claim or action arises as a result of the negligence or wilful act or breach of duty or breach of warranty under Clause 7.1 by the Operator or the Manager, that Company's liability will be limited (at that Company's option and cost) to one of the following:

- The supply of the Services again; or
- The payment of the costs of having the Services supplied again.

18. COMPLIANCE WITH LAWS

18.1 You must comply with all applicable laws relating to the matters governed by this Agreement.

19. INTELLECTUAL PROPERTY

19.1 You grant the Operator a non-exclusive, worldwide, royalty-free, irrevocable right to use and publish in the Operator's name all material supplied by You or relating to a Trade to which You are a party.

19.2 You shall not do anything which would or would be likely to infringe the intellectual property rights of the Operator or any other person in the Site and the Services and material used in connection therewith including but without limiting the generality of the foregoing:

- (a) Copying material on the Site;
- (b) Using such material outside the provisions of this Agreement;
- (c) Collecting and using information published on the Site.

20. GOVERNING LAW

20.1 This Agreement shall be governed by and construed according to the laws of New South Wales regardless of where this Agreement is made. You and the Operator and the Manager irrevocably submit to the exclusive jurisdiction of the Courts of the said State. Any proceedings in respect of any matter or thing relevant to this Agreement shall be commenced in the said State within 12 months from the date on which the cause of action arose.