



General Conditions

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1 Definitions and interpretation

1.1 Definitions

In the Documents, the following words have these meanings unless the contrary intention appears:

- (1) **Account Fee** means the amount payable per Customer in respect of each Water Year for the costs associated with administering the Customer's relationship with the Company;
- (2) **Access Licence** has the meaning given to that term under the Act;
- (3) **Act** means the *Water Management Act 2000* (NSW);
- (4) **Additional Water** means the number of Megalitres of water by which the Customer has overdrawn their Water Allocation Account, resulting in a negative balance (for example, by taking water in excess of the volume of Water Allocation in the Water Allocation Account);
- (5) **Additional Water Fee** means the amount payable per Megalitre of Additional Water;
- (6) **Agreement** means the Water Entitlement Agreement or Water Delivery Agreement which requires the Customer to comply with these General Conditions and it includes these General Conditions and any Special Conditions;
- (7) **Applicant** means a party to an Application;
- (8) **Application** means an application in the form prescribed by the Company, which is completed to the Company's satisfaction, which includes all documents required for the application, and in respect of which the relevant Charge has been paid;
- (9) **Area of Operations** has, in respect of the Company, the meaning given to that term in the Act;
- (10) **Asset Replacement Fund Fee** means the amount payable per Delivery Entitlement in respect of each Water Year to fund expenditure on capital works;
- (11) **Australian Consumer Law** means the Australian Consumer Law as set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth);
- (12) **Availability Announcement** means any determination made from time to time by the relevant Government Agency with respect to the water available to the Company in any Water Year under the Company's Access Licences;
- (13) **Buronga Irrigation Area** means:
 - (a) the area formerly constituted as the Buronga irrigation area in 1956 under the *Irrigation Act 1912* (NSW); and
 - (b) any other area which may from time to time be supplied with water from the Company's Buronga pumping station,

but in each case only to the extent to which those areas also fall within the Area of Operations;

- (14) **Business Day** means a day that is not a Saturday, Sunday or any other day that is a public holiday or a bank holiday in New South Wales;
- (15) **Carryover Water** means a volume of Water Allocation remaining in a Water Allocation Account at the end of a Water Year that is permitted to be carried over, in accordance with the Documents, to the next Water Year;
- (16) **Certificate** means a certificate or statement issued by the Company to the Customer setting out the Entitlements held by the Customer;
- (17) **Charges** includes:
- (a) all fees and charges and other sums of money payable by the Customer to the Company or any of the Company's Related Bodies Corporate under the Documents;
 - (b) any other sum of money owing or payable by the Customer to the Company or any of the Company's Related Bodies Corporate;
 - (c) any other sum of money agreed between the Customer and the Company, or between the Customer and any of the Company's Related Bodies Corporate, to be a Charge; and
 - (d) interest on those fees, charges and sums of money;
- (18) **Claim** includes, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent;
- (19) **Company** means Western Murray Irrigation Limited ACN 067 197 853;
- (20) **Company's Works** means Works owned by the Company;
- (21) **Consequential Loss** means any special or indirect loss or damage, including loss of profits, loss of opportunity, or any other loss or damage which is not a loss or damage which may fairly and reasonably be considered to arise naturally (that is, in the usual course of things) from the breach or other act or omission, whether or not the loss or damage was in the contemplation of the parties at the time when they entered into the Agreement;
- (22) **Coomealla Irrigation Area** means:
- (a) the area formerly constituted as the Coomealla irrigation area in 1924 under the *Irrigation Act 1912* (NSW); and
 - (b) any other area which may from time to time be supplied with water from the Company's Coomealla pumping station,
- in each case only to the extent to which those areas also fall within the Area of Operations;
- (23) **Corporations Act** means the *Corporations Act 2001* (Cth);
- (24) **Costs** includes:
- (a) costs, fees, expenses and outlays;

- (b) in relation to a party, all costs actually payable by the party to their own legal representatives (whether or not under a costs agreement);
- (c) in relation to the Customer, Charges; and
- (d) in relation to the Company, administrative costs and the cost of the Company's Personnel's time, including time spent investigating, obtaining advice in connection with, assessing, dealing with and determining a matter;

(25) **Curlwaa Irrigation Area** means:

- (a) the area formerly constituted as the Curlwaa irrigation area in 1890 under the *Wentworth Irrigation Act 1890* (NSW); and
- (b) any other area which may from time to time be supplied with water from the Company's Curlwaa pumping station,

in each case only to the extent to which those areas also fall within the Area of Operations;

(26) **Customer's Works** means Works owned by the Customer;

(27) **Damage** includes loss or damage to property;

(28) **Delivery Allowance** means the right, subject to the Documents, to delivery:

- (a) of one Megalitre of water in each Water Year, as measured by the relevant Meter or determined by the Company under clause 12;
- (b) to the following Point of Supply:
 - (i) the Company's Water Supply Works set out in the Delivery Entitlements Register, as varied by the Company from time to time, as servicing the relevant Landholding; or
 - (ii) if no Company's Water Supply Works are set out in the Delivery Entitlements Register as servicing the Landholding, the Company's Water Supply Works (if any) determined by the Company to be servicing the Landholding,

as recorded in the Delivery Allowance Account for the Customer;

(29) **Delivery Allowance Account** means:

- (a) an account with the reference number set out in the schedule of a Water Delivery Agreement or Water Entitlement Agreement (as the case may be); or
- (b) a Linked Account,

maintained by the Company which records the crediting, acquiring, debiting and withdrawal of Delivery Allowance;

(30) **Delivery Entitlement** means the right to be credited with one Megalitre of Delivery Allowance in each Water Year in respect of the relevant Landholding under clause 4 of the Water Delivery Agreement;

- (31) **Delivery Entitlement Fee** means the amount payable per Delivery Entitlement in respect of each Water Year;
- (32) **Delivery Entitlements Register** means a register maintained by the Company, as varied by the Company from time to time, which records:
- (a) the Customer's name and address;
 - (b) the number of Delivery Entitlements held by the Customer;
 - (c) details of the Customer's Landholding;
 - (d) the Company's Water Supply Works to which water is to be delivered; and
 - (e) any lien, mortgage or charge over the Customer's Delivery Entitlements registered with the Company under clause 36.4;
- (33) **Disconnection** means removing or disabling a physical connection between the Company's Works and the Customer's Works in respect of a Landholding;
- (34) **Disconnection Fee** means the amount payable in respect of a Disconnection which is not intended to be permanent;
- (35) **Documents** means the Agreement, these General Conditions and the Policies, and any other Water Entitlement Agreement or Water Delivery Agreement between the Company and the Customer;
- (36) **Drainage** includes surface and subsurface water drainage;
- (37) **Drainage Work** has the meaning given to that term under the Act;
- (38) **Electricity Usage Fee** means the amount payable per Megalitre of water delivered to, or taken by, the Customer (or however else determined by the Company, acting reasonably) to fund the electricity costs associated with operating pumps used to deliver water to the Customer and associated administrative costs;
- (39) **Entitlement** means a Water Entitlement or Delivery Entitlement, as the case may be;
- (40) **Event of Default** means any of the events referred to in clause 19.5;
- (41) **Fixed Government Charge** means the amount payable per Water Entitlement in respect of each Water Year;
- (42) **General Security Water Entitlement** means a Water Entitlement in the general security class;
- (43) **Government Agency** means any government and any governmental body, whether:
- (a) legislative, judicial or administrative;
 - (b) a department, commission, authority, instrumentality, corporation, tribunal, agency or entity; or
 - (c) commonwealth, state, territorial or local;
- and includes any self-regulatory organisation established under any law;

- (44) **High Security Water Entitlement** means a Water Entitlement in the high security class;
- (45) **Infrastructure Loan Repayment Fee** means the amount payable per Delivery Entitlement in respect of each Water Year to fund expenditure on capital works in the Buronga Irrigation Area;
- (46) **Insolvency Event** means the happening of any of the following in relation to the Customer:
- (a) execution or other process of a court or authority or distress is levied for an amount exceeding \$10,000 upon any of the Customer's property and is not satisfied, set aside or withdrawn within seven days of its issue;
 - (b) an order for payment is made or judgment for an amount exceeding \$10,000 is entered or signed against the Customer which is not satisfied within seven days;
 - (c) the Customer suspends payment of their debts;
 - (d) where the Customer is a body corporate:
 - (i) the Customer becomes a Chapter 5 body corporate under the Corporations Act;
 - (ii) steps are taken by any person towards making the Customer a Chapter 5 body corporate (but not where the steps taken consist of making an application to a court and the application is withdrawn or dismissed within 14 days);
 - (iii) a controller (as defined in section 9 of the Corporations Act) is appointed of any of the property of the Customer or any steps are taken for the appointment of such a person (but not where the steps taken are reversed or abandoned within 14 days);
 - (iv) the Customer is taken to have failed to comply with a statutory demand within the meaning of section 459F of the Corporations Act; or
 - (v) a resolution is passed for the reduction of capital of the Customer or notice of intention to propose such a resolution is given, without the prior consent of the Company;
 - (e) where the Customer is a natural person:
 - (i) the Customer authorises a registered trustee or solicitor to call a meeting of his or her creditors or proposes or enters into a deed of assignment or deed of arrangement or a composition with any of his or her creditors;
 - (ii) a person holding a security interest in assets of the Customer enters into possession of or takes control of any of those assets or takes any steps to enter into possession of or take control of any of those assets; or
 - (iii) the Customer commits an act of bankruptcy; or

