



## **Water Delivery Agreement**

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**Parties**      **Western Murray Irrigation Limited** ACN 067 197 853  
of 5 Tapio Street, Dareton, New South Wales 2717  
(**Company**)

**The person identified in Item 1 of Schedule 1**  
(**Customer**)

## It is agreed

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### 1      **Definitions and interpretation**

#### 1.1      **Definitions**

In this Agreement, unless the contrary intention appears:

- (1)      **General Conditions** means the General Conditions published on the Company's web site, as varied by the Company from time to time; and
- (2)      a word or phrase defined in the General Conditions has the same meaning in this Agreement.

#### 1.2      **Interpretation**

Clause 1.2 (Interpretation) of the General Conditions applies to this Agreement with the necessary changes.

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### 2      **Commencement**

2.1      This Agreement commences:

- (1)      on the date set out in Item 4 of Schedule 1; or
- (2)      when one party accepts the other party's offer to enter into this Agreement or the parties otherwise become bound by this Agreement,

whichever is later.

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### 3      **Delivery entitlements**

3.1      Subject to the Documents, the Customer is entitled to Delivery Entitlements in respect of which the Customer is the registered holder in the Delivery Entitlements Register.

3.2      The Customer acknowledges that:

- (1)      Termination Fees are payable in connection with the termination or surrender of all or any part of the Customer's Delivery Entitlements; and
- (2)      Disconnection Fees are payable if the Company removes or disables a physical connection between the Company's Works and the Customer's Works; and

- (3) Reconnection Fees are payable if the Company re-establishes a physical connection, which had previously been removed or disabled, between the Company's Works and the Customer's Works.

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## **4 Delivery Allowance**

- 4.1 On 1 July in each Water Year, the Company must, in respect of, each of the Customer's Delivery Entitlements, credit to the Customer's Delivery Allowance Account, one Megalitre of Delivery Allowance.
- 4.2 Delivery Allowance cannot be carried over to the next Water Year and will be cancelled without notice of compensation at the end of the Water Year.

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## **5 Delivery of water**

- 5.1 Subject to the Documents, if the Customer holds Delivery Allowance, the Company must use its reasonable endeavours to deliver water to the Customer during the Water Year in accordance with the Customer's Delivery Allowance.
- 5.2 The Company is under no obligation to deliver water:
  - (1) unless and until the Company has a volume of water available to it under its Access Licences which is sufficient for the delivery of water by the Company to the Customer and all other holders of Delivery Allowance in the relevant part of the Company's Water Supply Works during the relevant period;
  - (2) unless and until the Customer has placed a valid order for the water using a method prescribed by the Company;
  - (3) in excess of the Customer's Water Allocation;
  - (4) unless and until the Company and the Customer have agreed upon satisfactory arrangements for:
    - (a) payment of arrears (if any) of, and security for the payment of, Charges; or
    - (b) repayment of water debts or water borrowings (including by debiting the Customer's Water Allocation Account);
  - (5) if the Customer has otherwise agreed, including under any contract with the Company;
  - (6) if the Company has closed any relevant part of the Company's Works;
  - (7) unless and until the Company is reasonably satisfied that the Customer's Works and the Company's Works are adequate and have sufficient capacity to deal with the delivery of water to the Customer;
  - (8) unless and until the Customer has complied with reasonable requests (if any) from the Company to notify the Company of the Customer's intended use of water delivered to the Customer under this Agreement for the relevant Water Year and the Company has approved that use;
  - (9) if the Company reasonably believes that the water to be delivered to the Customer is not of a quality suitable for delivery, including where it is contaminated;

