



SALT-WATER SALMONID CULTURE ACT 1985

No. 53 of 1985

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AN ACT to provide for the approval of agreements relating to the development in Tasmania of an industry consisting of the cultivation of salmon and trout in salt water and to provide for the funding of the share of the Government of Tasmania in the development of that industry.

[Royal Assent 23 May 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Salt-water Salmonid Culture Act 1985*. Short title.

Commence-
ment.

2—This Act shall commence on the day on which it receives the Royal assent.

Interpretation.

3—In this Act—

“ ‘A’ class share ” means any of the shares numbered 1 to 5 100 000 in the authorized share capital of the New Company;

“ the Company ” means Noraqua Australia Pty Limited, a company duly incorporated in New South Wales;

“ the Fish Farm Agreement ” means the agreement, a copy of which is set out in Schedule 2, entered into by the Minister and the Company;

“ the Joint Venture Agreement ” means the agreement, a copy of which is set out in Schedule 1, entered into by the Minister, the Company, and the Local Industry;

“ the Local Industry ” means the persons who are or may become parties to the Joint Venture Agreement, other than the Minister and the Company;

“ the Minister ” means the Minister for the time being administering Part II of the *Fisheries Act 1959*;

“ the New Company ” means Salmon Enterprises of Tasmania Pty Limited, the proprietary company that, as mentioned in article 1 of the Joint Venture Agreement, the parties to that agreement are required to co-operate in establishing in the State;

“ Tassal ” means Tassal Pty Limited, the Tasmanian proprietary company of that name referred to in the Fish Farm Agreement.

Approval, &c.,
of certain
agreements.

- 4**—(1) The Joint Venture Agreement is approved.
- (2) The execution of the Joint Venture Agreement by the Minister for and on behalf of the State is ratified.
- (3) The Fish Farm Agreement is approved.
- (4) The execution of the Fish Farm Agreement by the Minister for and on behalf of the State is ratified.

5—The Minister may, for and on behalf of the State—

Powers of Minister.

- (a) do all things and take any proceedings as may be necessary or desirable to implement and enforce the Joint Venture Agreement and the Fish Farm Agreement or either of those Agreements;
- (b) compromise and settle any such proceedings; and
- (c) agree to amend or vary either of those agreements upon terms acceptable to the Treasurer and approved by the Governor only so long as the aggregate amount of the liability incurred by the Minister under section 6 (3) does not exceed \$1 500 000.

6—(1) On the incorporation in Tasmania of the New Company, the Treasurer shall, on behalf of the State, cause to be paid to the New Company the amount of one cent for each “A” class share that, on that incorporation, is to be allotted to the Minister at par as provided by article 10, paragraph 3, of the Joint Venture Agreement.

Payments in respect of “A” class shares of New Company allotted to the Minister.

(2) Where, pursuant to article 10, paragraph 3 of the Joint Venture Agreement, the Minister receives a call from the directors of the New Company for the payment of an unpaid amount on an “A” class share referred to in subsection (1), the Treasurer shall, on behalf of the State, cause that call to be paid to the New Company.

(3) The Minister shall not subscribe for more than 1 500 000 “A” class shares at par value.

7—The money required for the purposes of sections 5 and 6 is a charge on the Loan Fund and shall be appropriated out of that Fund.

Appropriation from the Loan Fund.

8—(1) With the consent of the Minister, the New Company or Tassal may, upon and subject to such terms and conditions as the Minister may approve or determine, acquire land for any of the following purposes:—

Power of Minister to acquire and sell or lease certain lands.

- (a) for the purpose of providing a hatching site for the salmonid hatchery proposed to be operated by the New Company as mentioned in article 18 of the Joint Venture Agreement;
- (b) for the purpose of providing areas adjacent to the acclimatization and sea cage sites to be used by the New Company in connection with the operation of the salmonid hatchery referred to in paragraph (a);

(c) for the purpose of providing an area adjacent to the site of the fish farm proposed to be operated by Tassal as mentioned in the Fish Farm Agreement.

(2) For the purposes of this section, the New Company or Tassal may, in accordance with the provisions of the *Lands Clauses Act 1857*, purchase or take lands (other than Crown lands) and that Act is incorporated with this Act accordingly.

(3) For the purposes of the incorporation of the *Lands Clauses Act 1857* with this Act—

(a) the New Company or Tassal shall be deemed to be the promoters; and

(b) this Act shall be deemed to be the special Act within the meaning of that Act.

SCHEDULE 1

Sections 3 and 4

THE JOINT VENTURE AGREEMENT

CHAPTER 1: ESTABLISHMENT OF THE COMPANY:

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- ARTICLE 2: Government Approvals
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- ARTICLE 4: Memorandum and Articles of Association
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Exhibit A. Map of land and sea areas at Port Esperance

THIS AGREEMENT is made the 16th day of April 1985

BETWEEN

THE MINISTER FOR SEA FISHERIES OF THE STATE OF TASMANIA
of Franklin Square, Hobart, Tasmania (hereinafter called "MSF")

AND

NORAQUA AUSTRALIA PTY LIMITED a company duly incorporated in the State of New South Wales and recognised in the State of Tasmania, having its principal office in the State of Tasmania at c/- Murdoch Clarke Cosgrove and Drake, 10 Victoria Street, Hobart in the said State (hereinafter called "NA")

AND

THE PARTIES (if any) whose names and addresses are set forth in the First Schedule hereto or who by subsequent addition thereto, and who become parties hereto by their execution hereof, or by their execution of an instrument of agreement hereto which instrument shall be attached hereto and form part hereof (hereinafter called the "Local Industry").