- (f) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;
- (47) **Irrigation Area** means the Buronga Irrigation Area, the Coomealla Irrigation Area or the Curlwaa Irrigation Area, as the case may be;
- (48) **Joint Venture Repayment Fee** means the amount payable per Delivery Entitlement in respect of each Water Year to fund the rehabilitation of the Coomealla Irrigation Area;
- (49) **Landholder** means the registered proprietor of a Landholding;
- (50) **Landholding** means a property described in the schedule to a Water Delivery Agreement;
- (51) **Legal Requirement** means law; regulation; any notice, order or direction received from, or given by, any Government Agency; and the Company's Licences;
- (52) **Licences** means:
- (a) any operating licence issued under section 122 of the Act;
 - (b) any Access Licence, water supply work approval, water use approval, flood work approval, drainage work approval, controlled activity approval, aquifer interference approval or other approval which is issued under the Act;
 - (c) any licence issued under the *Protection of the Environment Operations Act 1997* (NSW); and
 - (d) any irrigation corporation licence issued under the *Irrigation Corporations Act 1994* (NSW);
- (53) **Linked Account** means an arrangement for the linking of the Water Allocation Accounts or Delivery Allowance Accounts or both of the relevant Participants;
- (54) **Loss** includes any damage, loss, liability or Cost of any kind and however arising (including the result of any Claim), including penalties, fines and interest, but does not include Consequential Loss;
- (55) **Megalitre** means one million litres;
- (56) **Meter** means a water measurement apparatus used to measure and account for water;
- (57) **Meter Service Fee** means the amount payable per Meter, having regard to the size of the Meter, in respect of each Water Year to fund the costs of maintenance and servicing of the Meter and its associated outlet;
- (58) **Participant** means a Customer participating in a Linked Account approved by the Company;
- (59) **Permanent Disconnection** means a Disconnection which is intended to be permanent;
- (60) **Permanent Disconnection Fee** means the amount payable in respect of the reasonable costs incurred by the Company by reason only of a Permanent Disconnection;

- (61) **Personnel** of a person means the officers, employees, contractors, professional advisers, representatives and agents of that person;
- (62) **Point of Supply** means the point at which the Company makes delivery of water to a Customer pursuant to a Water Delivery Agreement;
- (63) **Policies** mean the policies and rules of, or determinations by, the Company published on the Company's web site from time to time, and includes the Transfer Rules Policy;
- (64) **Pricing Group** means a class of Customers, Landholdings or Delivery Entitlements (such as Landholdings in particular Irrigation Areas) to which specific Charges, or specific amounts of Charges, apply;
- (65) **Privacy Policy** means the rules determined by the Company in relation to, among other things, the collection and use of personal information;
- (66) **Quarter** means a period of three months in a Water Year, being:
- (a) the period from 1 July to 30 September;
 - (b) the period from 1 October to on 31 December;
 - (c) the period from 1 January to 31 March; or
 - (d) the period from 1 April to 30 June;
- (67) **Reconnection** means re-establishing or re-enabling a physical connection between the Company's Works and the Customer's Works after a Disconnection which was not intended to be permanent;
- (68) **Reconnection Fee** means the amount payable in respect of a Reconnection;
- (69) **Register** means the Water Entitlements Register or the Delivery Entitlements Register, as the case may be;
- (70) **Related Body Corporate** has the meaning given to that term in section 9 of the Corporations Act;
- (71) **Schedule of Charges** means the document containing, among other things, a list of Charges, published on the Company's web site from time to time;
- (72) **Special Conditions** mean any special conditions that apply to the Customer set out in the schedule to a Water Entitlement Agreement or Water Delivery Agreement;
- (73) **Stock and Garden Water Entitlement** means a Water Entitlement in the stock and garden class;
- (74) **Termination Fee** has the meaning given to that term in the Water Charge Rules;
- (75) **Transaction** has the meaning given to that term in the Transfer Rules Policy;
- (76) **Transfer Rules Policy** means the rules determined by the Company in relation to, among other things, the arrangements for:
- (a) the transfer of Water Allocation into or out of a Water Allocation Account;

- (b) the transfer of, and other dealings with, Water Entitlements;
 - (c) the arrangements for reducing the share component of an Access Licence held by the Company to allow Water Entitlements to undergo Transformation, in whole or in part, into an Access Licence that is held by someone other than the Company;
 - (d) the arrangements for reducing the share component of an Access Licence held by someone other than the Company or for cancelling a right conferred by a law of a state to hold or take water from a water resource in another state held by someone other than the Company, to allow share component to be permanently transferred to an Access Licence that is held by the Company or to allow an Access Licence to be issued to the Company;
 - (e) the conversion of Water Entitlements from one class to another;
 - (f) the transfer of Delivery Allowance into or out of a Delivery Allowance Account;
 - (g) the transfer, termination and surrender of, and other dealings with Delivery Entitlements; and
 - (h) the transfer and cancellation of, and other dealings with, shares in the Company;
- (77) **Transformation** has the meaning given to “*transformation arrangements*” in the *Water Act 2007* (Cth) and includes the arrangements set out in the Transfer Rules Policy;
- (78) **Transformation Fee** means the amount payable based on the recovery of the reasonable and efficient costs incurred, or likely to be incurred, by the Company in processing an application for Transformation;
- (79) **Transmission Losses** means loss of water from the Company’s Works during distribution of water to customers including as a result of leakages, evaporation, seepage or scouring;
- (80) **Unused Water Allocation** means any Water Allocation (other than Carryover Water) remaining in a Water Allocation Account at the end of a Water Year;
- (81) **Usage Above Delivery Allowance Fee** means the amount payable per Megalitre to the extent that the cumulative number of Megalitres of water delivered to, or taken by, the Customer in respect of a Landholding in a Water Year up to the end of any Quarter exceeds the number of Megalitres of Delivery Allowance held by the Customer in respect of the Landholding at the end of the relevant Quarter, including where the Customer does not hold any Delivery Allowance in respect of the Landholding at the end of the relevant Quarter;
- (82) **Variable Government Charge** means the amount payable per Megalitre of water delivered to, or taken by, the Customer;
- (83) **Water Allocation** means the volume of water to which the Customer is entitled from the Company from time to time:
- (a) under the Documents;
 - (b) as a result of the Customer assigning, under section 71T of the Act, water allocation in a water allocation account under section 85 of the Act for an

Access Licence held by the Customer to the water allocation account under section 85 of the Act for an Access Licence held by the Company; or

- (c) as a result of any other transactions of any kind which affect the volume of water to which the Customer is entitled from the Company,

as recorded in the Water Allocation Account for the Customer;

(84) **Water Allocation Account** means:

- (a) an account with the reference number set out in the schedule of a Water Delivery Agreement or Water Entitlement Agreement (as the case may be); or

- (b) a Linked Account,

maintained by the Company which records the crediting, acquiring, debiting and withdrawal of Water Allocation;

(85) **Water Charge Rules** means the *Water Charge Rules 2010* (Cth);

(86) **Water Delivery Agreement** means a contract between the Company and a person substantially in the form of the Water Delivery Agreement published on the Company's web site from time to time;

(87) **Water Entitlement** means the right to a notional volume of one Megalitre of water which is used to calculate the Water Allocation determined under clause 4 of the Water Entitlement Agreement from time to time and expressed by reference to one of the following classes: General Security Water Entitlement, High Security Water Entitlement and Stock and Garden Water Entitlement;

(88) **Water Entitlement Agreement** means a contract between the Company and a person substantially in the form of the Water Entitlement Agreement published on the Company's web site from time to time;

(89) **Water Entitlements Register** mean a register maintained by the Company, as varied by the Company from time to time, which records:

- (a) the Customer's name and address;
- (b) the number and class of Water Entitlements held by the Customer; and
- (c) any lien, mortgage or charge over the Customer's Water Entitlements registered with the Company under clause 36.4;

(90) **Water Supply Work** has the meaning given to that term under the Act;

(91) **Water Year** means any period of one year ending on 30 June; and

(92) **Work** has the same meaning in the Documents as *water management work* has in the Act.

1.2 Interpretation

In the Documents, unless the contrary intention appears:

- (1) reference to:

- (a) one gender includes the other genders;
 - (b) the singular includes the plural and the plural include the singular;
 - (c) a recital, clause, schedule or annexure is a reference to a clause of or recital, schedule or annexure to the Document and references to the Document include any recital, schedule or annexure;
 - (d) any contract (including an Agreement), schedule, Policies, other instrument or determination includes any variation or replacement of it from time to time;
 - (e) a statute, ordinance, code or other law includes subordinate legislation (including regulations) and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (f) a person includes an individual, a firm, a body corporate, an unincorporated association or an authority;
 - (g) a person includes their legal personal representatives (including executors), administrators, successors, substitutes (including by way of novation) and permitted assigns;
 - (h) a group of persons is a reference to any two or more of them taken together and to each of them individually;
 - (i) a body which has been reconstituted or merged must be taken to be to the body as reconstituted or merged, and a body which has ceased to exist and the functions of which have been substantially taken over by another body must be taken to be to that other body;
 - (j) time is a reference to the time in Dareton, New South Wales;
 - (k) a day or a month means a calendar day or calendar month;
 - (l) money (including "\$", "AUD" or "dollars") is to Australian currency; and
 - (m) any thing (including any amount or any provision of the Documents) is a reference to the whole and each part of it;
- (2) an obligation, representation or warranty on the part of or in favour of more than one person binds or is for the benefit of each of them separately and all of them jointly;
 - (3) a party which is a trustee is bound both personally and in their capacity as a trustee;
 - (4) the meaning of any general language is not restricted by any accompanying example, and the words "includes", "including", "such as", "for example" or similar words are not words of limitation;
 - (5) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;
 - (6) headings and the table of contents are for convenience only and do not form part of the Documents or affect their interpretation;

- (7) if an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day; and
- (8) a provision of a Document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Document or the inclusion of the provision in the Document.

