

79672ML SUSTAINABILITY PRODUCT TERMS AND CONDITIONS

1. Definitions and interpretation

- 1.1 Capitalised terms used in these Terms and Conditions have the following meanings, unless the contrary intention appears:
- (a) where a definition is given in the dictionary in clause 17.1 of these Terms and Conditions, that definition applies; and
 - (b) where no definition is given in the dictionary in clause 17.1 of these Terms and Conditions, the definition in the Entitlements Contract applies.
- 1.2 The interpretation rules set out in clause 17.2 apply.

2. Expression of Interest

- 2.1 A Participant may submit an Expression of Interest to the Company, which must specify:
- (a) the volume of Water Allocation the Participant wishes to purchase; and
 - (b) whether the Participant wishes to pay the Total Price in accordance with the Standard Terms or the Financed Terms.
- 2.2 Expressions of Interest must be submitted via the Company's online customer portal using the online form the Company specifies for this purpose.
- 2.3 The Company will acknowledge receipt of valid Expressions of Interest.
- 2.4 The Company may elect to treat an Expression of Interest as invalid if any Charges presently due and payable by the Participant have not been paid on or before the date on which the Expression of Interest is received by the Company. If the Company elects to treat an Expression of Interest as invalid, the Company must notify the Participant.
- 2.5 A Participant may alter or withdraw their Expression of Interest at any time before the Company makes an Offer to the Participant.
- 2.6 An Expression of Interest is not, and is not intended to be, legally binding. It is merely a non-binding indication of the volume of Water Allocation a Participant wishes to purchase. The Company is under no obligation to make an Offer to a Participant in respect of:
- (a) the volume of Water Allocation specified in the Participant's Expression of Interest; or
 - (b) any other volume of Water Allocation.

3. Offer to sell Water Allocation

- 3.1 After receiving an Expression of Interest from a Participant, the Company may, at its absolute discretion, make an Offer to the Participant in respect of a Final Volume.

- 3.2 The Final Volume must not be more than the volume of Water Allocation specified in the Participant's Expression of Interest. The Company may, at its absolute discretion, determine a Final Volume which is less than the volume of Water Allocation specified in the Participant's Expression of Interest. In making such a determination, the Company must have regard to:
- (a) the process specified in clause 3.3; and
 - (b) any other matters the Company considers relevant (acting reasonably).
- 3.3 If the aggregate volume of Water Allocation specified in all valid Expressions of Interest submitted to the Company exceeds the Aggregate Water Volume, the Company must make Offers in accordance with the following:
- (a) the Company must determine the Delivery Entitlements Pool;
 - (b) the Company must determine the proportion of the Delivery Entitlements Pool that belongs to each Participant based on the number of Delivery Entitlements each Participant holds;
 - (c) the Company must calculate, in respect of each Participant, a volume of Water Allocation, being a proportion of the Aggregate Water Volume equal to the proportion of the Delivery Entitlements Pool held by the Participant;
 - (d) if the volume of Water Allocation calculated under clause 3.3(c) in respect of any Participant is equal to or greater than the volume of Water Allocation specified in their Expression of interest, the Company may determine to make the Participant an Offer of a Final Volume equal to the volume of Water Allocation specified in the Participant's Expression of Interest;
 - (e) after the Company has determined the Offers it may make in accordance with clause 3.3(d), the Company must repeat the process in clauses 3.3(a) to (d) in respect of any remaining Participants to whom the Company has not yet determined it may make an Offer. In repeating this process:
 - (i) the Delivery Entitlements Pool must include the Delivery Entitlements held by the remaining Participants and exclude the Delivery Entitlements held by those Participants to whom the Company has already determined it may make an Offer; and
 - (ii) the volume of Water Allocation calculated under clause 3.3(c) must be a proportion of the Remaining Water Volume;
 - (f) the Company must repeat the process in accordance with clause 3.3(e) until the Company has determined all possible Offers that it may make under clause 3.3(d); and
 - (g) if, after applying the process in clauses 3.3(a) to (d) or repeating the process in accordance with clause 3.3(e), no volume of Water Allocation calculated under clause 3.3(c) in respect of any remaining Participant is equal to or greater than the volume of Water Allocation specified in their Expression of interest, then the Company may determine to make each remaining Participant an Offer of a Final Volume equal to the volume of Water Allocation calculated under clause 3.3(c).
- 3.4 Clause 3.3 is to be applied on a basis consistent with the worked example provided in Schedule 1.