WHEREAS

- A. K/S Noraqua A/S a limited partnership organised and existing under the laws of the Kingdom of Norway (hereinafter called "Noraqua") carries on the business of aquaculture and in particular the saltwater culture of salmonids, and possesses skills and expertise in that field; NA is a subsidiary of Noraqua.
- B. The Government of Tasmania desires to develop in Tasmania an industry consisting of cultivation of salmon and trout in salt water.
- C. The parties have agreed to co-operate in the establishment of a company in the State of Tasmania, Australia under the laws of that State to establish a salmonid hatchery and experimental farm.
- D. The Local Industry wishes to participate in this project in the manner set out below.

Now therefore, intending to be legally bound hereby, the parties agree as follows:—

CHAPTER 1**ESTABLISHMENT OF THE COMPANY****ARTICLE 1: AGREEMENT TO ESTABLISH THE COMPANY**

The parties hereto shall subject to the provisions of Article 2 hereinbelow, co-operate in the establishment of a proprietary company in the State of Tasmania, Australia in accordance with the provisions of this Agreement to fulfill the objectives hereinafter set forth (which company is hereinafter called "the New Company").

ARTICLE 2: GOVERNMENT APPROVALS

1. NA shall use its best endeavours to obtain the approval of the Government of Australia and the Reserve Bank of Australia necessary for establishing the New Company.
2. NA shall notify the other parties without delay when the approvals referred to in this Article have been obtained.

ARTICLE 3: PROCEDURES FOR ESTABLISHMENT

As soon as the approvals referred to in Article 2 have been obtained the parties shall procure the incorporation of the New Company in accordance with the provisions set forth in this Agreement.

ARTICLE 4: MEMORANDUM AND ARTICLES OF ASSOCIATION

The Memorandum and Articles of Association of the New Company shall be in the form initialled by the parties prior to the execution hereof.

ARTICLE 5: INCORPORATION EXPENSES

1. The parties hereto who may have paid the legal expenses including stamp duties and taxes of all kinds necessary for incorporating the New Company and for bringing it to commencement of business in accordance with the laws of Tasmania shall be reimbursed by the New Company. Legal expenses shall include the expenses of all parties in connection with settling the draft Memorandum and Articles of Association and ancillary Agreements including this Joint Venture Agreement.
2. With the exception of the legal expenses as provided in the preceding paragraph, the expenses incurred by each of the parties hereto up to the time of incorporation of the New Company shall be borne by the respective parties who shall have incurred such expenses and the parties hereto agree that any of them shall not raise any claim to the New Company and/or other parties regarding such expenses.
3. In addition any expenses other than legal expenses which are incurred upon prior agreement by the parties hereto for the purpose of the business of the New Company shall be reimbursed by the New Company.
4. Any dispute as to the liability of the New Company under this Article shall be submitted to arbitration in accordance with Article 35.

ARTICLE 6: ESTABLISHMENT AND COMMENCEMENT OF BUSINESS

Subject to obtaining the approvals of the Government of Australia and the Reserve Bank of Australia sufficiently in advance, the New Company shall be established and shall commence business by the 31st day of January, 1985 or such other time as may be agreed upon by the parties hereto.

CHAPTER 2**OUTLINE OF THE NEW COMPANY****ARTICLE 7: NAME OF THE NEW COMPANY**

The name of the New Company shall be "Salmon Enterprises of Tasmania Pty Limited".

ARTICLE 8: REGISTERED OFFICE

The registered office of the New Company shall be located at c/- Price Waterhouse, 7th Floor, 86 Collins Street, Hobart, Tasmania, at the time of its establishment, and may be moved to another location within Tasmania when the New Company deems it necessary to do so in the future.

ARTICLE 9: OBJECTIVES AND INTENTIONS**(a) Definition**

For the purposes of this Agreement a reference to a number of tonnes of fish shall unless the context otherwise requires be deemed to mean that number of tonnes of Atlantic salmon dressed weight (head-on and gutted).

(b) Objectives

The objectives of the parties, and the purposes for which the New Company has been incorporated by them, are the following:—

1. Developing techniques for culturing salmonids in saltwater and good husbandry practice.
2. Establishing a high quality brood stock of Atlantic salmon and trout of known genetic composition and adapted to saltwater culture in Tasmania by a programme of selective breeding and genetic research and retaining annually during the term of this Agreement from such brood stock in priority to any other party or person entitled to purchase the same, sufficient smolts to produce approximately 100 tonnes of fish per year.
3. Producing certified smolts for commercial culture in salt water.
4. Conducting and commissioning research directed at assisting the development of the matters referred to in 1, 2 and 6 hereof.
5. Training of suitable and qualified staff.
6. Supervising and financing the operations of a research and selective breeding centre and hatchery which is intended to be capable of raising at least One million smolts per year and an experimental farm which is capable of producing approximately 100 tonnes of fish per year.
7. Operating in all the above matters as a commercial venture giving its shareholders a fair return on their investments.
8. Producing eyed eggs of rainbow trout for commercial sale, and sufficient fingerlings for experimental breeding programmes.

(c) Intentions

1. The parties record their intention that within the period up until 31st December, 1988 the hatchery should produce smolts sufficient to produce 2 500 tonnes of fish per annum, and further confirm their understanding that NA has established a separate company Tassal Pty Limited ("Tassal") to operate a commercial fish farm and that the commercial fish farm to be established by Tassal is intended to produce 500 tonnes of fish per annum during the period to 31st December, 1988.