2 Customer must obtain own advice

- 2.1 The Company does not give advice to the Customer about the Documents or anything connected with the subject matter of the Documents.
- 2.2 The Customer should seek their own professional advice about the Documents and anything connected with the subject matter of the Documents, including legal, taxation, accounting and financial advice.

3 Water allocation account

- 3.1 The Company must maintain a Water Allocation Account for the Customer.
- 3.2 The Company may:
 - (1) permit the Customer's Water Allocation Account to have a negative balance; or
 - (2) refuse to do anything or allow anything to occur that would cause the Customer's Water Allocation Account to have a negative balance.
- 3.3 If the Customer's Water Allocation Account has a negative balance, the Company may give notice to the Customer requiring the Customer to bring the balance back to zero or a positive balance within five Business Days (or any longer period determined by the Company) after the notice is given.
- 3.4 If the Customer does not comply with a notice given under clause 3.3, the Company may do either or both of the following:
 - (1) Disconnect the Customer's Landholdings and charge Disconnection Fees; and
 - (2) charge the Additional Water Fee in respect of the negative balance.
- 3.5 At any time after Disconnection occurs pursuant to clause 3.4(1), the Customer may request Reconnection.
- 3.6 If the Customer makes a request under clause 3.5, the Company must Reconnect the Customer's Landholdings if:
 - (1) the Customer pays the relevant Disconnection Fees and Reconnection Fees and any other outstanding Charges; and
 - (2) the Customer's Water Allocation Account balance is brought back to zero or a positive balance (including as a result of the crediting of Water Allocation under clause 3.8).
- 3.7 If the Customer's Water Allocation Account has a negative balance at the end of a Water Year:
 - (1) the Company is not required to give notice under clause 3.3; and

- (2) the Company may charge the Additional Water Fee in respect of the negative balance.
- 3.8 After the Customer pays any Additional Water Fee, the Company must credit the corresponding volume of Water Allocation to the Customer's Water Allocation Account. If, after the end of a Water Year, the Customer pays an Additional Water Fee in respect of a negative balance which arose during the Water Year which has ended, the corresponding volume of Water Allocation will be taken to have been credited retrospectively to the Customer's Water Allocation Account immediately prior to the end of that Water Year.
- 3.9 At any time while the Customer's Water Allocation Account has a negative balance, the Company may set off the negative balance against any later credits or acquisitions to the Customer's Water Allocation Account.
- 3.10 The Company may increase the Customer's Water Allocation, and credit the Customer's Water Allocation Account accordingly, on one or more occasions in any Water Year, at the Company's discretion, for any reason and this may be applied retrospectively. The Company may decrease or cancel any increase under this clause as set out in clause 3.11.
- 3.11 The Company may decrease the Customer's Water Allocation, and debit the Customer's Water Allocation Account accordingly, on one or more occasions in any Water Year:
- (1) following a decrease in any relevant Availability Announcement;
 - (2) if, in the reasonable opinion of the Company, Transmission Losses or restricted actual or anticipated availability justify the decrease; or
 - (3) if, in the reasonable opinion of the Company, compliance with the Company's obligations under a Legal Requirement justifies the decrease.
- 3.12 The Company must publish any increase or decrease under clauses 3.10 or 3.11, in percentage terms, on the Company's web site.
- 3.13 Water Allocation may be reduced, withdrawn or suspended by the Company to the extent that any water allocation of the Company is reduced, withdrawn or suspended under the Act. The Company must notify the Customer of a reduction, withdrawal or suspension of Water Allocation under this clause 3.13 as soon as practicable. In addition to any other method of service provided by law, the Notice may be given by the Company, in the case of a notice under this clause 3.13, by publishing the notice on the Company's web site.

4 Delivery allowance account

- 4.1 The Company must maintain a Delivery Allowance Account for the Customer.
- 4.2 The Company may refuse to do anything or allow anything to occur that would cause the Customer's Delivery Allowance Account to have a negative balance.

5 Linked accounts

- 5.1 Any two or more Customers who are eligible under clause 5.2 may make an Application to establish a Linked Account under this clause 5. The Application must specify whether the Linked Account will:
- (1) link the Participants' Water Allocation Accounts;
 - (2) link the Participants' Delivery Allowance Accounts; or

- (3) both.
- 5.2 Two or more Customers are eligible to make an Application for a Linked Account if:
- (1) the Customers are treated as a single entity for the purposes of assessment of income tax;
 - (2) the Customers are treated as a single business entity under one registered Australian Business Number;
 - (3) the Customers have established a share-farming relationship to the satisfaction of the Company; or
 - (4) in any other case, at the Company's discretion.
- 5.3 A Linked Account in relation to Water Allocation Accounts must encompass all of the Participants' Water Allocation Accounts. The Application must specify which Water Allocation Account will be the primary account. The others will be secondary accounts.
- 5.4 A Linked Account in relation to Delivery Allowance Accounts:
- (1) must encompass all of the Participants' Delivery Allowance Accounts in respect of Landholdings within the same Irrigation Area; and
 - (2) must not include any Delivery Allowance Account in respect of Landholdings which are not in that Irrigation Area.
- The Application must specify which Delivery Allowance Account will be the primary account. The others will be secondary accounts.
- 5.5 By submitting to the Company an Application for a Linked Account, each Applicant acknowledges that:
- (1) the Applicants are responsible for any arrangements that they make between themselves with respect to the Application for, operation of, and termination of the Linked Account; and
 - (2) all exclusions and limitations of liability and all indemnities set out in this Agreement and any other relevant Water Entitlement Agreement or Water Delivery Agreement (including these General Conditions) for the benefit of the Company apply in respect of the Linked Account.
- 5.6 The Company may, acting reasonably, accept or refuse an Application for a Linked Account.
- 5.7 A Linked Account commences on the first day of the Quarter commencing after the Company approves the Application (or any other date determined by the Company) and continues indefinitely until it is terminated in accordance with this clause 5.
- 5.8 Upon the establishment of a Linked Account, the Water Allocation Accounts and Delivery Allowance Accounts nominated in the Application for participation in the Linked Account will continue to exist.
- 5.9 If a Linked Account relates to Water Allocation Accounts:
- (1) each Participant is entitled to carry out Transactions, in accordance with the Transfer Rules Policy, in respect of any Water Allocation in any of the Participants' Water Allocation Accounts; and

- (2) each Participant is entitled to order for delivery, in accordance with the Participant's Water Delivery Agreement, any Water Allocation in any of the Participants' Water Allocation Accounts,

provided that the Linked Account must never have a negative balance.

5.10 If a Linked Account relates to Delivery Allowance Accounts:

- (1) each Participant is entitled to carry out Transactions, in accordance with the Transfer Rules Policy, in respect of any Delivery Allowance in any of the Participants' Delivery Allowance Accounts; and
- (2) each Megalitre of Delivery Allowance in any of the Participants' Delivery Allowance Accounts will be taken to include the right, subject to the Documents, to delivery to any Point of Supply in respect of any of the Participants' Landholdings,

provided that the Linked Account must never have a negative balance.

5.11 Despite anything to the contrary, for the purpose of determining whether the Participants in a Linked Account relating to Water Allocation Accounts have taken Additional Water, the Company must consider the aggregate balance of the relevant Water Allocation Accounts. Each Participant is jointly and severally liable for the Additional Water Fee.

5.12 Despite anything to the contrary, for the purpose of determining any Usage Above Delivery Allowance Fee in respect of Participants in a Linked Account relating to Delivery Allowance Accounts, the Company must consider the cumulative number of Megalitres of water delivered to, or taken by, the Participants collectively in the Water Year up to the end of the relevant Quarter exceeds the number of Megalitres of Delivery Allowance held by the Participants collectively at the end of the relevant Quarter, including where the Participants do not hold any Delivery Allowance at the end of the relevant Quarter. Each Participant is jointly and severally liable for the Usage Above Delivery Allowance Fee.

5.13 Each Participant releases the Company from all Claims, whether in tort (including negligence), statute or otherwise arising out of or in connection with the Company acting on any Participant's instructions within the scope of clause 5.9 or 5.10.

5.14 Each Participant indemnifies the Company against all Claims (including Claims by other Participants or other third parties), arising directly or indirectly as a result of or in connection with the Company acting on any Participant's instructions within the scope of clause 5.9 or 5.10.