- (10) if delivery of water would, in the reasonable opinion of the Company, contravene the Company's obligations under a Legal Requirement;
  - (11) if delivery of water would, in the reasonable opinion of the Company, result in a breach of any right or entitlement of a third party where such breach might reasonably expose the Company to liability to such third party;
  - (12) if the Customer is not a Landholder; or
  - (13) if the Company is entitled elsewhere in the Documents to suspend the delivery of water to the Customer, including in respect of an Event of a Default or force majeure.
- 5.3 Where the Company is, for at least two years, under no obligation to deliver water to a particular Point of Supply pursuant to clause 5.1, the Company may carry out a Permanent Disconnection in respect of the relevant Point of Supply and the Company may levy the relevant Charge in respect of the Permanent Disconnection.
- 5.4 The Company may deduct or withhold, one or more times each Water Year, from the Customer's Water Allocation Account, or from any volume of Water Allocation credited, or to be credited, to the Customer, a volume of Water Allocation in respect of Transmission Losses determined by the Company at the Company's discretion.
- 5.5 The Company is under no obligation to deliver to the Customer any water to which the Customer is entitled from time to time under an Access Licence held by the Customer. Only Water Allocation and Additional Water is capable of being delivered under the Documents.
- 5.6 Where the Customer has no Delivery Allowance or has insufficient Delivery Allowance for the delivery of all of the Water Allocation which the Customer wishes to have delivered, the Company may, acting reasonably, elect to deliver Water Allocation, or the excess Water Allocation, as the case may be, to the Company's Water Supply Works determined by the Company for this purpose during the Water Year and in accordance with the Documents, provided that the Company must not elect to deliver Water Allocation, or the excess Water Allocation, as the case may be, to the Customer unless the Company is satisfied that it will have sufficient water flows available to fulfil all approved water orders placed by holders of Delivery Allowance in the relevant part of the Company's Water Supply Works during the relevant period.
- 5.7 If the Customer has not received the water they have ordered within three days after the expected date for delivery of the water and the Company has not contacted the Customer in relation to its failure to deliver the water in accordance with the order, the Customer must, within five days after the expected date for delivery of the water, notify the Company that the water has not been received. If notification is not received by the Company in accordance with this rule 5.7, the order will be deemed to have been cancelled by the Customer.

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## **6 Use of water**

- 6.1 Subject to sections 415D, 434J and 451E of the Corporations Act, the Customer must not take water from the Company's Water Supply Works:
- (1) if there is an Event of Default subsisting; or
  - (2) otherwise than in accordance with the Documents.
- 6.2 The Customer must use water delivered under this Agreement only on and within the boundaries of the Landholding and only for activities that are consistent with a use

approved by the Company, all relevant Licences (including the Company's water use approval) and all other relevant Legal Requirements.

- 6.3 Without limiting clause 6.2, the Customer must use water delivered under this Agreement pursuant to a Stock and Garden Water Entitlement only for the purposes of domestic consumption (such as watering a garden) and stock watering.
- 6.4 Subject to clause 6.5, a Customer cannot hold more than two (or any other number agreed between the Company and the Customer) Stock and Garden Water Entitlements for each dwelling house that is fit for habitation and which is situated on a Landholding of which the Customer is the Landholder.
- 6.5 Despite clause 6.4, if, as at 1 July 2023, a Customer has exceeded the limit under clause 6.4, the arrangement is grandfathered and is not affected by clause 6.4 but clause 6.6 will apply.
- 6.6 If, after 1 July 2023, anything occurs, such as a Customer demolishing a dwelling house or allowing a dwelling house to become unfit for habitation, which results in the limit under clause 6.4 being exceeded, the Customer forfeits without compensation the number of Stock and Garden Water Entitlements necessary to comply with the limit. The forfeited Stock and Garden Water Entitlements are cancelled.

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## **7 Measurement of water usage**

- 7.1 The delivery of water by the Company to the Landholding must, where required by the Company, be measured by a Meter which must be installed and commissioned in accordance with the Company's design requirements and by the Company's Personnel.
- 7.2 The Company may, at any time, on reasonable notice to the Customer, enter the Landholding to install, commission, operate, repair, replace, remove, relocate, maintain or improve a Meter on the Landholding to the reasonable satisfaction of, and complying with the standards specified by, the Company. All Costs reasonably incurred by the Company or the Company's Personnel in purchasing, installing, commissioning, improving, removing, relocating or replacing a Meter will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand, unless otherwise determined by the Company.
- 7.3 Title to a Meter installed and commissioned by the Company (and property in it) remains solely with the Company.
- 7.4 The Company must use its reasonable endeavours to maintain the Meter in good repair and condition in accordance with any standards specified by the Company. The Company may, after giving notice to the Customer, enter the Landholding for that purpose.
- 7.5 The Company may, at such intervals as it determines:
- (1) take and record readings from the Meter; or
  - (2) require the Customer to take and record readings from the Meter.
- 7.6 In the absence of manifest error, the volume of water delivered by the Company as registered by the Meter will be taken to be conclusive evidence and proof of the volume of water actually delivered unless the Company determines, on reasonable grounds, that a materially different volume was delivered.
- 7.7 The Customer must take all reasonable steps to ensure the safekeeping of the Meter on the Landholding and must not prevent access by the Company or the Company's Personnel to the Meter.

- 7.8 The Customer must not interfere with, alter or remove, or allow interference, alteration or removal of, a Meter without the prior consent of the Company.
- 7.9 If the Customer becomes aware that:
- (1) a person other than the Company has interfered with, altered or removed a Meter; or
  - (2) a Meter has been damaged or is otherwise not operating correctly,
- the Customer must immediately notify the Company of such interference, alteration, removal, damage or incorrect operation.
- 7.10 All Costs reasonably incurred by the Company or the Company's Personnel in:
- (1) investigating the taking or use of water by the Customer not measured by a Meter;
  - (2) repairing any Damage to a Meter; or
  - (3) replacing, removing or relocating a Meter that does not comply with the standards specified by the Company,
- will, to the extent that the Costs are incurred as a result of, or in connection with, the wilful misconduct of the Customer or the Customer's Personnel, constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.

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## **8 Drainage**

- 8.1 Subject to the Documents and any other agreement between the Company and the Customer, the Customer may discharge Drainage into the Company's Drainage Works.
- 8.2 The Customer must:
- (1) not do or omit to do anything 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, and the Customer must comply with any reasonable direction of the Company for this purpose
  - (2) in discharging Drainage into the Company's Drainage Works, comply with all water quality standards imposed by the Company from time to time and must not do or omit to do anything 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, and the Customer must comply with any reasonable direction of the Company for this purpose;
  - (3) ensure that Drainage discharges only through the Company's Drainage Works servicing the Landholding as determined by the Company; and
  - (4) not take water from the Company's Drainage Works unless the Company has authorised the Customer to do so.
- 8.3 The Customer must comply with the reasonable directions of the Company, notified by the Company to the Customer, for the purpose of reducing the impact of contaminants, including pesticides, insecticides, herbicides, nutrients and salt, on the condition of waters which receive Drainage.

- 8.4 The Company is not obliged to allow the Customer to discharge any substance into any of the Company's Drainage Works if:
- (1) the Customer fails to comply with clause 8.2 or 8.3; or
  - (2) to do so may, in the reasonable opinion of the Company, contravene or cause a contravention of the Documents, any Licence under which the Customer is entitled to water or any Legal Requirement.

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## **9 Access to landholding**

- 9.1 The Customer acknowledges that the Company has the power to enter land within the Area of Operations under section 120 of the Act.
- 9.2 The Customer grants the Company an irrevocable, perpetual, royalty-free licence for the Company to install and keep in place the Company's Works on the Landholding. The Customer must not grant any similar rights to a third party in respect of the licensed area. If the Customer transfers their interest in the Landholding, the Customer must simultaneously procure that the transferee grants the Company a licence on the terms of this clause 9.2.
- 9.3 If required to do so by the Company, the Landholder must grant, and must co-operate with the Company to procure the registration of, an easement over the Landholding, on terms which grant the Company the right to enter the Landholding to carry out any activities described in section 120 of the Act.
- 9.4 In addition to the Company's powers under the Act, the Customer must give the Company and the Company's Personnel reasonable access to the Landholding for any purpose related to or in connection with the subject matter of this Agreement or any other agreement between the Customer and the Company.