2. This paragraph shall be read and construed subject to the right of the New Company at all times during the term of this Agreement to have priority to retain smolts sufficient to produce 100 tonnes of fish in each year pursuant to objective 2 of this Article. Until 31st December, 1988, Tassal shall have a first priority right to purchase sufficient smolts from the New Company to produce 500 tonnes of fish per annum. After 31st December, 1988, Tassal shall have a first priority right to purchase additional smolts comprising at least forty per centum (40%) of the total available Atlantic salmon smolts produced by the New Company in excess of the production of smolts required to produce 1 250 tonnes of fish.
3. Subject to the foregoing priority rights in favour of Tassal, each shareholder in the New Company other than the holder or holders of "A" class shares shall have the right to purchase that proportion of the total smolt production of the New Company which his shareholding bears to the total of all issued shares in the Company other than "A" class shares.
4. The New Company shall not sell any smolt to any person who is not a shareholder unless the directors of the New Company unanimously otherwise agree.
5. Beyond such levels as aforesaid, the parties hereby agree that they will take all practicable steps to maximise the availability and quality of smolts consistent with the demand for the fish produced therefrom in the Australian domestic and export markets.
6. No licence shall be granted to any person other than the New Company to establish an Atlantic Salmon hatchery in Tasmania for a period of ten (10) years from the date of this Agreement without the consent of the holders of the "A" and "B" class shares and MSF shall use his best endeavours to procure the undertaking of the Minister administering Part III of the Fisheries Act 1959 to comply with this provision.
7. The New Company shall not sell any smolt to any person who does not hold from the Minister administering Part III of the Fisheries Act 1959 a fish farming licence and all other permits required for the farming of Atlantic Salmon nor shall the New Company allot, issue or permit the transfer of any shares in the New Company to any person who does not hold such licence and permits.

ARTICLE 10: CAPITAL FORMATION

1. The authorised share capital of the New Company shall be \$10 000 000·00 and the issued share capital at the time of incorporation shall be \$2·00.
2. Of the shares to be issued by the New Company shares numbered 1 to 5 100 000 shall be "A" class shares and shares numbered 5 100 001 to 7 000 000 shall be "B" class shares and shares numbered 7 000 001 to 10 000 000 shall be "C" class shares, all shares having par value of One Australian dollar (\$A1·00).

3. The share capital of the New Company to be issued forthwith upon incorporation shall be allotted to and subscribed as follows:—

Subscribers	Shares	Class
MSF	1 275 000	“ A ”
NA	475 000	“ B ”
Local Industry	750 000	“ C ”

Each share so allotted shall be allotted as paid to one cent (1c) and the directors shall be at liberty to call the unpaid amounts on each share at such times and for such amounts as they shall think fit but so that all shares shall rank equally for liability to pay all such calls from time to time.

4. Each party hereto shall pay calls from time to time as determined by the directors of the New Company in accordance with its Articles of Association.
5. MSF shall use his best endeavours to cause Local Industry to subscribe for all the 750 000 “ C ” class shares referred to in Clause 3 of this Article as soon as practicable after the signing hereof.
6. In the event that Local Industry shall require finance to assist in the subscription for the “ C ” class shares MSF shall use his best endeavours to provide bridging loans to subscribers for such shares for the purposes of subscription therefor such loans not to exceed \$750 000·00 in total.
7. MSF shall until 31st December, 1988 hold the right to subscribe for the 750 000 “ C ” class shares upon trust for disposition to Local Industry and MSF may at any time cause those shares to be subscribed for and allotted to such participants from Local Industry and in such proportions as MSF shall think fit. After 31st December, 1988 if all the said “ C ” class shares are not subscribed for by Local Industry NA shall have priority right to subscribe for the same if MSF wishes to dispose of those shares.

ARTICLE 11: OWNERSHIP

1. The rights and privileges attached to the “ A ”, “ B ” and “ C ” class shares shall be as set forth in the Articles of Association of the New Company.
2. The transfer of shares shall be governed by the restrictions and procedures set forth in this Agreement and the Articles of Association of the New Company.

ARTICLE 12: INCREASED SHARE CAPITAL

In the event of any proposal to increase the authorised share capital of the New Company such additional shares shall consist of a proportionate number of shares of each class and any shares to be issued shall be offered to the existing shareholders in the same proportions between them as their existing shareholdings bear to each other and in the same classes as their existing shareholdings. If and to the extent that such new shares offered to any party are not taken up then any party holding shares of the same class shall be entitled to take them up, and if more than one such party so wishes then in proportion to their existing holding of shares in that class. The provisions of this Article shall not apply to the 750 000 shares in respect of which MSF has a right of disposal under Article 10.7.

ARTICLE 13: TRANSFERABILITY OF SHARES

No transfer of shares shall be approved except in accordance with the provisions of the Articles of Association of the New Company and this Agreement provided however that the parties hereto agree that NA shall have the right (but no obligation) at any time to transfer its shares in the New Company to Tassal, provided that before any such transfer has been effected Tassal has entered into an Agreement to observe and perform all the obligations of NA hereunder to the extent they remain to be performed and provided also at the time of such transfer that Tassal remains a subsidiary of NA.

ARTICLE 14: BOARD OF DIRECTORS

1. The Board of Directors shall be composed of four members in accordance with the Articles of Association and shall include one member nominated by NA, one by MSF, one by Local Industry and a further independent Director, (who shall be the Chairman) appointed by MSF from a list of suitably qualified persons to be nominated by the Board of Directors. It is understood and agreed that any Director may appoint an alternate Director in his place in accordance with the Articles of Association of the New Company.
2. In case of a casual vacancy in the membership of the Board of Directors, the parties hereto shall cause the remaining Directors to elect to be a Director any person proposed by the party who originally nominated the member of the Board of Directors whose retirement or resignation has caused such vacancy and such Director so elected shall hold office only until the next Annual General Meeting.
3. The Board of Directors are empowered by the Articles of Association to manage the business of the New Company. It is agreed however, that such powers of the Board of Directors in execution of the matters listed below shall be reserved for the Board of Directors and may not be delegated to the management. The following matters shall be decided by a majority of directors which shall include the directors representing the "A" and "B" class shareholders at a duly convened meeting of the Directors, namely:—
 - (a) Long range business objectives.
 - (b) Fundamental marketing policies including pricing policies in respect of smolts.
 - (c) The equitable distribution between shareholders of the New Company of smolts according to their physical and genetic characteristics.
 - (d) Annual and revised business plan including at least the following items:
 - (i) Sales and inventory programmes.
 - (ii) A planned statement of Profit and Loss.
 - (iii) A planned Balance Sheet.
 - (iv) A Cash Flow Statement.
 - (v) An investment programme.
 - (vi) A personnel programme.

- (e) Increase of issued share capital.
- (f) Selection, appointment and dismissal of Senior Executives of the New Company.
- (g) Remuneration of the Senior Executives.
- (h) Acquisition and disposal of fixed assets of not less than Fifty thousand dollars (\$50 000·00) per unit.
- (i) Leasing of fixed assets of which the rental during the leasing period is not less than Fifty thousand dollars (\$50 000·00) per unit.
- (j) Transfer of shares.
- (k) Annual accounts and declarations of dividend.
- (l) Call for a general meeting of shareholders.
- (m) Selection, appointment and dismissal of legal counsel and auditor.
- (n) Mortgaging of assets or guarantee of debt or obligation of others.
- (o) Institution or defence of any litigation other than for the purpose of collecting trade accounts receivable.
- (p) Such other matters as the directors of the New Company resolve at a meeting held in accordance with this Article should fall within this Article.

ARTICLE 15: GENERAL MANAGER

1. The Board of Directors shall cause a list to be prepared of the suitable applicants for the position of general manager and shall make a recommendation to MSF of the name of the most suitable applicant. MSF shall make an appointment from such list and in so doing shall give due consideration to the recommendation of the Board.
2. The General Manager shall be responsible for the daily operation of the New Company. Except such items as are required to be decided by the general meeting of shareholders or by the Board of Directors in accordance with the laws, regulations or legislation of Tasmania, the Articles of Association of the New Company and this Agreement, all of the matters relating to the management of the New Company may be decided by and are the responsibility of the General Manager.

ARTICLE 16: AUDITOR

The New Company shall have one auditor who shall be a registered company auditor or an auditing firm. The first auditors of the New Company shall be Price Waterhouse.

ARTICLE 17: ACCOUNTING PERIOD

The accounts of the New Company shall be settled once each year and the accounting period shall be from 1st July to 30th June.

CHAPTER 3

THE OPERATIONS OF THE NEW COMPANY

ARTICLE 18: ANCILLARY AGREEMENTS

As soon as practicable after the incorporation of the New Company, the parties hereto shall cause the following to take place:

1. A lease (and/or permit) from the Minister administering the Forestry Act (1920) and the Minister administering the Crown Lands Act (1976) and the Minister administering the Fisheries Act (1959) of land and sea area at Port Esperance including the areas marked on the plan attached as Exhibit "A".
2. A Fish Farm Licence from the Minister administering Part III of the Fisheries Act 1959 to permit the New Company to conduct farming of salmonids.
3. A licence from the Minister for Inland Fisheries to permit the New Company to operate a salmonid hatchery.
4. Acquisition by the New Company from parties acceptable to MSF and NA of salmonid hatchery facilities for the first three years of the Venture.
5. Acquisition of all other necessary licences, permits or authorities which may be required to permit the New Company to conduct its business.
6. Acquisition of such water power and other services as may be required to permit the New Company to conduct its business.
7. Execution contemporaneously with the execution hereof of a technical assistance agreement between the New Company and Noraqua in the form agreed by the parties prior to the execution hereof.

ARTICLE 19: CONSTRUCTION AND OPERATION OF THE HATCHERY

1. The parties shall co-operate to enable the New Company to construct and operate a hatchery and experimental farm as envisaged in the Final Feasibility Study agreed to and adopted by MSF and NA and entitled "Seawater Salmonid Farming, a Development Prospect for Tasmania", subject to such changes as are mutually agreed.
2. The parties shall cause the New Company to give the related or affiliated companies of NA a first preferential right in respect of the design and administration of the construction of the hatchery and experimental farm as long as that work is undertaken on a competitive basis with other suppliers.

ARTICLE 20: RAISING LOAN FUNDS

1. It is the intention of the parties that all funds in excess of the share capital of the New Company required for the operations of the company shall be raised and borrowed upon the security of the New Company's assets.
2. In the event that the New Company shall be unable to raise sufficient funds under Clause 1 the parties hereto shall at the request of the New Company and with the approval of the Board of Directors raise such further funds as are reasonably required for the operations of the New Company by such other methods as may be thought fit.

