

Charges Rules

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Contents

1. Introduction2

2. Definitions and interpretation.....2

3. Determination of charges4

4. Schedule of charges4

5. Access Charges4

6. Usage, Casual Usage and Unmetered Usage Charges5

7. Payment of charges.....6

8. Termination and surrender of rights of access6

9. Disconnection Fee7

10. Unauthorised Overdraw.....7

1. Introduction

- 1.1 This document contains Rules of the Company that are binding under the Water Entitlements Contract and Water Delivery Contract (together, the **Contract**). A Customer's Contract binds them to these Charges Rules.
- 1.2 These Rules should be read in conjunction with, and are subject to:
- (1) the Contract;
 - (2) any relevant Rules;
 - (3) the *Water Act 2007* (Cth) and the water market rules, and water charge rules made under it;
 - (4) all other relevant laws, regulations, orders, and Licences.

2. Definitions and interpretation

- 2.1 In these Charges Rules and in the Schedule of Charges, the following words have these meanings unless the contrary intention appears:
- (1) **Access Charge** means any charge set out in the Schedule of Charges payable in respect of a Water Year based on the recovery of the Costs (whether recurrent or capital) incurred by the Company in relation to the provision of a Right of Access to the Company's Works or services provided in relation to a Right of Access;
 - (2) **Ancillary Charges** has the same meaning as that given by rule 9A(9) of the *Water Charge Rules 2010* (Cth).
 - (3) **Casual Usage** means taking Water Allocation other than by exercising a Delivery Entitlement in accordance with the Access and Ordering Rules including where:
 - (a) all of the Customer's Delivery Entitlements have already been exercised in that Water Year in excess of 120% of total Delivery Entitlements; or
 - (b) the Customer does not hold any Delivery Entitlements;
 - (4) **Casual Usage Charge** means the amount (as set out in the Schedule of Charges) from time to time payable by the Customer for delivery of, or taking of, a volume of Water Allocation or Surplus Water:
 - (a) in excess of 120% of the Customer's Delivery Entitlements; or
 - (b) where the Customer does not hold any Delivery Entitlements.

Unless stated otherwise, the Casual Usage Charge will be calculated at the rate of 1.5 times the sum of the Delivery Entitlement charge plus the Usage Charge.
 - (5) **Capital Contribution to Infrastructure** means a charge determined on a case-by-case basis (depending on market value of Delivery Entitlements and/or total capital costs of the project less the Company's Board determined underwriting) for a customer participating in an expansion project, in exchange for receiving additional flow rate share. The additional flow rate share will be in proportion to the capital contribution.

- (6) **Connection Charge** means a charge determined on a case by case basis (depending on location and engineering requirements) for the reasonable costs incurred by the Company to physically connect a Customer to the Company's Works;
- (7) **Delivery Entitlement Charge** means the charge for each Delivery Entitlement held by a Customer, as published on the Company's Schedule of Charges;
- (8) **Disconnection Charge** means a charge determined on a case by case basis (depending on location and engineering requirements) for the reasonable costs incurred by the Company to disconnect, remove or disable a physical connection between the Company's Works and the Customer's Works;
- (9) **Infrastructure Charge** has the same meaning as in rule 3 of the *Water Charge Rules 2010* (Cth);
- (10) **Infrastructure Service** means access, or a service provided in relation to access, to water service infrastructure and includes the storage, delivery, drainage and taking of water.
- (11) **Network Operation Charges** has the same meaning as that given by rule 9A(9) of the *Water Charge Rules 2010* (Cth).
- (12) **Overdraft Establishment Fee** means the fee (which cannot be levied to a Customer more than once in a Water Year) for the administrative costs incurred by the Company in establishing an overdraft facility, which allows a Customer's Water Allocation Account to have a balance of less than zero.
- (13) **Overdraw Market Rate Fee** means the fee applicable when the Customer has failed to bring their Water Allocation Account to a zero or positive balance by the due date specified in a corresponding notice issued by the Company. The Overdraw Market Rate Fee will be:
- (a) calculated based on the average price published by water brokers for water trades in the month preceding the date when the Overdraw Market Rate Fee becomes a liability to the Customer; and
 - (b) determined by the Company in its sole discretion, provided the Company acts reasonably when calculating such amount.
- (14) **Pressurised Supply Systems** means a Company owned pump station is used to pressurise water prior to supplying water to Customers;
- (15) **Schedule of Charges** means the document that is issued by the Company that sets out the Company's Infrastructure Charges, that the Company may levy its Customers, which can be found on the Company's website at www.mirrigation.com.au/Customers/Schedule-of-Charges;
- (16) **Surplus Water** has the same meaning as that given by the Company's Surplus Water Rules, which can be found on the Company's website at <https://www.mirrigation.com.au/Customers/Contracts-and-Rules>;
- (17) **Termination Fee** has the same meaning as that given by rule 71 of the *Water Charge Rules 2010* (Cth);
- (18) **Transferee** means, in relation to a Right of Access, a Customer who acquires the Right of Access from another Customer by way of transfer;
- (19) **Transferor** means, in relation to a Right of Access, a Customer who transfers the Right of Access to another Customer;

(20) **Unauthorised Overdraw Fee** means the fee for each megalitre of water that the Customer has taken or used:

- (a) without prior written approval from the Company (noting that water order acceptances of the Company do not constitute written approval); and
- (b) in excess of available water in their Water Allocation Account.