- 3.5 The Company may:
- (a) at any stage of the application of clause 3.3; or
 - (b) when determining to make an Offer to a Participant in respect of a Final Volume, round any number of Megalitres up or down to the nearest whole Megalitre.
- 3.6 If a Participant elects to utilise a financing option in connection with an Offer, the Company may:
- (a) at any stage of the application of clause 3.3; or
 - (b) when determining to make an Offer to a Participant in respect of a Final Volume, complete a credit check and internal credit assessment in respect of that Participant and require the Participant to provide certain information to facilitate that check and assessment. In the event a Participant is deemed (in the sole discretion of the Company) to have not satisfied the credit check or internal credit assessment, the Company reserves the right to either:
 - (c) refuse to make an Offer to the Participant, or
 - (d) refuse to offer financing to the Participant, or
 - (e) discuss the Participant's circumstances and options with the Participant in order to use reasonable efforts to make the Offer to the Participant.
- 3.7 The Company must give notice of Offers to those Participants to whom the Company makes Offers.
- 3.8 Each Offer will remain open for Acceptance until the Acceptance Deadline, unless:
- (a) it is withdrawn by the Company giving notice to the Participant (including in the event the Participant has not satisfied the credit check or internal credit assessment); or
 - (b) it is rejected by the Participant giving notice to the Company.
- 3.9 If there is no withdrawal, Acceptance or rejection of an Offer by the Acceptance Deadline:
- (a) the Offer lapses immediately after the Acceptance Deadline, is automatically withdrawn and becomes incapable of Acceptance; and
 - (b) the Company may or may not offer the Final Volume in respect of the Offer, or part of it, to any person.
- 4. Acceptance of an Offer**
- 4.1 After receiving an Offer from the Company, a Participant may, at its absolute discretion, at any time while the Offer remains open for Acceptance:
- (a) give an Acceptance to the Company in respect of the Offer; or
 - (b) reject the Offer by giving notice to the Company.

- 4.2 An Acceptance must be given via the Company's online customer portal using the online form the Company specifies for this purpose.
- 4.3 An Acceptance communicated to the Company other than in accordance with clause 4.2 will be invalid, unless the Company has given prior written consent for the Acceptance to be communicated that way.
- 4.4 Any Acceptance which is not communicated to the Company in accordance with these Terms and Conditions and by the Acceptance Deadline is invalid.
- 4.5 The Company may elect to treat an Acceptance as invalid if any Charges presently due and payable by the Participant have not been paid on or before the date on which the Acceptance is received by the Company. If the Company elects to treat an Acceptance as invalid, the Company must notify the Participant.
- 4.6 If the Company's fees and prices schedule must be changed to include the Offer Price in order to comply with the *Water Charge (Infrastructure) Rules 2010* (Cth), an Acceptance is invalid unless the Company gave the Participant at least 10 Business Days' notice of the change to the Company's fees and prices schedule before the Acceptance was given.
- 4.7 A Participant's Acceptance is irrevocable and cannot be altered or withdrawn without the prior written consent of the Company.
- 4.8 When a valid Acceptance is received by the Company in accordance with these Terms and Conditions, a contract is formed between the Company and the Participant under which the Company agrees to sell, and the Participant agrees to purchase, the Final Volume for the Total Price on, and subject to, these Terms and Conditions.
- 4.9 The Company will acknowledge receipt of valid Acceptances.