3. In the event that the parties shall be required as a condition of lending to guarantee or in other ways secure any loan raised under paragraph 1 or 2 of this Article such loans shall not be raised unless the liability of each party guaranteeing or securing the loans is limited to the proportion of such loan as each party's shareholding in the New Company bears to the total issued share capital of the New Company.
4. The raising of any funds under this clause shall be subject to the approvals of both the Government of the Kingdom of Norway and the Government of Australia. The obligations of NA under this clause shall be subject to availability of approval by the Reserve Bank of Australia. The obligation of NA under this clause may, at NA's discretion, be undertaken by Tassal but so that NA shall remain liable under this Agreement as between itself and MSF.

CHAPTER 4

MISCELLANEOUS PROVISIONS

ARTICLE 21: TERMS OF AGREEMENT

1. This Agreement shall take effect on the day of execution.
2. This Agreement shall be terminated for any of the following causes:—
 - (a) The Government approvals referred to in Article 2 should not have been given within ninety (90) days from the date of application.
 - (b) The New Company should not have been lawfully incorporated by 28th February, 1985 or such other time as may [*sic*] agreed by the parties hereto in writing.
 - (c) The New Company should be wound up for any cause.
 - (d) If MSF is unable to procure the passing of a Bill for an Act to fund the operations of the New Company to the extent of One million five hundred thousand dollars (\$1 500 000·00) on or before the 30th April, 1985, or within such further period as the parties hereto agree in writing.
3. In the event of a default or breach of this Agreement, committed before the New Company is incorporated and continuing for more than thirty (30) days after notice in writing to the defaulting or breaching party to cure the same, at the election of the other two parties who are not then in default or breach, this Agreement may be terminated by giving a notice in writing to the defaulting or breaching party or the parties not in default or breach may resort to legal remedies to enforce this Agreement and may with or without terminating this Agreement seek redress for the default or breach thereof.

ARTICLE 22: OPTION TO PURCHASE SHARES

1. In the following cases, the parties or their respective nominees (and if more than one, proportionately to their shareholdings in the New Company) other than the one to whom the undermentioned events have occurred ("the Defaulting Party") in order of priority set out below shall have the option to purchase all the shares of the New Company then owned by the Defaulting Party upon the terms and conditions provided in paragraph 2 hereof;

- (a) A default or breach of this Agreement should not be cured within thirty (30) days after written notice to the defaulting or breaching party requesting to cure such default or breach.
- (b) Any third party or parties engaged in any business competitive with that of the New Company or in the case of a company any related or associated company should have acquired a majority of the shares of any party hereto.
- (c) Any party hereto should become insolvent or bankrupt or a Receiver of the assets or any Official Manager, of a party hereto should be appointed;

Class of Shares of Defaulting Party	Order of Priority	
	First Priority to Purchase	Second Priority to Purchase
A	NA and Local Industry, pro rata	Nil
B	MSF	Local Industry
C	MSF	NA and other shareholders comprised in the Local Industry, pro rata

2. Regulation 21C (2) of the Articles of Association of the New Company shall apply to the transfer of the Defaulting Party's shares and the Transfer Notice shall be deemed to have been duly given, and the provisions of the regulation shall be read and construed as if the Defaulting Party were therein referred to as the Intending Transferor and the provisions of Regulation 21C (2) (c) shall apply consecutively in favour of those shareholders having the First Priority to purchase and thereafter to those having the Second Priority to purchase as set forth above.

ARTICLE 23: CONVERSION OF "A" CLASS SHARES

1. Upon the smolt equivalent sold by the New Company reaching a rate of 2 500 tonnes per annum, MSF may at his discretion convert the whole or any part of the "A" class shares to "D" class shares.
2. The "D" class shares shall entitle the holders to purchase from the New Company a proportion of the smolt produced by the New Company in excess of the smolt equivalent of 2 500 tonnes per annum.
3. MSF may at his discretion sell any or all of the "D" class shares to the "B" and "C" class shareholders or to such other persons who hold a fish farming licence as is required to be held by the "B" and "C" class shareholders.
4. Nothing in this Article shall require MSF to convert any or all of the "A" class shares in accordance with paragraph 1 at any time.
5. "Smolt equivalent" shall be the number of smolt to be determined by the Board of the New Company from time to time as in the opinion of the Board should produce a given quantity of dressed weight (head-on and gutted) of Atlantic Salmon.

6. MSF shall make available to the Board of the New Company the figures relating to the production of Atlantic Salmon for the purposes of enabling the Board to determine the smolt equivalent from time to time.
7. Every "B" and "C" class shareholder agrees to vote his shares in favour of such amendments to the Articles of Association of the New Company so as to give effect to the requirements of MSF under this Article.

ARTICLE 24: WINDING-UP

The parties hereto shall vote at the general meeting to wind up the New Company if the parties hereto should agree that there is no prospect of profitable operation of the New Company.

ARTICLE 25: FORCE MAJEURE

Neither party hereto shall be held liable or deemed to be in default hereunder if prevented from performing its obligations by reason of any event amounting to "force majeure" or by reason of any unavoidable cause or circumstance beyond its control including but not restricted to strikes, fires, earthquakes, war or acts of any Government having jurisdiction over the parties hereto.

ARTICLE 26: GOVERNING LAW AND LANGUAGE

This Agreement shall be construed and governed in accordance with the laws of Tasmania and this English version of the Agreement shall be the original.

ARTICLE 27: HEADINGS

The chapter and article headings in this Agreement are for convenience in locating the provisions hereof and shall not have any effect upon the interpretation or meaning of such provisions.

