



- 1.11 Money in this account does not earn interest and is not held on trust for any Buyer or Seller or any other person. MIL reserves the right to change its practice for the depositing of money paid to it under these Exchange Terms and Conditions at any time without notice.
- 1.12 Payment in full for Tradeable Rights purchased by placement of a Phone Order (including applicable fees) must be received by MIL no later than the next Business Day after the Phone Order is placed. If payment is not received by MIL on time, MIL may take action including debiting a volume of Tradeable Rights from the Buyer's Water Allocation Account or Water Exchange Account, or banning the Buyer from the Water Exchange for a period of time determined by MIL.
- 1.13 Monitoring Bids and Offers listed on the Water Exchange is the responsibility of Buyers and Sellers. MIL will not be liable for any loss suffered by a Buyer or Seller as a result of a Transaction entered into on the Water Exchange.
- 1.14 The price of a Bid may not be altered once the Bid is listed on the Water Exchange. A Bid may be withdrawn and a new Bid listed.
- 1.15 The Water Exchange is staffed from 8:30 am to 5 pm each Business Day.
- 1.16 Buyers and Sellers should obtain their own advice with respect to GST and other tax matters.
- 1.17 MIL's role is solely to operate the Water Exchange and process Transactions. MIL does not provide any information or advice in relation to Transactions and does not affect the price at which Transactions are carried out. No financial products (as defined in the *Corporations Act 2001* (Cth) as at the time of publication of these Exchange Terms and Conditions) are traded on the Water Exchange.

## 2. