



Incorporating Buronga, Coomealla
and Curlwaa Irrigation Areas.

ACN: 067 197 853

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

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.

2 **Commencement**

- 2.1 This Agreement commences on the date set out in Item 4 of Schedule 1.

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 irrigation network and the infrastructure of the Customer.

4 **Delivery of water**

- 4.1 Subject to the Documents, if the Customer holds Delivery Entitlements, the Company must use its reasonable endeavours to deliver water to the Customer during the Water Year in accordance with the Customer's Delivery Entitlements.

- 4.2 The Company is under no obligation to deliver water under clause 4.1:
- (1) unless and until the Customer has placed a valid order for the water using a method prescribed by the Company;
 - (2) in excess of the Customer's Water Allocation;
 - (3) 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);
 - (4) if the Customer has otherwise agreed, including under any contract with the Company;
 - (5) if the Company has closed any relevant part of the Company's Works;
 - (6) 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;
 - (7) 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;
 - (8) 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;
 - (9) if delivery of water would, in the reasonable opinion of the Company, contravene the Company's obligations under a Legal Requirement;
 - (10) 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;
 - (11) if the Customer is not a Landholder; or
 - (12) 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.
- 4.3 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 in respect of Transmission Losses determined by the Company at the Company's discretion.
- 4.4 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.
- 4.5 Where the Customer has no Delivery Entitlements or has insufficient Delivery Entitlements for the delivery of all of the Water Allocation which the Customer wishes to have delivered, the Company may, at its discretion, 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 water orders placed by holders of Delivery Entitlements in the relevant part of the Company's Water Supply Works during the relevant period.

- 4.6 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 4.6, the order will be deemed to have been cancelled by the Customer.

5 Use of water

- 5.1 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.
- 5.2 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 Measurement of water usage

- 6.1 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.
- 6.2 The Company may, at any time, without notice to the Customer, enter the Landholding to install, commission, operate, repair, replace, 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 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.
- 6.3 Title to a Meter installed and commissioned by the Company (and property in it) remains solely with the Company.
- 6.4 Where a Meter is installed and commissioned by the Customer, with the approval of the Company, title to the Meter (and property in it):
- (1) remains solely with the Customer until it is installed and commissioned; and
 - (2) passes from the Customer to the Company with effect from installation and commissioning.
- 6.5 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, without notice to the Customer, enter the Landholding for that purpose.

- 6.6 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.
- 6.7 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.
- 6.8 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.
- 6.9 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.
- 6.10 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.
- 6.11 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 a Meter that does not comply with the standards specified by the Company;
- directly or indirectly as a result of, or in connection with, a breach of this Agreement by the Customer will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.

7 Drainage

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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 7.2 or 7.3; 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.

8 Access to landholding

- 8.1 The Customer acknowledges that the Company has the power to enter land within the Area of Operations under section 120 of the Act.
- 8.2 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 8.2.
- 8.3 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.
- 8.4 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.

9 Construction, maintenance and repair of works

- 9.1 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; and
 - (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.
- 9.2 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.
- 9.3 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.
- 9.4 Without limiting the Company's rights under clause 9.3, if deemed necessary or desirable by the Company and notified by the Company to the Customer, the Customer must, in accordance with any relevant Legal Requirements, repair or replace any of the Damaged Company's Works to the extent that the Damage to the Company's Works is caused, or contributed to, by the Customer or its Personnel. 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.
- 9.5 The Customer must, in accordance with any relevant Legal Requirements, construct, alter, remove 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 or improve any of the Customer's Works as deemed necessary or desirable by the Company 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.
- 9.6 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. The Company may, without notice to the Customer, 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.

- 9.7 The Company may close any of the Company's Works from time to time for any reason, including for maintenance or repairs.

10 Land and water management plans

- 10.1 The parties acknowledge and agree that:
- (1) the Area of Operations is, or may be, affected by a Land and Water Management Plan;
 - (2) the Company may be responsible for implementing the Land and Water Management Plan;
 - (3) the Land and Water Management Plan may contain a number of obligations, some of which will apply to the Company, some to the Customer and some to third parties; and
 - (4) it may be necessary or expedient, as a result of implementation of the Land and Water Management Plan:
 - (a) for the Company to make mandatory certain new practices and to change some customary practices to enable the objectives of the Land and Water Management Plan to be achieved; and
 - (b) for the Customer to obtain appropriate training and certification to comply with the Land and Water Management Plan provisions.
- 10.2 At his, her or its own Cost, the Customer must adopt any new or changed practices, obtain any appropriate training and certification, referred to in clause 10.1(4) provided such practices or training and certification are, in the Company's reasonable opinion, necessary or expedient for achieving the objectives of the Land and Water Management Plan.

11 Subdivision, separation or amalgamation

- 11.1 The Customer must not subdivide, separate or amalgamate the Landholding without the Company's consent.
- 11.2 The Customer must, with respect of each of the landholdings created by a subdivision, separation or amalgamation, enter into a new Water Delivery Agreement, unless otherwise determined by the Company.
- 11.3 All Costs incurred by the Company or the Company's Personnel in:
- (1) entering the Landholding and cleaning, maintaining, constructing, altering, removing or improving the relevant Customer's Works as deemed necessary or desirable by the Company; or
 - (2) installing, commissioning, operating, repairing, 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, separation or amalgamation of the Landholding will constitute a debt due from the Customer to the Company that must be paid by the Customer to the Company on demand.

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.

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]

Facsimile number [insert facsimile number if available]

E-mail address [insert e-mail address if available]

Number for text messages [insert number if available]

Item 3 **Water allocation account number**

[insert water allocation account number]

Item 4 **Commencement Date**

31 March 2016

Item 5 **Landholding**

[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

.....
Name of authorised representative
(BLOCK LETTERS)

If Customer is an individual or multiple individuals:

Signed by the **Customer** in the presence of:

.....
Signature of witness

.....
Signature of Customer

.....
Name of witness (BLOCK LETTERS)

.....
Address of witness

.....
Signature of witness

.....
Signature of Customer (if more than one)

.....
Name of witness (BLOCK LETTERS)

.....
Address of witness

.....
Signature of witness

.....
Signature of Customer (if more than two)

.....
Name of witness (BLOCK LETTERS)

.....
Address of witness

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):

.....
Director/company secretary

.....
Director

.....
Name of director/company secretary
(BLOCK LETTERS)

.....
Name of director
(BLOCK LETTERS)

If the Customer is a company with a sole director who is also the sole company secretary:

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

.....
Name of sole director and sole company
secretary (BLOCK LETTERS)

.....
Sole director and sole company secretary

If the Customer is a company with a sole director and no company secretary:

Signed for and on behalf of **Customer** by its authorised representative in the presence of:

.....
Signature of witness

.....
Signature of authorised representative

.....
Name of witness
(BLOCK LETTERS)

.....
Name of authorised representative
(BLOCK LETTERS)

.....
Address of witness