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## **10 Construction, maintenance and repair of works**

- 10.1 The Customer must:
- (1) promptly notify the Company of leaks, damage, vandalism, malfunctions, blockages or changes to the quality of water in respect of the Company's Works of which the Customer is aware;
  - (2) promptly notify the Company of:
    - (a) any injury or death of a person or Damage to property which arises directly or indirectly as a result of or in connection with the Company's Works; or
    - (b) any thing which causes the Company's Works to be, or contributes to the Company's Works being, dangerous to persons or property,of which the Customer is aware;
  - (3) at the Customer's Cost, ensure that all of the Customer's Works connected to the Company's Works are properly cleaned and maintained where it would be detrimental to the Company or other customers not to do so;
  - (4) if the Customer wishes to construct, alter, remove or improve (or procure construction, alteration, removal or improvement of) any of the Customer's Works and this may affect any of the Company's Works, the Customer must obtain the Company's consent before doing so; and



- (5) the Customer must at all times ensure that it complies with all applicable Legal Requirements and obtains any applicable Licences.
- 10.2 The Customer must not cause or contribute to, and must ensure that its Personnel do not cause or contribute to, any Damage to the Company's Works.
- 10.3 The Company or the Company's Personnel may, without notice to the Customer, enter the Landholding and repair, replace, clean, maintain, construct, alter, remove or improve the Damaged Company's Works or Customer's Works as deemed reasonably necessary or desirable by the Company at its discretion. All Costs reasonably incurred by the Company or the Company's Personnel in entering the Landholding and carrying out activities under this clause will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand but only to the extent that the Costs arise directly or indirectly as a result of, or in connection with, Damage to the Company's Works which is caused, or contributed to, by the Customer or its Personnel.
- 10.4 Where it would be detrimental to the Company or other customers not to do so, the Customer must, in accordance with any relevant Legal Requirements, construct, alter, remove, relocate or improve any of the Customer's Works as deemed necessary or desirable by the Company and notified by the Company to the Customer. The Customer must discharge their obligations under this clause within a reasonable period of time and, in any event, within one month, after the Company gives notice. If the Customer defaults under this clause, the Company or the Company's Personnel may, without notice to the Customer, enter a Landholding and construct, alter, remove, relocate or improve any of the Customer's Works as deemed necessary or desirable by the Company, acting reasonably, and notified by the Company to the Customer and all Costs reasonably incurred by the Company or the Company's Personnel in doing so will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.
- 10.5 The Company or the Company's Personnel may install, commission, operate, repair, replace, maintain, remove, relocate, extend, expand, connect, disconnect, improve or do any other things that the Company considers are necessary or desirable to any of the Company's Works or Meters, or construct new Company's Works. If it is reasonably foreseeable that an act the Company proposes to carry out under this clause 10.5 will have the effect of requiring the Customer to make changes (at the Customer's Cost) to the Customer's Works, the Company must give the Customer reasonable notice of the act the Company proposes to carry out and must give the Customer a reasonable opportunity to raise matters of concern in connection with the proposal. The Company must take into account all legitimate and reasonable matters raised by the Customer and modify the proposal to the extent the Company considers practical and appropriate (acting reasonably and in good faith) to take account of legitimate and reasonable matters raised by the Customer. The Company may enter the Landholding in connection with an act referred to in this clause, and, for these purposes, carry out any work on, below or above the surface of the Landholding. The Company's rights under this clause 10.5 are subject to all obligations, qualifications, restrictions and limitations that apply to the Company's powers under paragraph 120(1)(a) of the Act.
- 10.6 The Company may close any of the Company's Works from time to time for any reason, including for maintenance or repairs.
- 10.7 If the Company proposes to close the whole, or substantially the whole, of the Company's Works for maintenance or repairs, it must publish notice of the closure on the Company's web site.
- 10.8 If clause 10.7 does not apply but a proposed closure would adversely affect the delivery of water to the Customer's Landholding, the Company must give the Customer reasonable notice of the proposed closure, taking into account the facts and circumstances giving rise to the need to maintain or repair the Company's Works.