5.15 If any Participant gives notice to the Company of a dispute between the Participants in respect of the Linked Account, the Company may, acting reasonably, suspend the operation of clauses 5.9 and 5.10:

- (1) until the Company has received notice from all of the Participants jointly that the dispute has been resolved; and
- (2) subject to any order of a court in respect of the Linked Account.

5.16 All of the Participants in a Linked Account may jointly make an Application for the termination of the Linked Account.

5.17 Any Participant in a Linked Account may make an Application for that Participant to exit the Linked Account.

5.18 The Company may, acting reasonably, approve or refuse an Application for termination or exit. Approval may be given subject to fulfilment of specified conditions. A Linked Account terminates, or the exit takes effect, on the first day of the Quarter commencing after the

Company approves the Application (or any other date determined by the Company), unless the Linked Account is terminated earlier by the Company.

- 5.19 If any Participant in a Linked Account relating to Delivery Allowance Accounts ceases to be the Landholder of a Landholding, the Delivery Allowance Account associated with that Landholding is excluded automatically from the Linked Account.
- 5.20 A Linked Account is terminated automatically if there is only one remaining Participant.
- 5.21 The Company may, acting reasonably, terminate a Linked Account by giving notice to the Participants.
- 5.22 Without limiting the Company's rights under any relevant Water Delivery Agreement or Water Entitlement Agreement, if the Company is entitled to exercise a right under clause 19 in respect of any Participant, it may exercise that right in respect of all Participants.

6 Unused water allocation

- 6.1 Unused Water Allocation cannot be carried over to the next Water Year and will be cancelled without notice or compensation at the end of the Water Year.
- 6.2 The Company may, at its sole discretion, sell all or part of any water allocation (as defined in the Act) held in a water allocation account (as defined in the Act) for an Access Licence of the Company, including any such water allocation corresponding to Water Allocation which, in the opinion of the Company, will be, or is reasonably likely to be, cancelled under clause 6.1. The Company may, at its discretion, retain all or some of the sale proceeds, or distribute all or some of the sale proceeds to all or some of its customers, or do a combination of both. Any decision made by the Company under this clause 6.2 is final and binding on the Customer.

7 Charges

- 7.1 The Company may, from time to time, determine the Charges, including:
 - (1) the Account Fee;
 - (2) the Additional Water Fee;
 - (3) the Asset Replacement Fund Fee;
 - (4) the Delivery Entitlement Fee;
 - (5) the Disconnection Fee;
 - (6) the Electricity Usage Fee;
 - (7) the Fixed Government Charge;
 - (8) the Infrastructure Loan Repayment Fee;
 - (9) the Joint Venture Repayment Fee;
 - (10) the Meter Service Fee;
 - (11) the Permanent Disconnection Fee;
 - (12) the Reconnection Fee;

- (13) the Termination Fee;
 - (14) the Transformation Fee;
 - (15) the Usage Above Delivery Allowance Fee; and
 - (16) the Variable Government Charge.
- 7.2 The Company may, from time to time, determine:
- (1) one or more Pricing Groups;
 - (2) the Charges, and the amount of each Charge, applying to each Pricing Group;
 - (3) the criteria for inclusion of a customer, Landholding or Delivery Entitlement in a Pricing Group; and
 - (4) the Pricing Group that applies to the Customer, Landholding or Delivery Entitlement.
- 7.3 The Company may, at any time, vary, amend, supplement or replace a determination made under clause 7.1 or clause 7.2. The parties agree to be bound by the variation, amendment, supplementation or replacement (whether material, adverse or otherwise).
- 7.4 Charges in respect of one class of an Entitlement may be different from Charges in respect of any other class of the Entitlement. Charges in respect of one Irrigation Area may be different from Charges in respect of any other Irrigation Area, including Charges in respect of the same class of service. Charges in respect of one Pricing Group may be different from Charges in respect of any other Pricing Group, including Charges in respect of the same class of service.
- 7.5 The Company must publish a Schedule of Charges on its web site and provide the Customer with a copy of the Schedule of Charges in accordance with the Water Charge Rules. To the maximum extent permitted by law, the omission of a Charge from the Schedule of Charges does not reduce, limit or otherwise affect the Customer's obligation to pay the Charge.
- 7.6 The Company must notify the Customer of the date by which Charges are due for payment. The Customer must pay the Charges to the Company by the date specified in the notice (or a later date determined by the Company) and by one of the methods specified in the notice.
- 7.7 The Charges must be paid in full, irrespective of whether any Water Allocation is credited, any Water Allocation is available or the Company delivers, or the Customer takes, any water in any Water Year.
- 7.8 The Company is entitled to set-off any amount payable by the Customer to the Company, including but not limited to any Charges, against any amount payable by the Company to the Customer.

8 Charges for delivery entitlement fees

- 8.1 Delivery Entitlement Fees are payable in respect of each Delivery Entitlement held by the Customer at 12:01 am on 1 July in each Water Year (or such other time and date as the Company may determine), regardless of whether the Customer subsequently transfers or terminates any Delivery Entitlement.

- 8.2 Any arrangement made between a transferor and a transferee (as between themselves) for apportioning Delivery Entitlement Fees in respect of the Delivery Entitlements being transferred does not affect the transferor's liability (as against the Company) under rule 8.1.
- 8.3 All Charges calculated per Delivery Entitlement (other than Delivery Entitlement Fees) are payable in respect of each Delivery Entitlement held by the Customer at 11:59 pm on the last day of the relevant Quarter (or such other time and date as the Company may determine), regardless of whether the Customer subsequently transfers or terminates any Delivery Entitlement.

9 Termination fees

- 9.1 The Customer may seek to terminate or surrender all, or a specified number of, the Customer's Delivery Entitlements by giving notice to the Company. The Company's preferred form of notice is available on the Company's web site.
- 9.2 The Company may, by notice to the Customer, terminate a Delivery Entitlement held by the Customer in accordance with these General Conditions on the grounds that an act or omission by the Customer is in breach of the Customer's obligations under the Documents.
- 9.3 The Company may levy Termination Fees in accordance with the Water Charge Rules.
- 9.4 If a Delivery Entitlement is terminated or surrendered:
- (1) the Customer must pay:
 - (a) the Termination Fee; and
 - (b) any additional fee payable in accordance with rule 73 of the *Water Charge Rules 2010* (Cth); and
 - (2) the Customer is not released from any accrued obligation or liability to pay Charges including:
 - (a) Charges in respect of the Delivery Entitlement payable in respect of the Water Year in which the Delivery Entitlement is terminated or surrendered; or
 - (b) other outstanding Charges.
- 9.5 If all of the Customer's Delivery Entitlements relating to a Landholding are terminated or surrendered (whether by the Customer or the Company), the Company may Disconnect the Landholding.
- 9.6 A Termination Fee is not payable merely because a Delivery Entitlement is transferred under the Transfer Rules Policy.

10 Invoices

- 10.1 The Company must notify the Customer Quarterly (or at such other intervals as the Company may determine) of Charges which have become payable. The Company must notify the Customer of the date by which Charges are due for payment. The Customer must pay the Charges to the Company by the date specified in the notice (or a later date determined by the Company) and by one of the methods specified in the notice. Unless otherwise specified in the notice or determined by the Company, the date for payment is the date which is 28 days after the date of the notice.

- 10.2 The Company may, at any time, vary, amend, supplement or replace a notice given under clause 10.1 by giving notice to the Customer. The parties agree to be bound by the variation, amendment, supplementation or replacement (whether material, adverse or otherwise).
- 10.3 The Customer's obligation to pay any Charges is not affected:
- (1) by a failure to receive a notice;
 - (2) by virtue of the fact that a notice is addressed to the wrong person for any reason; or
 - (3) by virtue of the fact that a notice is not addressed to the Customer,
- unless it is established to the reasonable satisfaction of the Company that such failure is due to the neglect or default of the Company, in which case:
- (4) payment of the Charges is not due until the Customer receives a notice from the Company setting out the Charges and the date by which those Charges are due for payment; and
 - (5) the Company may not charge interest under clause 11.1 on the Charges to be paid by the Customer until the expiry of the due date for payment under clause 10.3(4).
- 10.4 All payments by the Customer must be made without deduction or withholding (including set-off, counterclaim, duty, tax or charge).

11 Interest

- 11.1 The Company may charge interest on any Charges due from the Customer from the date on which those amounts respectively fell due for payment until they are paid. The rate of interest to apply will be the rate of interest set by section 356 of the Act unless the Company determines that a lower rate of interest is to apply. This rate of interest applies to all Charges and not just those referred to in section 356 of the Act.

12 Deemed delivery of water

- 12.1 The Customer acknowledges that destroying, damaging, interfering with, or depositing anything in any of the Company's Works or taking water from the Company's Works without the authority of the Company is an offence under Part 3 of Chapter 7 of the Act.
- 12.2 The Customer must not take water from the Company's Works except by ordering it for delivery from the Company in accordance with the Documents. However, if the Customer takes water for domestic consumption (such as watering a garden) or stock watering through a Meter with a diameter of 50 mm or less, the Customer is not required to order the water for delivery.
- 12.3 Where:
- (1) there is no Meter or other instrument measuring delivery of water which has been approved by the Company for the purposes of assessing relevant Charges payable by the Customer;
 - (2) in the opinion of the Company, the Meter is measuring incorrectly, not operating properly or not operating;

- (3) in the opinion of the Company, water has been delivered to, or taken by, the Customer without having been ordered for delivery under the Documents; or
- (4) in the opinion of the Company, more water has been delivered to, or taken by, the Customer than the Customer has ordered under the Documents,

the Company may determine the volume of water delivered to, or taken by, the Customer (**Unmetered Water**) using any reasonable means it considers fit.