ARTICLE 28: NON-ASSIGNABILITY OF AGREEMENT

1. This Agreement shall not be assignable by any party hereto without the written consent of all other parties hereto provided however that NA has the right (but no obligation) at any time to assign its rights and obligations hereunder to Tassal but so that NA remains liable to perform this Agreement in the event of any default by Tassal.
2. MSF shall have the right at any time to assign his rights and obligations hereunder to any person or corporation but so that MSF remains liable to perform this Agreement in the event of any default by the assignee.

ARTICLE 29: NOTICE

1. All notices served by either party upon the other parties pursuant to the provisions of this Agreement shall be in writing and may be delivered by registered air mail, postage pre-paid, duplicated by pre-paid cablegram or telex, addressed to the addressee or addressees set forth in writing to the others. For the purpose of notice hereunder any such notice shall take effect three (3) days after the first notice is duly despatched pursuant to this provision.

2. The notice shall be addressed to:

If to MSF To: Minister of Sea Fisheries
 Executive Building
 Franklin Square
 Hobart, Tas.
 Telex: AA.58155

If to NA To: Noraqua Australia Pty Limited
 C/- K/S Noraqua A/S
 Fredrik Selmers Vei 2,
 Etterstad
 Oslo 6, Norway
 Telex: Norway (56) 71 246 CONTR N.

If to the Local Industry To: The Address of each holder of "C" Class Shares
 in the Register of Shareholders

ARTICLE 30: STRICT PERFORMANCE

The right of any party to require strict performance of any or all obligations imposed on the other party by this Agreement shall not in any way be affected by any previous waiver, forbearance or course of dealing.

ARTICLE 31: CONFIDENTIAL INFORMATION

The parties hereto shall keep in strict confidence all information obtained or exchanged among them in the course of establishing the New Company and participating in the execution of its business not only during the term of this Agreement but also after termination or cancellation hereof and shall be responsible for any breach of this provision by any member of the Board of Directors of their respective nomination.

ARTICLE 32: UNDERTAKING BY NA

NA undertakes that it will cause Noraqua to provide to the New Company the technical assistance as set forth in the Technical Assistance Agreement referred to in Article 18, paragraph 7.

ARTICLE 33: APPROVAL OF TASMANIAN PARLIAMENT

This agreement is executed by the parties subject to the condition that Parliament of the State of Tasmania shall on or before the 30th day of April, 1985 pass a Bill for an Act to approve this agreement and an agreement with NA of even date herewith for the establishment by Tassal of a Fish Farm and ratifying the execution by MSF of those agreements.

ARTICLE 34: UNDERTAKING BY MSF

MSF undertakes to cause to be provided to the New Company the services referred to in Part 4 of the Feasibility Study referred to in Article 19. In the interest of assisting the development of the industry, MSF agrees that until 31st December, 1990, the services will be provided at no cost to the New Company.

ARTICLE 35: ARBITRATION

In the event that any dispute shall arise between the parties under this Agreement the matter shall be submitted for determination by a single arbitrator appointed by the parties by mutual agreement or failing agreement as to such appointment appointed by the Vice-Chancellor of the University of Tasmania.

ARTICLE 36: WAIVER OF IMMUNITY

For the purpose of this Agreement and the Memorandum and Articles of Association of the New Company MSF waives any immunity from judicial proceedings on the grounds of sovereignty or otherwise.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed for them and in their names by their legal representatives, on the date hereabove mentioned

EXECUTED by the Minister of Sea Fisheries in the presence of:— } F. ROGER GROOM

G. V. JONES (Sen. Pte. Sec.)

Witness

(Seal.)

THE COMMON SEAL OF NORAQUA AUSTRALIA PTY LIMITED was hereunto affixed by authority of its Board of Directors in the presence of:— } R. SAUER Director

