

SCHEDULE ONE of the WATER SUPPLY AGREEMENT

STANDARD TERMS TO BE PART OF ALL WATER SUPPLY AGREEMENTS

1.0 DURATION OF AGREEMENT

- 1.1 This agreement commences on the date registered on page 1 of the water supply agreement.
- 1.2 This agreement may be terminated by either party by giving 12 months' notice in writing to the other party.
- 1.3 The Company may terminate this agreement by giving three months' notice in writing to the User if:
 - a. The User has not used any water in the three preceding seasons;
 - b. The User is not the owner of the property described in this agreement;
 - c. The area of irrigable hectares has in the reasonable opinion of the Company after consultation with the User, reduced to less than two, or the lower number specified in the agreement, if any;
 - d. The User is in breach of clause 2.5 and has not remedied the breach within 20 working days of receiving notice of the default.
- 1.4 The Company's right to terminate this agreement under clause 1.3 is in addition to its other rights under this agreement.
- 1.5 The Company may amend this agreement by giving three months' notice in writing to the User.
- 1.6 Subject to the terms of this agreement, water from the Scheme shall be supplied by the Company to the land during the irrigation season from the 1st day of June in one year to the 30th day of April the immediate following year ("Season").
- 1.7 Water will normally be available outside the season but the Company reserves the right to shut down the Scheme for routine inspection and maintenance outside the Season.

2.0 SUPPLY OF WATER

- 2.1 Subject to the terms of this agreement, the Company shall supply water to the User in the manner described in the schedule.
- 2.2 Provided there is sufficient water available, and the Company agrees, the Company may supply water in excess of the water allocation by agreement with the User and at the water charges detailed in Schedule 2 ("water charges").
- 2.3
 - a. The maximum rate of draw-off as detailed in the Schedule shall not be exceeded by the User and the Company may install a flow control valve for this purpose.
 - b. Prior to the commencement of the season, or as soon after the commencement as it is possible, the Company shall provide the User with a roster for the water supply if issued ("roster") and a copy of any amendments if issued. The Company shall have the power, at its sole discretion to amend the roster.
 - c. Should a roster be issued then the User may only take the water in accordance with the roster or its amendments.

- 2.4 The Company shall supply the water to the boundary of the land or at such more distant point as the Company's distribution system and rights of access shall extend.
- 2.5
- a. Water shall be supplied through a measuring device (called the "water meter") to be maintained by the Company. The User shall not, nor allow any person to, alter or interfere with the water meter. Nor shall the User take, or attempt to take, or allow any person under his control to take, or attempt to take, any water from the scheme other than through the water meter and in accordance with the terms of this agreement.
 - b. The water allocation may only be used on the land, as it is described in the agreement if the User owns the land. The water allocation may not be used on any part of the land that the owner does not own, or any other property.
 - c. The User must comply with all the obligations in this agreement, whether or not another person is occupying the land or using the water on the land.
- 2.6 The Company by its agents or employees shall operate the supply of water through the water meter.
- 2.7 The User shall be responsible for the distribution of water from the water meter and takes all liability with respect to the water from that point.
- 2.8 Notwithstanding the other terms contained in this agreement, the Company shall be under no obligation to construct or replace any water supply works.
- (Clauses 2.9 to 2.12 applicable to non-commercial agreements only)
- 2.9 The water supplied is for irrigation purposes and is not potable water. It is untreated and not suitable for drinking, any form of food preparation or domestic use.
- 2.10 Before receiving the water allocation the User must provide a suitably sized storage tank for receiving the water supply (minimum size shall be 2000 litres).
- 2.11 The water user must reticulate the water from the tank to be provided under clause 2.10 hereof and there shall be no water take off points on the supply line installed by the User between the water meter and the storage tank.
- 2.12 The supply is not a guaranteed 24 hour supply and may be reduced or cut off altogether due to dry weather or other demands on the system

3.0 PAYMENT OF WATER CHARGES

- 3.1
- a. The User shall pay to the Company the water charges for water contracted to be taken under this agreement at the rates detailed in the Schedule No-2. The water charges are subject to review by the Company in accordance with clause 9.
 - b. The User shall pay the water charges by the specified due dates for payment in the Schedule No-2.
- 3.2 If the water charges are not paid within 10 days of the specified due dates for payment (time being of the essence) then, without prejudice to the Company's other rights the water charges shall be increased by a further 1.5% per month (from the said period of 10 days) compounding every month until all of the money owing is paid. The 1.5% per month increase shall then be deemed to be part of the water charges and the total of which shall be recoverable by the Company as a debt due.
- 3.3
- a. The charges for water shall be payable by the User to the Company whether or not the User takes water throughout the term of this agreement (whether due to the Company's inability to supply the water or the User's election not to take the water) and notwithstanding that the water supply may be suspended or terminated pursuant

to Clause 6.

- b. The User's liability for the increases detailed under clause 3.2, and the water charges during such period that the water supply may be suspended or terminated, is agreed to be as liquidated damages and not by way of a penalty.

4.0 FAILURE OF SUPPLY

- 4.1
 - a. If for any reason (including the fault of the Company) the water supply to the Users is diminished or shall fail, then no person shall by reason of such diminished supply or failure have any claim or right of action against the Company.
 - b. If the water supply to the User is diminished or shall fail because of the fault of the Company the User shall not be entitled as of right to a proportionate reduction in, or refund of, the charge which he has paid or is required to pay with respect to the water not supplied.
- 4.2 If the water supply to the User is permanently discontinued, other than due to the default of the User, then the User shall not be liable for any further payment for water charges apart from all money due up to the time of the permanent discontinuation of supply.
- 4.3 At such time that the demand for water exceeds the supply, those Users with a water allocation under a signed water supply agreement shall receive priority for that allocation ahead of water to a non-commercial or restricted User not contracted to be supplied pursuant to a commercial water supply agreement.
- 4.4 Without limiting any other clause in this agreement the Company will have no liability when an event beyond its control, such as a flood, earthquake, failure of electricity or breakdown or accident to the scheme prevents it from fulfilling its obligations under this agreement.

5.0 RIGHT OF ACCESS

- 5.1
 - a. Where entry is required for construction or repair work on the scheme, the Company shall, where practicable, give reasonable notice to each User prior to such work being undertaken. Such notice to be by letter or telephone and of at least twenty four hours where possible.
 - b. If the User or occupier has received such notice and in turn notifies the Company in writing prior to such work being undertaken, of the presence and location of any pipes or other underground services and these are damaged in the course of the construction or repair, then the Company will reinstate the facilities.
 - c. The Company shall cause as little damage and disruption as is reasonably possible in carrying out any work. Any damage caused shall be restored as near as reasonably practicable to the condition existing before any entry or alternatively the Company may at its' discretion compensate the User for any damage (subject to the provisions of clause 5.3 (a.).
- 5.2 The Company shall have the right of access at any time with necessary vehicles, implements and machinery to enter onto the land and within the confines of existing easements and along the path of existing pipelines, to lay, construct, maintain, repair or reconstruct any pipes or other water supply equipment which the Company deems necessary or desirable for the supply of water to the land or to any other land, and to gauge or otherwise measure the quantity of water used, and to inspect the condition of all Scheme works on the land.
- 5.3
 - a. The User shall not obstruct access by the Company to any parts of the Scheme on or off the User's land and shall not plant trees or carry out works which would obstruct such access and shall ensure that such access to the User's land is always kept available to the Company.

- b. The User shall ensure that, unless consent is obtained in writing from the Company, that no trees are planted, posts driven, roots ripped or excavations made within three metres of the Scheme's works.
- 5.4 The Company shall have right of entry at all times to inspect the on property installation to see that it meets the Companies minimum requirements as per clauses 2.10 and 2.11.

6.0 USER'S DEFAULT

- 6.1 In the event that the Company has reasonable grounds to suspect that the User being in breach of any of the terms under this agreement the Company may suspend the supply of the water to the User with immediate effect for a period sufficient at the Company's discretion to enable the Company to determine whether the User is in breach of the terms of the agreement or not.
- 6.2 If the User is in breach of any of the terms of this agreement the Company may at its discretion:
- a. If the breach is capable of remedy, give the User notice of the breach specifying a period within which the User must remedy the breach to the satisfaction of the Company, and may suspend the supply of the water to the User during that period; or
 - b. If the breach is not capable of remedy, or the Company has given the User notice of the breach and the User has failed to remedy the breach within the specified period or to the satisfaction of the Company, terminate the agreement with immediate effect.
- 6.3 Suspension of the supply of water or termination of the agreement is without prejudice to the rights and obligations of the parties accrued up to and including the date of the suspension or termination.
- 6.4 All reasonable costs (including legal costs on a Solicitor own client basis) incurred by the Company pursuant to clause 6.1 above, and in re-instating the water supply and water meter and in seeking to recover money due and unpaid and interest thereon, from the User, shall be added to the debt owing by the User to the Company and shall be paid by the User.

7.0 SUBDIVISION AND ASSIGNMENT – SALE OF LAND PURSUANT TO THIS AGREEMENT

- 7.1 The User must advise the Company if the User subdivides the property.
- 7.2 If the User subdivides the property and retains ownership of the lot on which the water meter is located or which is supplied directly by the water meter, and any lots adjoining that lot, the Company will amend this agreement by:
- a. Inserting the new legal description of that lot or lots, and where applicable;
 - b. Determining the new area of irrigable hectares in that lot or lots;
 - c. Determining the revised water allocation for that lot or lots.
- 7.3 The Company will consider entering a water supply agreement with each owner of a subdivided lot, including with the User in respect of any lots not covered by this agreement as amended under clause 7.2 on the basis of the Company's policy and criteria for entering into such a water supply agreement.
- 7.4 If the User sells the property the User may assign this agreement to the new owner (proposed assignee), provided that:
- a. The proposed assignee meets the Company's policy and criteria for entering into a water supply agreement;
 - b. There is not any subsisting breach of the User's obligations under this agreement and all money payable by the User to the Company, whether under the terms of this agreement or otherwise has been paid;

- c. The User paid the Company's reasonable costs incurred with respect to the assignment and transfer of shares (if any).

8.0 USE OF WATER

- 8.1 The User must ensure water taken by him from the scheme is used only on the land pursuant to this agreement and is used in an efficient manner without undue waste.
- 8.2 **The User acknowledges that the water that Company supplies is not potable and is not suitable for drinking or any form of food preparation or domestic use.**
- 8.3 The User:
 - a. Must not use the water for drinking or any other form of food preparation or domestic use (including human consumption, preparing food or drink for human consumption, preparing or processing products ultimately intended for human consumption, washing utensils used for preparing, storing or serving food or drink for human consumption, washing utensils used by people for eating or drinking, and human oral hygiene);
 - b. Must not cause the water to enter a dwelling, house or any other building in which water is drunk by people or other food preparation or domestic use occurs.
 - c. Must only use the water for animals, or for irrigation or agriculture purposes.
- 8.4 The User shall be solely liable for and shall indemnify the Company against any actions, claims, damages and proceedings whatsoever arising out of the User's use of the water.

9.0 REVIEW OF WATER CHARGES

- 9.1 The Company shall have the right to alter any of the water charges detailed in the Schedule and upon the following terms:
 - a. The alteration shall occur at no greater frequency than annually, from the commencement of this agreement.

10.0 INTREPRETATION

- 10.1 The reference to the "Company" shall include its agents, employees and contractors.
- 10.2 An "irrigable hectare" is the area of Users' land assessed by Directors of the Company or their agent in consultation with the User as being suitable for irrigated horticultural production whether or not actually irrigated or producing and the Directors' decision shall be final.
- 10.3 An "irrigable hectare of water" is 3,000 cubic metres of water / at a maximum flow rate of 24 litres / minute / hectare.
- 10.4 Any reference to the "scheme" includes all headworks, pipes, pumps, weirs, buildings and any other land and equipment owned by the Company.

11.0 ARBITRATION

- 11.1 If any dispute or question or difference whatsoever shall arise between the parties to this agreement or their respective representatives or assigns or between one of the parties hereto and the other relating to these presents or any clause or anything herein hereto and the other relating to these presents or any clause or anything herein contained or the construction hereof as to the duties or liabilities of any of the parties hereto then and in every such case the matter in difference shall first be referred to mediation.

- 11.2 If:
- a. Mediation has been requested, but has not been agreed upon within 10 working days of the request; or
 - b. The parties have agreed upon mediation but have been unable within 10 working days of such agreement to agree upon a mediator; or
 - c. No agreement has been reached in mediation and no determination has been issued by the mediator within two months of the request for mediation, or within such further times as the parties may agree; or
 - d. Either party has within the prescribed time rejected the mediator's determination.

then the matter may be referred to a single arbitrator if the parties to such dispute can so agree but shall otherwise be referred to the arbitration of an arbitrator to be appointed by each of the parties to the dispute and an umpire appointed by such arbitrators before they enter into arbitration and the decision of the arbitrators or their umpires shall be final and binding upon the parties to such dispute.

- 11.3 Where a request for mediation is made and exceeded to by the other party then the parties shall endeavor to agree on the mediator and shall submit the matter in dispute to him or her. The mediator shall discuss the matter with the parties and endeavor to resolve it by their agreement. All discussions in mediation shall be without prejudice, and shall not be referred to in any later proceedings. The parties shall bear their own costs in mediation, and shall pay half the costs of the mediator.

- 11.4 The parties may at any stage agree to invite the mediator to give a decision to determine the matter. The mediator's decision shall in such case be binding on both parties unless within 10 working days either party notifies the other in writing that it rejects the mediator's determination.

12.0 EXECUTION

- 12.1 The parties acknowledge that this agreement may be executed on the basis of an exchange of electronic copies and confirm that their respective execution of this agreement by such means shall be a valid and sufficient execution.

- 12.2 This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.