- 12.4 For the purposes of clause 12.3(1), unless the Company determines otherwise in a particular case, where the Customer has a Point of Supply and there is no Meter or other instrument measuring delivery of water which has been approved by the Company for the purposes of assessing relevant Charges payable by the Customer, the Customer will be deemed to have had delivered, or taken, in the relevant Water Year, a volume of water equivalent to the volume of Water Allocation credited to the Customer's Water Allocation Account in respect of the Customer's Water Entitlements in respect of the relevant Water Year.
- 12.5 The Company's determination of the volume of Unmetered Water will be taken to the actual volume of Unmetered Water unless the Customer appeals under clause 12.6.
- 12.6 The Company must give to the Customer notice of its determination of the volume of Unmetered Water. The Customer has the right to appeal the Company's decision by giving notice of the appeal to the Company (setting out particulars of, reasons for, and information in support of, the Customer's appeal) within 14 days after the notice of the Company's determination is given to the Customer. If the Customer gives the Company notice of an appeal in accordance with this clause, the Company must:
- (1) examine and give due and proper consideration to the particulars, reasons and information set out in the notice of the appeal; and
 - (2) make a determination regarding the Customer's appeal within 28 days after receipt of the notice of the appeal, and give the Customer notice of the determination, including reasons.

If the Customer's appeal is upheld, the Company must vary or amend its notice of determination of the volume of Unmetered Water.

- 12.7 If the Company makes a determination under clause 12.3, or a varied or amended determination under clause 12.6, then, without limiting the Company's rights under clause 19 and the Documents:
- (1) the Company may debit a volume of Water Allocation from the Customer's Water Allocation Account equal to the volume of Unmetered Water;
 - (2) if the volume of Unmetered Water exceeds the volume of Water Allocation in the Customer's Water Allocation Account, clause 3 applies in respect of the excess; and
 - (3) the Customer must pay to the Company an amount determined by the Company which constitutes a reasonable estimate of the Charges payable for delivery of the Unmetered Water.

13 Policies and other conditions

- 13.1 The Company must publish the Policies on the Company's web site. The Policies may be varied, amended, supplemented or replaced from time to time in accordance with clause 29.

- 13.2 The parties must comply with:
- (1) the Policies; and
 - (2) any Special Conditions.
- 13.3 To the extent that there is any inconsistency between a provision in any of the documents specified in clause 13.3(2) and another provision in any of them or between a provision in any of those documents and a provision in another of those documents:
- (1) a specific provision takes precedence over a general provision; and
 - (2) otherwise, to the extent necessary to resolve the inconsistency, the following order of precedence applies:
 - (a) any Special Conditions;
 - (b) the Agreement; and
 - (c) the Policies.
- 13.4 If the Customer enters into a transaction with respect to the Customer's Water Allocation, Water Entitlements, Delivery Allowance or Delivery Entitlements, the Customer must, if requested by the Company, execute a new Water Entitlement Agreement (if the Customer is entitled to any Water Entitlements) and a new Water Delivery Agreement (if the Customer has a Landholding).

14 Entitlement certificates

- 14.1 Subject to clause 15, the Customer whose name is entered as a holder of Water Entitlements in the Register is entitled to one Certificate for all of the Water Entitlements registered in the Customer's name or to several certificates in reasonable denominations.
- 14.2 Subject to clause 15, the Customer whose name is entered as a holder of Delivery Entitlements in the Register is entitled to one Certificate per Landholding for the Delivery Entitlements registered in the Customer's name in respect of that Landholding or to several certificates in reasonable denominations.
- 14.3 Where Entitlements are held jointly by several persons, the Company is not bound to issue more than one Certificate in relation to those Entitlements.
- 14.4 Delivery of a Certificate may be effected by:
- (1) delivering it personally to the holder or by posting it in an envelope addressed to the holder; or
 - (2) by delivering or posting the Certificate in accordance with the instructions of the Customer.
- 14.5 Delivery of one Certificate to one of several joint holders is sufficient delivery to them all.
- 14.6 A Certificate must state:
- (1) the name of the Company;
 - (2) the name of the Customer; and

- (3) the number and class (if relevant) of Entitlements for which the Certificate is issued;

and the Certificate may include Special Conditions.

- 14.7 The Register prevails over any Certificate, to the extent of any inconsistency.
- 14.8 The Company may cancel or revoke any Certificates if any Entitlement for which the Certificate was issued is transferred, terminated, surrendered or the subject of Transformation or another dealing.

15 Replacement of certificates

- 15.1 If any Certificate issued under clause 14 is out-of-date, worn out or defaced, the Company may, upon production of the Certificate to the Company, together with an Application by the Customer, order it to be cancelled and issue, within 10 Business Days after receipt of the out-of-date, worn out or defaced Certificate, a new Certificate in its place.

- 15.2 If:

- (1) the Customer makes an Application to the Company;
- (2) satisfactory evidence is received by the Company that any Certificate issued under clause 14 has been stolen, lost or destroyed and has not been pledged, sold or otherwise disposed of;
- (3) an indemnity and undertaking which the Company thinks adequate is given; and
- (4) any other steps (including advertising) which the Company thinks necessary are taken;

a new Certificate must be issued to the Customer entitled to the stolen, lost or destroyed Certificate within 10 Business Days after those conditions are satisfied.

- 15.3 The Company may charge a fee for each new Certificate issued under this clause 15.

16 Goods and services tax

- 16.1 In this clause 16:

- (1) **GST** means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended (**GST Act**) or any replacement or other relevant legislation and regulations;
- (2) words or expressions used in this clause which have a particular meaning in the **GST law** (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;
- (3) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member;
- (4) any reference to an input tax credit entitlement by a party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that party is a member; and

- (5) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.
- 16.2 Unless GST is expressly included, the consideration to be paid or provided under any other clause of the Documents for any supply made under or in connection with the Documents does not include GST.
- 16.3 To the extent that any supply made under or in connection with the Documents is a taxable supply, the GST-exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST-exclusive consideration is otherwise to be paid or provided. A party's right to payment under this clause is subject to a valid tax invoice being delivered to the recipient of the taxable supply.
- 16.4 To the extent that one party is required to reimburse or indemnify another party for a Loss incurred by that other party, that Loss does not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.

17 No contravention of the company's obligations

- 17.1 The Customer must not knowingly do or omit to do anything within their control that may cause a contravention of the Documents, any Licence, including the Company's Licences or any Licence under which the Customer is entitled to receive water, any approval which the Company has been granted under the Act or any relevant Legal Requirement.
- 17.2 Despite any other provision of a Document, the Company is not obligated to do anything that would contravene a Legal Requirement.
- 17.3 Without limiting clauses 17.1 or 17.2:
- (1) the Customer must comply with any reasonable direction of the Company, notified by the Company to the Customer, for the purpose of reducing the impact of chemicals and nutrients on receiving waters;
 - (2) the Customer must grant the Company reasonable access to the Customer's Landholding and provide the Company with all reasonable assistance required by the Company for the purposes of the Company determining whether the Customer is complying with clause 17.3(1); and
 - (3) if the Customer fails to comply with the requirements set out in clauses 17.3(1) and 17.3(2), the Company may deny the Customer any services provided by the Company (including the supply of water).

18 Customer to provide information

- 18.1 The Customer must comply with all notices given by the Company requesting that the Customer provide the Company with information required by the Company to:
- (1) comply with a Legal Requirement;
 - (2) administer and manage water and its delivery; or
 - (3) give full and proper effect to the terms of the Documents,

including information concerning crop types, the use of water and volumes used. The notice must give the Customer at least 45 days to comply except where the Company determines that it is necessary to require compliance within a lesser period in order for the Company to comply with the Company's obligations under a Legal Requirement, in which case the Company may require compliance within the lesser period.

19 Default

19.1 If:

- (1) any money payable by the Customer to the Company or any of its Related Bodies Corporate, including money payable under any of the Documents or otherwise, remains unpaid after the due date for payment;
- (2) the Company has given the Customer a notice demanding payment and the money remains unpaid 10 Business Days after the notice was given (or after any longer period specified in the notice); and
- (3) the Company, acting reasonably, believes that there is no genuine dispute about the amount of the money payable;

then, to the maximum extent permitted by law, the Company may do any, some or all of the following immediately after giving notice to the Customer:

- (4) suspend any determination of, or increase in, or crediting of, Water Allocation, until the money is paid in full, without any obligation to make up any delay or shortfall once the money is paid in full;
- (5) suspend delivery of water, including by Disconnecting the Customer's Landholding, until the money is paid in full, without any obligation to make up any delay or shortfall in delivery once the money is paid in full;
- (6) require the Customer to suspend the discharge of Drainage into the Company's Drainage Works, until the money is paid in full, without any liability for the consequences, including flooding; or
- (7) suspend the Customer's right to use, transfer, terminate, surrender or otherwise deal with, the Customer's Entitlements, Water Allocation or Delivery Allowance, until the money is paid in full.

19.2 Without limiting the Company's rights under clause 19.7:

- (1) if the Customer takes water from the Company's Works in breach of clause 12.2;
- (2) if the Customer orders a volume of water for delivery but does not take the entire volume within the period specified in the order; or
- (3) the Customer orders water for delivery at a specified flow rate but takes the water at a higher or lower flow rate,

then the Company may, immediately after giving notice to the Customer, Disconnect the Customer's Landholding in respect of which the water was taken or the order was placed and charge the Disconnection Fee.

19.3 At any time after Disconnection occurs pursuant to clause 19.2, the Customer may request Reconnection.

- 19.4 If the Customer makes a request under clause 19.3, the Company must Reconnect the Customer's Landholdings if the Customer pays the relevant Disconnection Fee and Reconnection Fee.
- 19.5 An Event of Default occurs if:
- (1) any money payable by the Customer to the Company or any of its Related Bodies Corporate, including money payable under the Charges Rules or any other Documents or otherwise, remains unpaid for three months after the due date for payment even if no formal or legal demand has been made;
 - (2) the Customer breaches the terms of an arrangement made to settle outstanding Charges;
 - (3) the Customer commits a material or persistent breach of any of the Documents;
 - (4) the Customer repudiates any of the Documents;
 - (5) the Customer becomes subject to an Insolvency Event;
 - (6) the Customer is a party to a Water Entitlement Agreement and does not hold, or no longer holds, any Water Entitlements or Water Allocation; or
 - (7) the Customer is a party to a Water Delivery Agreement and one or more of the following applies:
 - (a) the Customer is not, or ceases to be, the Landholder in respect of the Landholding, unless the documents necessary for the Customer to be the Landholder in respect of the Landholding have been lodged with the relevant Government Agency and the Customer has not yet been registered as the Landholder; or
 - (b) the Customer's existing manner of use of the Landholding (including, if relevant, the application of water), in the reasonable opinion of the Company, breaches, or is likely to breach, any Licences held by the Company, the Customer or third parties.
- 19.6 The Customer must not permit an Event of Default to occur.
- 19.7 If an Event of Default occurs, then, to the maximum extent permitted by law and subject to sections 415D, 434J and 451E of the Corporations Act, the Company may (acting reasonably and in good faith) do any, some or all of the following:
- (1) immediately by giving notice to the Customer, suspend any determination of, or increase in, or crediting of, Water Allocation, until the Event of Default is remedied, without any obligation to make up any delay or shortfall once the Event of Default is remedied;
 - (2) immediately by giving notice to the Customer, suspend delivery of water, including by Disconnecting the Customer's Landholding, until the Event of Default is remedied, without any obligation to make up any delay or shortfall in delivery once the Event of Default is remedied;
 - (3) immediately by giving notice to the Customer, require the Customer to suspend the discharge of Drainage into the Company's Drainage Works, until the Event of Default is remedied, without any liability for the consequences, including flooding;

- (4) immediately by giving notice to the Customer, suspend the Customer's right to use, transfer, terminate, surrender or otherwise deal with, the Customer's Entitlements, Water Allocation and Delivery Allowance until the Event of Default is remedied;
- (5) after giving 14 days' notice to the Customer, do one or more of the following:
 - (a) transfer some or all of the Customer's Entitlements, Water Allocation or Delivery Allowance and apply the proceeds towards the satisfaction of any money due for payment by the Customer under any of the Documents or otherwise; or
 - (b) cancel some or all of the Customer's Water Entitlements, Water Allocation or Delivery Allowance and apply a reasonable estimate of the value of the cancelled Entitlements, Water Allocation or Delivery Allowance to the money due for payment by the Customer under any of the Documents or otherwise,

and the Company must pay any surplus to the person entitled to it;

- (6) after giving 14 days' notice to the Customer, terminate some or all of the Customer's Delivery Entitlements (in which case the Termination Fee will be payable); or
- (7) terminate the Agreement by giving two months' notice to the Customer, in which case:
 - (a) the Customer's Entitlements, Water Allocation and Delivery Allowance will be terminated unless they are transferred or, in the case of Water Allocation, used, in accordance with the Transfer Rules Policy, within two months after the date of the notice;
 - (b) the Company must apply a reasonable estimate of the value of the terminated Entitlements, Water Allocation and Delivery Allowance to the money due for payment by the Customer under any of the Documents or otherwise and pay any surplus to the person entitled to it;
 - (c) the Company may Disconnect the Customer's Landholding;
 - (d) the Customer may be required to pay Termination Fees and Permanent Disconnection Fees in accordance with these General Conditions;
 - (e) subject to the Agreement, upon termination, each party is released from their obligation to further perform the Agreement; and
 - (f) each party retains the rights, remedies and powers they have in connection with any past breach or any Claim or obligation (including an obligation to pay money) that has arisen before termination.

19.8 The rights of the Company under clause 19.7 are available whether or not the Event of Default is capable of being remedied.

19.9 If the Company exercises a power of sale with respect to the Landholding under the *Conveyancing Act 1919* (NSW) or clause 21 or 36, the Customer must deliver possession of the Landholding to the Company within three months after the Company gives notice of its intention to exercise its power of sale.

19.10 Subject to sections 415D, 434J and 451E of the Corporations Act, all Costs reasonably incurred by the Company directly as a result of, or in connection with, an Event of Default,

including remedying an Event of Default, will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.

20 Termination by the customer

20.1 At any time on the giving of 30 days' notice to the Company, the Customer may terminate the Agreement, in which case:

- (1) subject to the Agreement, upon termination, each party is released from their obligation to further perform the Agreement; and
- (2) each party retains the rights, remedies and powers they have in connection with any past breach or any Claim or obligation (including an obligation to pay money) that has arisen before termination.

20.2 A notice of termination under clause 20.1 is ineffective unless:

- (1) all of the Customer's Water Entitlements, Water Allocation and Delivery Allowance have been transferred or terminated in accordance with the Documents;
- (2) all of the Customer's Delivery Entitlements have been transferred, terminated or surrendered in accordance with the Documents;
- (3) the Customer has paid all Charges; and
- (4) the Customer's Water Allocation Account does not have a negative balance.

21 Power of attorney

21.1 The Customer irrevocably appoints the Company to be the Customer's attorney, for valuable consideration (including in consideration for the Company entering into the Agreement), until the Agreement is terminated.

21.2 The Company may do in the name of the Customer, and on their behalf, everything necessary or expedient, in the Company's sole discretion, to:

- (1) exercise the Company's powers:
 - (a) under the Documents, including under clause 19.7(5)(a); and
 - (b) under any statute, including under the *Conveyancing Act 1919* (NSW); and
- (2) sell a Landholding by public auction or private treaty (and convey or transfer it to a purchaser) to recover Charges that are a charge on the Landholding in favour of the Company under section 355 of the Act if those Charges have remained unpaid for more than three years from the date on which they originally became payable. The Company must take reasonable steps to notify the Customer of the Company's intention to sell the Landholding. If, before the Landholding is sold, all of the relevant Charges are paid to the Company or an arrangement satisfactory to the Company for payment of all of the relevant Charges is entered into by the Customer, the Company must not proceed with the sale. The purchase money for land sold under this clause 21 must be paid to the Company. The Company must apply any purchase money received by it, first, towards the expenses of the Company incurred in connection with the sale and, secondly, towards the relevant Charges. Any balance of the purchase money must be paid to the persons having estates or interests in the Landholding immediately before the sale accordingly to their respective estates and interests. The Company may pay the balance of the

purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it, and the receipt of the person to whom the payment is so made is an effectual discharge to the Company for it.

- 21.3 The Company may exercise its powers under this clause 21:
- (1) in its own name or in the name of the Customer; and
 - (2) even if it benefits from the exercise of the power.
- 21.4 The Customer declares that all acts and things done by the Company in exercising powers under this clause 21 will be as good and valid as if they had been done by the Customer and agreed to ratify and confirm whatever the Company does in exercising its powers under this clause 21.
- 21.5 If the Company requests, the Customer must execute a power of attorney to give effect to the appointment under this clause 21, appointing the Company as the Customer's attorney and conferring on the Company the rights and powers set out in this clause 21.
- 21.6 The appointment under this clause 21 is exclusive and the Company has authority to represent the Customer to the exclusion of the Customer. The Customer is not permitted to interfere with the Company's exercise of its rights as attorney.
- 21.7 The Customer indemnifies the Company against any Loss incurred by the Company in reliance on its power under this clause 21, except to the extent that the Loss is due to the Company's negligence.

22 Limitation of liability and indemnity

- 22.1 Neither party will be liable to the other party under or in respect of the Documents for any Consequential Loss arising from any cause of action (including negligence).
- 22.2 Subject to clauses 22.3 and 22.7 the maximum aggregate amount that either party may recover from the other party in respect of any Claim, whether in contract, tort (including negligence), statute or any other cause of action, arising out of, or in connection with the Documents (including the negotiations for, subject matter of, or breach of the Documents) is an amount equal to the amount of all Charges paid by the Customer under the Documents in the 12-month period immediately preceding the date on which the party receives notice of the Claim.
- 22.3 Clause 22.2 does not limit the amount that the Company may recover from the Customer in respect of any Claim for Charges.
- 22.4 Each party releases the other party's Personnel from all Claims, whether in contract, tort (including negligence), statute or otherwise arising out of or in connection with the Documents (including the negotiations for, subject matter of, or breach of, the Documents). Each party agrees that each of the other party's Personnel are entitled to the benefit of the release, which may be enforced by the other party on behalf of any of them. The other party holds on trust for those people, jointly and severally, the benefit conferred by this clause 22.4.
- 22.5 The Customer acknowledges and agrees that:
- (1) except as expressly set out in the Documents, neither the Company nor any of its Personnel is responsible to the Customer for, and the Customer does not rely on, any statement or representation made, any advice, opinion, warranty, undertaking, promise, estimate, projection or forecast given, or any conduct of any kind engaged in, in relation to the subject matter of the Documents;

- (2) without limiting clause 22.5(1), neither the Company nor any of its Personnel is responsible to the Customer for, and the Customer does not rely on, any statement or representation made, any advice, opinion, warranty, undertaking, promise, estimate, projection or forecast given, or any conduct of any kind engaged in, in relation to:
 - (a) the availability or delivery of water at any particular time or its flow rate, pressure or height or depth relative to any Works, including where this restricts or prevents the taking of water through those Works;
 - (b) the nature, quality or fitness for any purpose of any water made available or delivered by the Company, including in relation to:
 - (i) fitness for human consumption, or for use in contact with humans, or for washing or cooling food, or for making ice for consumption or preservation of unpackaged food; or
 - (ii) fitness for watering livestock, crops or plants, spraying, manufacturing or any other use; or
 - (c) whether or not any water made available or delivered by the Company has been filtered or treated, or filtered or treated to any particular standard;
- (3) the Customer is capable of evaluating the merits and risks of filtering or treating the water made available or delivered by the Company;
- (4) the Customer is responsible for:
 - (a) determining whether or not to filter or treat, or filter or treat to any particular standard, the water made available or delivered by the Company; and
 - (b) at their own Cost, installing, commissioning, operating, repairing, replacing, maintaining and improving any filter or treatment; and
- (5) having conducted their own evaluation of the merits and risks of filtering or treating the water made available or delivered by the Company, the Customer understands the consequences of their determination (including the potential Loss which may result from their determination).

22.6 The Company is not liable for any breach of the Documents to the extent that the breach has arisen out of, or the Loss suffered is increased as a result of, any act or omission by or on behalf of the Company that is for the purpose (directly or indirectly) of compliance with any Legal Requirement.

22.7 The Customer indemnifies the Company against all Losses incurred by the company arising directly or indirectly as a result of or in connection with:

- (1) any death or injury to persons (including disease or illness) and any loss or damage to the real or personal property of the Company or a third party, caused by any act or omission of the Customer or its Personnel; or
- (2) any negligent or wilful act or omission of the Customer or its Personnel.

22.8 The limitations on the liability of the Company, exclusions of liabilities of the Company and indemnities contained in this clause 22 are in addition to any other limitations on the liability of the Company, exclusions of liability of the Company and indemnities available to the Company by law including:

- (1) the indemnities provided by section 137 of the Act and section 36 of Schedule 9 of the Act; and
- (2) the exclusion of liability under section 397 of the Act for any act or omission done, or omitted to be done, in good faith for the purpose of executing the Act.

23 Force majeure

23.1 In this clause 23, **Prescribed Event** means an event that:

- (1) is beyond the control of a party (**Affected Party**);
- (2) occurs without the fault or negligence of the Affected Party,

and includes:

- (3) act of God;
- (4) war, terrorism, riot, insurrection, vandalism, sabotage, fire, lightning, explosion, earthquake, subsidence, flood, drought, power surge or failure, epidemic or national emergency;
- (5) strike, lock out, ban, limitation of work and other industrial disturbance;
- (6) law, rule or regulation of any Government Agency, and executive or administrative order or act of general or particular application; and
- (7) a major structural failure of any of the Company's Works or Customer's Works.

23.2 If the Affected Party:

- (1) is prevented from or delayed in performing an obligation (other than to pay money) by a Prescribed Event;
- (2) as soon as possible after the Prescribed Event occurs, notifies the other party of full particulars of:
 - (a) the Prescribed Event;
 - (b) the effect of the Prescribed Event on performance of the Affected Party's obligations;
 - (c) the anticipated period of delay; and
 - (d) the action (if any) the Affected Party intends to take to mitigate or remove the effect and delay; and
- (3) promptly and diligently acts to mitigate or remove the Prescribed Event and its effect;

then the obligation is suspended during, but for no longer than, the period of the Prescribed Event and its effects which continue to prevent the Affected Party from meeting such obligation.

23.3 The party which is not the Affected Party must use reasonable endeavours to remove or mitigate the Prescribed Event and its effects.

24 Privacy

- 24.1 Without limiting the Company's rights, the Company may disclose, and the Customer consents to the disclosure of, any information (including personal information of the Customer) in accordance with the Privacy Policy.

25 Time of the essence

- 25.1 Time is of the essence in respect of obligations to pay money under the Documents.

26 Further assurances

- 26.1 Each party must, at their own Cost, from time to time, do all things, including executing or producing documents, getting documents executed or produced by others and obtaining consents necessary or desirable to give full effect to the Documents (including the transactions contemplated by the Documents).

- 26.2 The Customer must:

- (1) give to the Company any consent or authority; and
- (2) execute any document;

that the Company determines is necessary for the Company to comply with the Company's obligations under a Legal Requirement or to give effect to a provision of the Documents.

27 Severability

- 27.1 If anything in the Documents is unenforceable, illegal or void or contravenes the law then it is severed and the rest of the Documents remain in force.
- 27.2 The rights and obligations of each party are not affected by any law that, but for this clause 27, would affect those rights and obligations.

28 No reliance

- 28.1 Each party has entered into the Documents without relying on any representation (whether or not negligently) by any other party or any person purporting to represent that party except for representations expressly set out in the Documents.

29 Variation

- 29.1 The Agreement may be varied, amended, supplemented or replaced by agreement between the Company and Customer.
- 29.2 In addition to its rights under clause 29.1, but subject to clause 29.3, the Company may, acting reasonably and to the extent necessary to protect its legitimate business interests, from time to time, without the Customer's prior consent, vary, amend, supplement or replace:
- (1) the Agreement by giving at least two months' prior notice to the Customer; or
 - (2) the Policies by giving at least 10 Business Days' prior notice to the Customer,

except where the Company determines that it is necessary to give a lesser period of notice of the variation, amendment, supplementation or replacement in order for the Company to comply with the Company's obligations under a Legal Requirement, in which case the Company may give the lesser period of notice. The parties agree to be bound by the variation, amendment, supplementation or replacement.

- 29.3 Despite any other clause, any variation, amendment, supplementation or replacement pursuant to clause 29.2 must not contravene any Legal Requirement, including the Australian Consumer Law.
- 29.4 The Customer acknowledges and accepts that this clause 29 is necessary for the proper and efficient management of the Documents.

30 Rights, powers and remedies

- 30.1 The rights, powers and remedies of each party in this Agreement (including any right of an indemnity) are additional to other rights, powers and remedies independently given by law.
- 30.2 The parties acknowledge and agree that:
- (1) monetary damages alone may not be a sufficient remedy for breach of the Documents; and
 - (2) in addition to any other remedy that may be available at law or in equity, each party is entitled to interim, interlocutory or permanent injunctions or any combination of them to prevent a breach and to compel specific performance of the Documents.
- 30.3 If a party does not exercise a right, power or remedy fully, or at a given time, the party may still exercise it later.
- 30.4 A party may exercise or enforce a right, power or remedy (including giving or withholding their approval or consent, making elections or determinations) entirely at their discretion (including by imposing conditions), unless this Agreement expressly states otherwise.
- 30.5 Each party agrees to comply with the conditions of any approval, consent or waiver given by another party.
- 30.6 Waiver of a right, power or remedy is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

31 Continuing obligations

- 31.1 The rights and obligations of the parties do not merge on the completion of any transaction contemplated by the Documents. They also survive the execution and delivery of any conveyance, assignment, transfer or other document entered into for the purpose of implementing any transaction contemplated by the Documents.
- 31.2 Each indemnity in the Documents survives the expiry or termination of the Agreement. A party may enforce a right of indemnity at any time, including before they have suffered Loss.
- 31.3 Clauses 22, 36 and this clause 31 survive the expiry or termination of the Agreement.
- 31.4 Clauses 9 and 10 of the Water Delivery Agreement survive the expiry or termination of the Water Delivery Agreement.

32 Costs

- 32.1 Each party must pay their own Costs connected with the negotiation, preparation and execution of the Documents.
- 32.2 The Customer must pay all Costs connected with the negotiation, preparation and execution of any instrument required to be executed by the Customer under the Documents.
- 32.3 The Customer must pay all stamp duty (including all fines, penalties and interest) and other government imposts payable on or in connection with the Documents and any transaction contemplated by the Documents, and all other documents and matters referred to in the Documents, when due or earlier if requested by the Company.