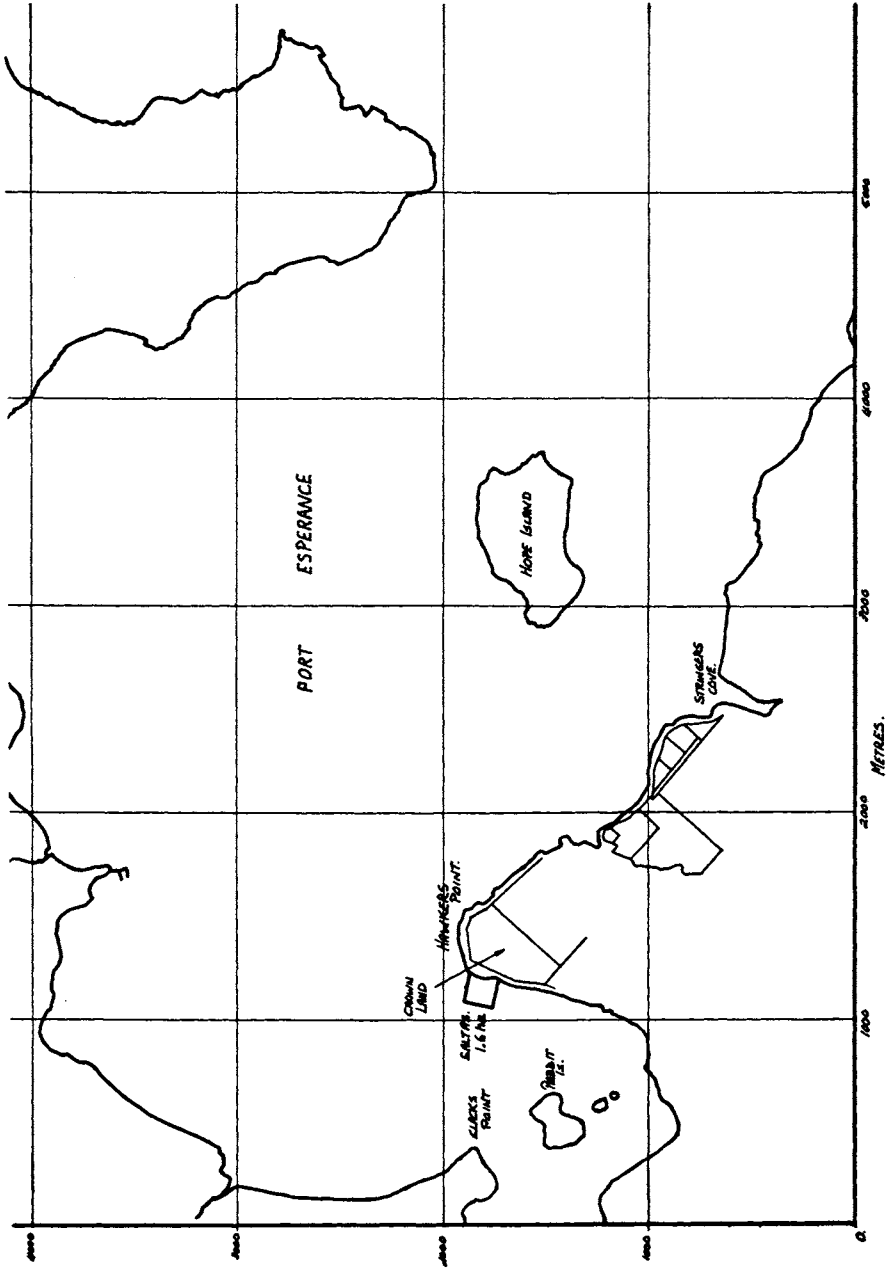
R. A. NEWTON
Authorised Person

SCHEDULE

LOCAL INDUSTRY
CLASS " C " SHARES

Name	Number of Shares.	Form of Execution of this Agreement
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EXHIBIT A



SCHEDULE 2

Sections 3 and 4

THE FISH FARM AGREEMENT

THIS AGREEMENT made the 16th day of April 1985
BETWEEN

THE MINISTER FOR SEA FISHERIES OF THE STATE OF TASMANIA
of Franklin Square, Hobart, in the State of Tasmania (hereinafter called
"MSF")

AND

NORAQUA AUSTRALIA PTY LIMITED a company duly incorporated in the
State of New South Wales and recognised in the State of Tasmania having
its principal office in the State of Tasmania C/- Murdoch Clarke Cosgrove &
Drake, 10 Victoria Street, Hobart in the State of Tasmania (hereinafter
called "NA")

WHEREAS

- A. MSF and NA have by a Joint Venture Agreement of even date (hereinafter called "the Joint Venture Agreement") agreed to establish a commercial research and development company, Salmon Enterprises of Tasmania Pty Limited (hereinafter called "SalTas"), with the objective of developing a salmonid farming industry in Tasmania.
- B. It is understood that K/S NORAQUA A/S a limited partnership established under the laws of the Kingdom of Norway (hereinafter called "Noraqua") has established a separate company TASSAL PTY LIMITED (hereinafter called "Tassal") to operate a commercial fish farm to produce and sell salmonids. Tassal will be owned by NA and Australian interests.
- C. It is fundamental to the participation by NA in the establishment and operation of SalTas that Tassal be granted the necessary leases and licences to carry on such business, and that Tassal shall, not later than 31st May, 1985, become entitled to purchase certain private land areas at Esperance Bay.
- D. It is further understood and recognised by the parties that Noraqua is considering the possibility of purchasing a minority share in an existing Tasmanian company within the Aquaculture field.

NOW THE PARTIES HEREBY AGREE AND DECLARE as follows:—

1. This Agreement is made by NA on its own behalf and on behalf of Tassal.
2. Subject to compliance in all material respects with the provisions of the Joint Venture Agreement, as and when required by NA or Tassal, MSF will use his best endeavours to:—
 - (a) Grant or cause to be granted to Tassal a Lease of the sea area containing 16 HA shown on the plan attached as "Plan A".