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## **11 Subdivision or consolidation**

11.1 The Customer must not:

- (1) lodge with a Government Agency a plan of subdivision or consolidation of a Landholding or other document outlining a proposal to subdivide or consolidate a Landholding; or
- (2) where no plan or other documents needs to be lodged with a Government Agency, subdivide or consolidate a Landholding,

without:

- (3) submitting an Application to the Company to:
  - (a) reallocate the Customer's Delivery Entitlements and Delivery Allowance between the relevant Landholdings; or
  - (b) enter into new contractual arrangements so that the relevant Landholdings may receive delivery of water from alternative nominated Supply Works where required;
- (4) submitting to the Company the Certificates in respect of the Customer's Delivery Entitlements associated with the relevant Landholdings;
- (5) the Company's consent, which may be subject to conditions determined by the Company, acting reasonably, including conditions requiring relevant works to be carried out, at the Customer's cost.

11.2 If the Customer submits an Application under clause 11.1(3), the Company may:

- (1) determine a new allocation of the Customer's Delivery Entitlements and Delivery Allowance between the relevant Landholdings, either in accordance with the Customer's Application or as differently determined by the Company, acting reasonably;
- (2) cancel the Certificates in respect of the Customer's Delivery Entitlements associated with the Landholdings and issue new Certificates in respect of the reallocated Delivery Entitlements; and
- (3) determine new Drainage arrangements in respect of any one or more of the landholdings created by the subdivision or consolidation.

11.3 The Customer must, with respect of each of the landholdings created by a subdivision or consolidation, enter into a new Water Delivery Agreement, unless otherwise determined by the Company.

11.4 All Costs reasonably incurred by the Company or the Company's Personnel in:

- (1) entering the relevant Landholdings and cleaning, maintaining, constructing, altering, removing, relocating, replacing or improving the relevant Customer's Works as deemed necessary or desirable by the Company, acting reasonably
- (2) installing, commissioning, operating, repairing, relocating, replacing, maintaining, removing, extending, expanding, connecting, disconnecting, improving or doing any other thing that the Company considers necessary or desirable to any of the Company's Works or any Meter, or in constructing new Company's Works, or in installing and commissioning new Meters,

in connection with any subdivision or consolidation of the Landholdings will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.

- 11.5 Any Delivery Entitlements or Delivery Allowance not allocated to a Landholding pursuant to clause 11.2(1) are, by the Company giving one month's notice, terminated, unless earlier transferred by the Customer.

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## **12 General conditions**

12.1 The Company must publish the General Conditions on the Company's web site.

12.2 The parties must comply with:

- (1) the General Conditions; and
- (2) any Special Conditions.

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## **13 No water entitlements**

13.1 Despite anything to the contrary, nothing in this Agreement entitles the Customer to any Water Entitlements.

## Schedule 1 - Details

- Item 1      **Name of Customer**  
                 [insert name]  
                 **ABN** [insert ABN]
- Item 2      **Address**  
                 [insert address]  
                 **E-mail address**                    [insert e-mail address if available]  
                 **Number for text messages**        [insert number if available]
- Item 3      **Delivery Allowance Account number**  
                 [insert delivery allowance account number]
- Item 4      **Commencement Date**  
                 1 July 2023
- Item 5      **Landholding**  
                 [insert]
- Item 6      **Special Conditions**  
                 [insert]

**Executed** as an agreement.

Signed for and on behalf of **Western Murray Irrigation Limited** ACN 067 197 853 by its authorised representative:

.....  
Signature of authorised representative

.....  
Date

.....  
Name of authorised representative

**If the Customer is an individual or multiple individuals:**

Signed by the **Customer**:

.....  
Date

.....  
Signature of Customer 1

.....  
Date

.....  
Signature of Customer 2

.....  
Date

.....  
Signature of Customer 3

.....  
Date

.....  
Signature of Customer 4

.....  
Date

.....  
Signature of Customer 5

.....  
Date

.....  
Signature of Customer 6

**If the Customer is a company with two directors or one director and a company secretary:**

Executed by the **Customer** in accordance with section 127 of the *Corporations Act 2001* (Cth):

.....  
Signature of director

.....  
Signature of company secretary/director

.....  
Name of director

.....  
Name of company secretary/director

.....  
Date

**If the Customer is a company with a sole director who is also the company secretary or there is no company secretary:**

Executed by the **Customer** in accordance with section 127 of the *Corporations Act 2001* (Cth):

.....  
Signature of sole director

.....  
Date

.....  
Name of sole director