33 Notices

- 33.1 Each communication in connection with the Documents (including a notice, agreement, authorisation, consent, request, waiver or demand) (Notice) has no legal effect unless it is in writing.
- 33.2 In addition to any other method of service provided by law, the Notice may be:
- (1) sent by prepaid ordinary post to the address for service of the addressee, if the address is in Australia and the Notice is sent from within Australia, and the Notice may be included in any newsletter posted by the Company;
 - (2) sent by prepaid airmail to the address for service of the addressee, if the address is outside Australia or if the Notice is sent from outside Australia;
 - (3) sent by e-mail to the e-mail address of the addressee;
 - (4) sent by text message to the addressee's number for receipt of text messages;
 - (5) delivered at the address for service of the addressee;
 - (6) delivered personally to the addressee; or
 - (7) given by the Company, in the case of a variation, amendment, supplementation or replacement of the Agreement or any of the Policies, by the Company publishing the variation, amendment, supplementation or replacement on the Company's web site.
- 33.3 A certificate signed by a party giving a Notice or by an officer or employee of that party stating the date on which that Notice was sent or delivered under clause 33.2 is prima facie evidence of the date on which that Notice was sent or delivered.
- 33.4 If a Notice is sent or delivered in a manner provided by clause 33.2, it must be treated as given to and received by the party to which it is addressed:
- (1) if sent by post from within Australia to an address in Australia, on the fourth Business Day (at the address to which it is posted) after posting;
 - (2) if sent by post to an address outside Australia or sent by post from outside Australia, on the fifth Business Day (at the address to which it is posted) after posting;

- (3) if sent by e-mail before 5 pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt;
- (4) if sent by text message before 5 pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt;
- (5) if otherwise delivered before 5 pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery; or
- (6) if published on the Company's web site, on the first Business Day (at the Company's registered office) after publication.

33.5 Despite clause 33.4:

- (1) an e-mail or text message is not treated as given or received if within two hours after the time sent the sender receives an automated message that the e-mail or text message has not been delivered; and
- (2) an e-mail or text message is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of that fact within two hours after the transmission ends or by 11 am on the Business Day on which it would otherwise be treated as given and received, whichever is later.

33.6 If a Notice is served by a method which is provided by law but is not provided by clause 33.2, and the service takes place after 5pm on a Business Day, or on a day which is not a Business Day, it must be treated as taking place on the next Business Day.

33.7 A Notice sent or delivered in a manner provided by clause 33.2 must be treated as validly given to and received by the party to which it is addressed even if:

- (1) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent;
- (2) the Notice is returned unclaimed; or
- (3) in the case of a Notice sent by e-mail or text message, the e-mail or text message is not delivered or opened.

33.8 The Company's address for service and e-mail address are:

Attention: Company Secretary
 Address: Western Murray Irrigation Limited
 PO Box 346
 Dareton NSW 2717
 E-mail: enquiries@westernmurray.com.au

33.9 The Customer's address for service, e-mail address and number for receipt of text messages (if any) are set out in Schedule 1 of the Agreement.

33.10 A party may change their address for service, e-mail address or number for receipt of text messages by giving notice of that change to the other party. If the Customer notifies a change under this clause 33.10, they must notify the same change:

- (1) under each other Water Entitlement Agreement and Water Delivery Agreement (if any) between the Company and the Customer; and
- (2) where relevant, with respect to the register of members of the Company, if the Customer is a member of the Company.

- 33.11 If the party to which a Notice is intended to be given consists of more than one person then the Notice must be treated as given to that party if given to any of those persons.
- 33.12 Any Notice issued by the Company is binding on the Customer unless it contains a manifest error. The Customer must immediately notify the Company of any manifest error of which the Customer becomes aware.
- 33.13 The Company may from time to time issue amending Notices. These Notices will replace or amend any prior relevant notices issued to the Customer.
- 33.14 A Notice relating to the Documents must be written in English and may be given by an authorised representative of the sender.

34 Joint holders

- 34.1 Where two or more persons are registered as the holders of an Entitlement, Water Allocation or Delivery Allowance, the Company is not bound to treat them other than as holding the Entitlement, Water Allocation or Delivery Allowance as joint tenants with benefits of survivorship, subject to the following:
- (1) the Company is not bound to register more than three persons (not being the trustees, executors or administrators of a deceased holder) as the holder of the Entitlement, Water Allocation or Delivery Allowance;
 - (2) the joint holders of the Entitlement, Water Allocation or Delivery Allowance are liable severally as well as jointly in respect of all payments which ought to be made in respect of the Entitlement, Water Allocation or Delivery Allowance;
 - (3) on the death of any one of the joint holders, the survivor or survivors are the only person or persons recognised by the Company as having any title to the Entitlement, Water Allocation or Delivery Allowance, but the Company may require such evidence of death as it sees fit; and
 - (4) only the person whose name stands first in the Register as one of the joint holders of the Entitlement is entitled to delivery of the certificate relating to the Entitlement or to receive notices from the Company and a notice given to that person must be treated as notice to all the joint holders.

35 Transmission of entitlements

- 35.1 If the Customer dies, and the Customer is not a joint holder, the Company is not obliged to recognise anyone except the personal representative of the deceased Customer as being entitled to the deceased Customer's interest in their Entitlements, Water Allocation and Delivery Allowance.
- 35.2 If the person entitled to the Customer's Entitlements, Water Allocation and Delivery Allowance as the personal representative of a deceased Customer or because of the bankruptcy or mental incapacity of the Customer (**Successor**) gives the Company the information it reasonably requires to establish the Successor's entitlement to be registered as holder of the Customer's Entitlements, Water Allocation and Delivery Allowance:
- (1) the Successor may:
 - (a) by giving a signed notice to the Company, elect to be registered as the holder of the Customer's Entitlements, Water Allocation and Delivery Allowance; or

- (b) by giving a completed transfer form to the Company, transfer the Customer's Entitlements, Water Allocation and Delivery Allowance to another person; and
 - (2) the Successor, whether or not registered as the holder of the Customer's Entitlements, Water Allocation and Delivery Allowance, is entitled to the same rights, and is subject to the same liabilities, as if the Successor were registered as holder of the Customer's Entitlements, Water Allocation and Delivery Allowance.
- 35.3 On receiving an election under clause 35.2(1)(a), the Company must register the Successor as the holder of the Customer's Entitlements, Water Allocation and Delivery Allowance.
- 35.4 A transfer under clause 35.2(1)(b) is subject to the Transfer Rules Policy.
- 35.5 If the Customer dies, and the Customer is a joint holder, the Company will recognise only the survivor as being entitled to the deceased Customer's interest in their Entitlements, Water Allocation and Delivery Allowance. The estate of the deceased Customer is not released from any liability in respect of the Customer's Entitlements, Water Allocation and Delivery Allowance.
- 35.6 This clause 35 has effect subject to clause 13 and the *Bankruptcy Act 1966* (Cth).

36 Security interests

- 36.1 The Customer acknowledges that certain Charges are a charge on the Landholding in favour of the Company under section 355 of the Act.
- 36.2 Unless the parties have agreed that the Customer will provide alternative security for payment of the Charges and that this clause 36.2 will not apply, the Customer charges the Landholding with due payment of the Charges.
- 36.3 The Company has a first and paramount lien on all of the Customer's Entitlements, Water Allocation and Delivery Allowance in respect of all Charges presently payable by the Customer or the Customer's estate to the Company. The Company may at any time exempt any of the Customer's Entitlements, Water Allocation or Delivery Allowance wholly or in part from this clause 36.3.
- 36.4 The Customer may grant and register with the Company in the prescribed form a lien, mortgage or charge to any third party over the Customer's Entitlements, with the approval of the Company which shall not be unreasonably withheld, and on condition that:
- (1) The third party agrees that any security interest of the Company under the Documents ranks ahead of the third party's security interest and the third party's security interest is subject to the Company's rights under the Documents, including the right to transfer, cancel or terminate Entitlements, Water Allocation and Delivery Allowance under clause 19.7; and
 - (2) the Company has no obligations to the third party, including having no obligation to notify the third party of the Company's exercise, or intention to exercise, any of its rights under the Documents.
- 36.5 The Company's rights, powers and remedies under the Documents, including any right to terminate the Customer's Entitlements, Water Allocation, Delivery Allowance or this Agreement, are not affected by any security interest given to any person in connection with the Documents, whether or not the security interest is recognised by the Company.

37 Recognition of ownership

- 37.1 Except as required by law, the Company is not bound to recognise a person as holding Entitlements, Water Allocation or Delivery Allowance or entering into the Agreement upon any trust.
- 37.2 Subject to clause 36, the Company is not bound to recognise any equitable, contingent, future or partial interest or any other right in respect of the Customer's Entitlements, Water Allocation, Delivery Allowance or the Agreement except, where applicable, an absolute right of the Customer.
- 37.3 Clause 37.2 applies whether or not the Company has notice of the interest or right, but does not apply where the Company is bound to recognise the interest or right by law.

38 Entire agreement

- 38.1 The Documents:
- (1) are the entire written agreement and understanding between the parties on everything connected with the subject matter of the Documents; and
 - (2) supersede any prior written agreement or understanding on anything connected with that subject matter.

39 Governing law

- 39.1 The law of New South Wales governs the Documents.
- 39.2 The Company and the Customer submit to the non-exclusive jurisdiction of the courts of New South Wales and of the Commonwealth of Australia.

40 Execution by counterparts

- 40.1 The Agreement may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same agreement.

41 Execution by attorney

- 41.1 Where the Agreement is executed by an attorney, that attorney, by executing, declares that they have no notice of revocation, termination or suspension of the power of attorney under which they execute the Agreement.