- (b) Grant or cause to be granted to Tassal the right to purchase from MSF the title rights (if any) to be acquired by MSF under this Agreement over the private lands shown on Plan A and there shown as being owned by Samuel John Gray, Phyllis Mary Gray and Hubert H. Oldhamm (“ the private lands ”).
 - (c) Grant or cause to be granted to Tassal the right to purchase or lease from the Minister administering the Crown Lands Act 1976 or the Forestry Act 1920 such portion or portions of the Crown land containing 17·4 HA or thereabouts as shown on Plan A as is reasonably required for by Tassal for the conduct by Tassal of the fish farm, killing and processing operations intended to be conducted by Tassal pursuant to this Agreement.
 - (d) Grant or cause to be granted to Tassal the right to purchase the streets and ungranted Crown land shown on Plan A and there described as “ street ” and “ ungranted Crown Land ” respectively.
 - (e) Grant or cause to be granted to Tassal a fish farming licence allowing Tassal to conduct farming of salmonids.
3. The purchase price or rental value as the case may be of the lands and interests referred to in clause 2 shall be determined by the Valuer-General of Tasmania as being the reasonable market value thereof.
4.
 - (a) It is an essential element of the establishment of the Esperance Bay Commercial Fish Farm by Tassal that Tassal shall have available to it the private lands referred to in clause 2.
 - (b) Tassal shall use its best endeavours to purchase from the persons named in clause 2 (b) hereof the interests of those persons in the private lands, such persons claiming to be the owners thereof by adverse possession.
 - (c) In the event that the owners of the private lands referred to in sub-clause (b) of this clause shall not be able to provide transfers conveyances or other assurances and to produce evidence sufficient to enable Tassal to obtain a good marketable documentary title to the said private lands or if any other person claims an interest in the said lands which Tassal shall be unable to acquire then MSF shall acquire or cause to be acquired all outstanding interests in the said lands and shall sell to Tassal the interests so acquired so as to allow Tassal to acquire a good marketable documentary title thereto free from any such interests as aforesaid.
 - (d) The purchase price payable by Tassal in respect of any interests acquired by MSF or on behalf of MSF under sub-clause (c) of this clause shall be the acquisition price paid by or on behalf of MSF and all costs reasonably associated therewith.
5. MSF shall grant or cause to be granted to Tassal by the competent authorities in Tasmania all necessary permits, authorities, licences and leases required for carrying on the business within the State of Tasmania of saltwater cultivation, processing and sale of salmon and trout, subject to compliance by Tassal with all statutory and other requirements with respect thereto.

6. The parties acknowledge that the ecosystem of Port Esperance has a limited carrying capacity of fish and that adverse environmental changes could result from over-concentration of commercial salmonid farms within that Bay and MSF therefore agrees that he will not without the prior consent of NA authorise the establishment of commercial fish farms other than those of SalTas and Tassal and any farms in operation at the date of this Agreement within Port Esperance between an imaginary line drawn between Esperance Point and Lomas Point.
7. MSF agrees that, if so requested by NA, he will use his best endeavours to assist NA to establish facilities to exploit further developments in the field of aquaculture including the development of aquaculture facilities on sites not suitable for conventional cage culture.
8. MSF and NA shall exercise their voting and other rights in respect of the operations of SalTas so as to cause that company to produce sufficient smolts to allow production of 2 500 tonnes dressed weight (head-on and gutted) of Atlantic salmon per annum as soon as practicable having regard to the demand for such smolt.
9. MSF shall not without the consent of the NA permit the establishment of any Atlantic salmon hatchery in Tasmania other than that conducted by SalTas for a period of ten (10) years from the date hereof.
10. Tassal will require facilities in Tasmania for the slaughtering, freezing, smoking and packaging of salmon and trout, and MSF agrees that he will use his good offices to assist in the establishment of such facilities.
11. For the purpose of this Agreement, MSF waives any immunity from judicial proceedings on the grounds of sovereignty or otherwise, but subject to existing laws and statutes.
12. MSF and NA agree to use every endeavour to ensure that all technological developments in the fish farming of Atlantic salmon including genetic developments and the import of genetic material to companies and persons to whom a fish farm licence has been or is intended to be granted in Tasmania.
13. (a) MSF and NA agree that the licence to be granted to Tassal may limit the annual production of Tassal to 500 tonnes dressed weight of Atlantic salmon for the period ended 31st December, 1988. In this clause the expression "dressed weight" shall mean tonnes of Atlantic salmon dressed (head-on and gutted).
(b) Thereupon the parties will cause the Board of Directors of SalTas to conduct a review and assessment and report to the Tasmanian Government concerning the future development (including projections of future market trends) for the salmonid industry in Tasmania.

(c) Such review shall not result in a reduction of supply of smolt to Tassal which would reduce Tassal's annual production of Atlantic salmon to below 500 tonnes dressed weight and shall permit Tassal to acquire not less than forty per centum (40%) of the production of smolts in excess of smolts required to produce 1 250 tonnes dressed weight up to a limit of smolts sufficient to allow Tassal to produce a maximum of 1 000 tonnes dressed weight provided that Tassal or NA holds not more than nineteen per centum (19%) of the issued capital of SalTas.

14. Nothing in this Agreement shall affect the right of SalTas to retain sufficient smolts in each year to allow SalTas to produce 100 tonnes dressed weight of fish in each year in priority to any obligation by SalTas to supply smolt to Tassal under this Agreement or the Joint Venture Agreement.

15. This Agreement is executed by the parties subject to the condition that Parliament of the State of Tasmania shall, on or before 30th April, 1985 pass a Bill for an Act to approve this Agreement and the Joint Venture Agreement, and ratify the execution by MSF of those Agreements.

SIGNED by THE MINISTER FOR SEA FISHERIES OF THE STATE OF TASMANIA in the presence of: } F. ROGER GROOM

G. V. JONES (Sen. Pte. Sec.)

THE COMMON SEAL of NORAQUA AUSTRALIA PTY LIMITED was hereunto affixed by authority of its Board of Directors in the presence of: } (Seal.)
R. SAUER
Director

R. A. NEWTON
Authorised Person

Tassal Pty Limited having been incorporated prior to the execution hereof by the parties, hereby ratifies and confirms this agreement and agrees to be bound by the terms and conditions thereof on its part to be observed and performed.

THE COMMON SEAL of TASSAL PTY LIMITED was hereunto affixed by authority of its Board of Directors in the presence of: } (Seal.)
R. SAUER

D. M. WHITEHOUSE
Secretary