(21) **Usage Charge** means the amount payable by the Customer for delivery of, or taking of, a volume of Water Allocation or Surplus Water under rule 6.2, as set out in the Schedule of Charges from time to time;

2.2 A term defined in the Contract or any of the Rules of the Company published on its website has the same meaning in these Charges Rules unless the contrary intention appears.

2.3 In these Charges Rules, unless the contrary intention appears, reference to Water Allocation or Surplus Water ordered for delivery, or delivery of a volume of Water Allocation or Surplus Water includes any volume of water that the Company determines, in accordance with the Contract, has been taken or delivered.

3. Determination of charges

3.1 The Company may, from time to time, determine Charges payable by the Customer in connection with the Documents, or anything connected with the subject matter of the Documents, including those Charges that are and are not included in the Schedule of Charges.

3.2 The Company may, at any time, vary, amend, supplement, or replace a determination of Charges made under these Charges Rules.

3.3 Charges payable by the Customer in accordance with these Rules may also include, from time to time, costs or debts payable by the Customer including under clauses 8.9, 18.4 and 19.6 of the Water Delivery Contract, clause 12.5 of the Water Entitlements Contract, under the Development Rules and under the Transfer Rules.

4. Schedule of charges

4.1 The Company must publish a Schedule of Charges on its web site.

4.2 To the extent that a Charge is not an Infrastructure Charge, then the omission of that Charge from the Schedule of Charges does not reduce, limit, or otherwise affect the Customer's obligation to pay the Charge.

4.3 Provided the Company has satisfied its requirements under rule 15(5) of the *Water Charge Rules 2010* (Cth), then the Customer will be liable to pay the applicable Network Operation Charges and Ancillary Charges set out in any invoice issued to them by the Company, which may be greater or less than the amounts previously published by the Company on its Schedule of Charges.

5. Access Charges

5.1 Subject to rule 5.2, a Customer who:

- (1) holds a Right of Access at 12:01 am on 1 July in any Water Year; or
- (2) is issued a Right of Access by the Company at any time before 1 March in any Water Year,

must pay the Access Charge in respect of the Right of Access for that full Water Year.

- 5.2 A Transferor's liability under rule 5.1 to pay the Access Charge for the full Water Year in respect of a Right of Access is transferred to the Transferee on completion of the transfer of that Right of Access.
- 5.3 A Transferee that is liable to pay an Access Charge under rule 5.2 is liable to pay the Access Charge for the full Water Year in which the Transferee acquires the Right of Access, even if the Transferee holds the Right of Access for only part of the Water Year.
- 5.4 If a Right of Access is transferred after the Transferor has paid part or all of the Access Charge in respect of the Right of Access for the Water Year in which the transfer takes effect (**Prior Payments**):
- (1) the Company must refund the Prior Payments to the Transferor;
 - (2) the Transferor must pay the Prior Payments to the Transferee and, for that purpose, the Transferor directs the Company to pay the Prior Payments to the Transferee; and
 - (3) the Transferee directs the Company to retain the Prior Payments and apply them to the Access Charge in respect of the Right of Access.
- 5.5 Any arrangement made between a Transferor and a Transferee (as between themselves) for apportioning Access Charges for the Right of Access being transferred does not affect the Transferee's liability (as against the Company) under rule 5.2.
- 5.6 The Access Charge for a Right of Access is payable whether or not the Right of Access is used for the delivery of water.

6. Usage, Casual Usage and Unmetered Usage Charges

- 6.1 The Customer may exercise a Delivery Entitlement once per Water Year to have delivered, or to take, one Megalitre of Water Allocation or Surplus Water in accordance with the Documents.
- 6.2 Unless the Company has otherwise agreed (including under any contract with the Customer in relation to Surplus Water) the Customer must pay, in respect of the delivery of, or taking of, each Megalitre of Water Allocation or Surplus Water:
- (1) the Usage Charge when exercising a Delivery Entitlement in accordance with:
 - (a) the Access and Ordering Rules; or
 - (b) the Surplus Water Rules;
 - (2) the sum of the Usage Charge and Delivery Entitlement Charge when all of the Customer's Delivery Entitlements have already been exercised in that Water Year, up to 120% of total Delivery Entitlements;
 - (3) the Casual Usage Charge in any other case, including where:
 - (a) all of the Customer's Delivery Entitlements have already been exercised in that Water Year in excess of 120% of total Delivery Entitlements; or
 - (b) the Customer does not hold any Delivery Entitlements.
 - (4) where a Customer is connected to a Pressurised Supply System:
 - (a) energy charges incurred to operate the Pressurised Supply System; and