5. Total Price

- 5.1 The Total Price must be calculated by multiplying the Offer Price by the Final Volume.
- 5.2 The Total Price must be paid in accordance with the Standard Terms or the Financed Terms, as elected by the Participant in its Expression of Interest. If the Participant fails to elect either the Standard Terms or Financed Terms in its Expression of Interest, it will be deemed to have elected the Standard Terms, unless the Company agrees otherwise.
- 5.3 The Company must give the Participant an invoice in respect of the Total Price.
- 5.4 The Total Price and any interest payable under clause 6.3 or 7.3 are each a Charge for the purposes of the Entitlements Contract.

6. Payment of Total Price – Standard Terms

- 6.1 This clause 6 applies if the Participant elects to pay the Total Price in accordance with the Standard Terms.
- 6.2 The Participant must pay the Total Price to the Company:
 - (a) no later than 5:00 pm on the date which is 60 days after the date of the invoice provided by the Company under clause 5.3 (or such other date or time determined by the Company and notified to the Participant); and
 - (b) in accordance with clause 9.

- 6.3 If the Participant fails to pay the Total Price by the Payment Deadline, interest will accrue at the Interest Rate on all outstanding amounts payable by the Participant under these Terms and Conditions (including interest under this clause) from the Payment Deadline to the date of actual payment (both dates inclusive). The interest will accrue on a daily basis and be compounded monthly.

7. Payment of Total Price – Financed Terms – 5 months

- 7.1 This clause 7 applies if the Participant elects to pay the Total Price in accordance with the Financed Terms.

- 7.2 The Participant must pay the Total Price to the Company:

(a) no later than 5:00 pm on the 28 February 2027 (or such other date or time determined by the Company and notified to the Participant); and

(b) in accordance with clause 9.

- 7.3 Interest will accrue at the Interest Rate Financed Terms on all outstanding amounts payable by the Participant under these Terms and Conditions (including interest under this clause) from the date of the invoice provided by the Company under clause 5.3 to the date of actual payment (both dates inclusive). The interest will be calculated for the financed period and charged to the invoice as a lump sum.

- 7.4 The Participant must pay any interest accrued under clause 7.3 no later than the Payment Deadline.

8. Payment of Total Price – Financed Terms – 9 months

- 8.1 This clause 7 applies if the Participant elects to pay the Total Price in accordance with the Financed Terms.

- 8.2 The Participant must pay the Total Price to the Company:

(a) no later than 5:00 pm on the 28 June 2027 (or such other date or time determined by the Company and notified to the Participant); and

(b) in accordance with clause 9.

- 8.3 Interest will accrue at the Interest Rate Financed Terms on all outstanding amounts payable by the Participant under these Terms and Conditions (including interest under this clause) from the date of the invoice provided by the Company under clause 5.3 to the date of actual payment (both dates inclusive). The interest will be calculated for the financed period and charged to the invoice as a lump sum.

- 8.4 The Participant must pay any interest accrued under clause 7.3 no later than the Payment Deadline.

9. Payment Method

- 9.1 The Participant must make payment of the Total Price and any interest accrued under clause 6.3 or 7.3 or 8.3.4 by using one of the following payment methods:

(a) **Cheque:** Must be received by the Company via post before the Payment Deadline:

PO Box 528 Deniliquin NSW 2710

- (b) **B-Pay:** The payer must have [facsimile or] email access so that a B-Pay invoice can be delivered electronically by the Company. Payment must be received by the Company before the Payment Deadline. The payer must ensure the Company receives a copy of the payment confirmation, for example by emailing customersupport@murrayirrigation.com.au.
- (c) **Direct deposit:** Payment must be received by the Company before the Payment Deadline. If the direct deposit is done by electronic funds transfer, the payer must include the account number shown on the invoice as the reference number of the electronic funds transfer. The payer must [fax,] email or otherwise communicate to the Company a copy of the payment confirmation. The Company nominates the following bank account:
- ANZ
- BSB No. 012 605
- Account No. 838536669 - Murray Irrigation Limited
- (d) **Credit card:** The payer must contact the Company's Customer Experience Team before the Payment Deadline and quote the details of the credit card to be used.

10. Access to the Final Volume before payment of the Total Price

- 10.1 The Company must credit the Final Volume to the Water Allocation Account of the Participant no later than two Business Days after the Participant gives a valid Acceptance.
- 10.2 After the Company has credited the Final Volume to the Water Allocation Account of the Participant, the Participant may place a water order in accordance with the Entitlements Contract and the Final Volume may be used to satisfy the water order.
- 10.3 The Final Volume cannot be the subject of an Annual Transfer until payment of the Total Price and any interest accrued under clause 6.3, 7.3 or 8.3 is received by the Company, unless the Company agrees otherwise.

11. Default by the Participant

- 11.1 The Participant and the Company agree that the failure by the Participant to pay any money payable to the Company under these Terms and Conditions by the due date will be taken to constitute an Event of Default under the Entitlements Contract.

12. Notices

- 12.1 Each communication in connection with these Terms and Conditions (including a notice, agreement, authorisation, consent, request, waiver or demand) (**Notice**) has no legal effect unless it is in writing.
- 12.2 Subject to the provisions of these Terms and Conditions about communicating Expressions of Interest, Offers and Acceptances via the Company's online customer portal, the provisions of the Entitlements Contract regarding notices apply, with the necessary changes, to Notices.

13. Rights, powers and remedies

- 13.1 The failure of a party to exercise or enforce, or a delay by a party in exercising or enforcing, a right, power or remedy does not operate as a waiver of the exercise or enforcement by that party of that or any other right, power or remedy.

- 13.2 The exercise or enforcement by a party of a right, power or remedy does not preclude the further exercise or enforcement by that party of that right, power or remedy or the exercise or enforcement by that party of any other right, power or remedy.

14. Goods and services tax

- 14.1 In this clause 14:

- (a) **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;
- (b) 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;
- (c) 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;
- (d) 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
- (e) 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.

- 14.2 Unless GST is expressly included, the consideration to be paid or provided under any other clause of these Terms and Conditions for any supply made under or in connection with these Terms and Conditions does not include GST.

- 14.3 To the extent that any supply made under or in connection with these Terms and Conditions 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.

- 14.4 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.

15. Governing law

- 15.1 The law of New South Wales governs these Terms and Conditions.
- 15.2 The Company and the Participant submit to the non-exclusive jurisdiction of the courts of New South Wales and of the Commonwealth of Australia.

16. Entire agreement

- 16.1 These Terms and Conditions:

- (a) are the entire agreement and understanding between the parties on everything connected with the subject matter of these Terms and Conditions; and
- (b) supersedes any prior agreement or understanding on anything connected with that subject matter.

17. Dictionary and interpretation rules

17.1 Dictionary

- (a) **Acceptance** means acceptance of an Offer on, and subject to, these Terms and Conditions.
- (b) **Acceptance Deadline** means 5:00 pm on the fifth Business Day after notice of an Offer is given to a Participant or any other time and date determined by the Company and notified to the Participant.
- (c) **Aggregate Water Volume** means 79,672 Megalitres of Water Allocation.
- (d) **Annual Transfer** has the meaning given to that term in the Transfer Rules Policy.
- (e) **Company** means Murray Irrigation Limited ABN 23 067 197 933.
- (f) **Delivery Entitlements Pool** means the aggregate number of Delivery Entitlements held by all Participants who submitted a valid Expression of Interest in accordance with these Terms and Conditions.
- (g) **Entitlements Contract** means the Entitlements Contract between the Participant and the Company.
- (h) **Expression of Interest** means an expression by a Participant that they wish to purchase a specified volume of Water Allocation (expressed as a whole number of Megalitres) from the Company on, and subject to, these Terms and Conditions.
- (i) **Final Volume** means a volume of Water Allocation (expressed as a whole number of Megalitres) determined in accordance with clause 3.3 and specified in an Offer.
- (j) **Financed Terms** means the terms of payment set out in clause 7.
- (k) **Interest Rate** means:
 - (i) in respect of the period from 1 January to 30 June in any year, the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced; and
 - (ii) in the respect of the period from 1 July to 31 December in any year, the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced.
- (l) **Interest Rate Financed Terms** means 10.35% per annum calculated on the Total Price.
- (m) **Offer** means an offer to sell a Final Volume to a Participant for a Total Price and otherwise on, and subject to, these Terms and Conditions.
- (n) **Offer Price** means \$210 per Megalitre of Water Allocation.

- (o) **Participant** means a customer of the Company who is participating in the arrangements described in these Terms and Conditions.
- (p) **Payment Deadline** means:
 - (i) if the Participant elects to pay the Total Price in accordance with the Standard Terms, the date specified in clause 6.2(a); or
 - (ii) if the Participant elects to pay the Total Price in accordance with the Financed Terms, the date specified in clause 7.2(a).
 - (iii) if the Participant elects to pay the Total Price in accordance with the Financed Terms, the date specified in clause 87.2(a).
- (q) **Remaining Water Volume** means the volume calculated by subtracting the aggregate of the Final Volumes in Offers the Company has already determined it may make under clause 3.3(d) from the Aggregate Water Volume.
- (r) **Standard Terms** means the terms of payment set out in clause 6.
- (s) **Terms and Conditions** means this document including its schedule.
- (t) **Total Price** means the amount payable for a Final Volume calculated in accordance with clause 5.1 and specified in an Offer.

17.2 Interpretation

In these Terms and Conditions, unless the contrary intention appears:

- (a) reference to:
 - (i) the singular includes the plural and the plural include the singular;
 - (ii) money (including "\$", "AUD" or "dollars") is to Australian currency;
 - (iii) 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;
 - (iv) a person includes an individual, a firm, a body corporate, an unincorporated association or an authority;
 - (v) a person includes their legal personal representatives (including executors), administrators, successors, substitutes (including by way of novation) and permitted assigns;
 - (vi) a group of persons is a reference to any two or more of them taken together and to each of them individually;
 - (vii) time is a reference to the time in Deniliquin, NSW; and
 - (viii) any thing (including any amount or any provision of these Terms and Conditions) is a reference to the whole and each part of it;
- (b) 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;

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- (c) a party which is a trustee is bound both personally and in their capacity as a trustee;
- (d) 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;
- (e) 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
- (f) a provision of these Terms and Conditions must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of these Terms and Conditions or the inclusion of the provision in these

Schedule 1 – Worked example

1ST APPLICATION OF CLAUSE 3.3 2ND APPLICATION OF CLAUSE 3.3 3RD APPLICATION OF CLAUSE 3.3								
PARTICIPANT	VOLUME REQUESTED IN EOI	DELIVERY ENTITLEMENTS HELD	PROPORTIONATE ENTITLEMENT UNDER 3.3(c)	VOLUME OF WATER OFFERED UNDER 3.3(d)	NEW PROPORTIONATE ENTITLEMENT UNDER 3.3(c)	VOLUME OF WATER OFFERED UNDER 3.3(d)	NEW PROPORTIONATE ENTITLEMENT UNDER 3.3(c)	VOLUME OF WATER OFFERED UNDER 3.3(g)
A	2,000	200	1,176	None ²	1,500	None ²	1,714 ³	1,714
B	2,000	1,000	5,882 ¹	2,000	-	-	-	-
C	10,000	200	1,176	None ²	1,500	None ²	1,714 ³	1,714
D	10,000	1,000	5,882	None ²	7,500	None ²	8,571 ³	8,571
E	6,000	1,000	5,882	None ²	7,500 ¹	6,000	-	-
Delivery Entitlements Pool			3,400		1,200		1,400	
TOTAL	30,000 ML	3,400 DEs	20,000 ML	2,000 ML	18,000 ML	6,000 ML	12,000 ML	12,000 ML

¹ The Participant's proportionate entitlement exceeds the volume requested in the EOI, resulting in an Offer being made for the volume requested in their EOI.

² No Offer is made to the Participant at this stage because their proportionate entitlement has not reached the volume requested in their EOI but, in this application of clause 3.3, at least one other Participant's proportionate entitlement exceeds the volume requested in their EOI.

³ In this application of clause 3.3, no Participant's proportionate entitlement exceeds the volume requested in their EOI. This results in Offers being made to all remaining Participants in accordance with their proportionate entitlements.