(b) for selected Pressurised Supply Systems only, filtration charges;

in accordance with the price ranges as set out in the Schedule of Charges

6.3 Unless the Company determines otherwise in a particular case, where 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 taken, or had delivered, in the relevant Water Year, either:

- (1) a volume of water equivalent to the Annual Allocation in respect of the Customer's Water Entitlements in respect of the relevant Water Year, or
- (2) a volume of water as determined by the Company in respect to the size of the land being serviced.

7. Payment of charges

7.1 The Customer must pay to the Company the Charges shown as payable on each invoice issued by the Company by the date specified in the invoice (or a later date determined by the Company) and by one of the methods specified in the invoice.

7.2 The Charges must be paid in full, irrespective of whether the Company delivers any water in any Water Year.

7.3 All payments by the Customer must be made without deduction or withholding (including set-off, counterclaim, duty, tax, or charge).

7.4 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 *Water Management Act 2000* (NSW), 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.

8. Termination and surrender of rights of access

8.1 A Customer may apply to the Company to terminate or surrender a Right of Access by:

- (1) submitting to the Company an application in writing; and
- (2) paying the Termination Fee for the Right of Access to the Company;

and the Company may:

- (3) approve the application; or
- (4) refuse the application and refund any Termination Fee paid under rule 8.1(2).

8.2 A Customer applying to terminate or surrender a Right of Access under rule 8.1 must pay all Charges in accordance with the Water Entitlements Contract and Water Delivery Contract.

8.3 A Customer must pay a Termination Fee to the Company if the Company, by notice to the Customer, terminates a Right of Access held by the Customer in accordance with the Contract on the grounds that an act or omission by the Customer is in breach of the Customer's obligations under the Contract (other than the act of trading the whole or part of a Water Entitlement, Water Allocation or Access Licence).

- 8.4 If a Customer terminates or surrenders a Right of Access in accordance with these Charges Rules:
- (1) subject to payment of the Termination Fee, no Access Charges accrue in respect of the Right of Access after the end of the Water Year in which the Right of Access is terminated or surrendered;
 - (2) the Customer is not released from any accrued obligations to pay Charges in respect of the Water Year in which the Right of Access is terminated or surrendered, or previous Water Years;
 - (3) the Company may discount or refund the Access Charges in respect of the Right of Access in respect of the Water Year in which termination or surrender takes effect, pro rata in proportion to the number of days from the date on which termination or surrender takes effect to 30 June (inclusive of both dates), divided by the total number of days from 1 July to 30 June (inclusive of both dates); and
 - (4) on and from the date of termination or surrender, that Right of Access ceases to entitle the Customer to the delivery of water.

9. Disconnection Fee

- 9.1 If a Customer's Right of Access is terminated or surrendered (whether by the Customer or the Company), the Company may remove or disable the physical connections between the Company's Works and the Customer's Works in respect of that Right of Access.
- 9.2 The Customer must pay a Disconnection Charge to the Company if the Company removes or disables a physical connection between the Company's Works and the Customer's Works.
- 9.3 If the Customer wishes to reconnect to the Company's Works after a disconnection has been completed, a new application must be made and the relevant Connection Charge paid to the Company.

10. Unauthorised Overdraw

- 10.1 A Customer who, after a Meter read conducted by the Company, has a Water Allocation Account balance of less than zero and that negative balance:
- (1) has not been authorised by the Company in writing; and
 - (2) is, in the reasonable opinion of the Company, a result of the Customer taking or using more water than what the Customer has available in their Water Allocation Account,
- will, subject to clause 5 of the Water Delivery Contract between the Customer and the Company, be liable to:
- (3) pay the Overdraft Establishment Fee and the Unauthorised Overdraw Fee by the due date on the invoice issued to the Customer by the Company in respect of those fees; and
 - (4) reconcile their Water Allocation Account (at their own cost) to a balance that is equal to, or greater than zero, by the due date of the invoice issued by the Company to the Customer under 10.1(3).
- 10.2 If the Customer does not satisfy the requirements of rule 10.1(4) by the due date of the invoice issued by the Company to the Customer under 10.1(3), then, in addition to any other right it may have under the Contract, the Company may reconcile the Customer's Water

Allocation Account to a zero balance and the Customer will be liable to pay the Company the Overdraw Market Fee as consideration for the Company reconciling the Customer's Water Allocation Account.

- 10.3 For the avoidance of doubt, a Customer's liability to pay the Overdraw Market Fee does not relieve the Customer from its liability to also pay the Overdraft Establishment Fee and the Unauthorised Overdraw Fee under 10.1(3).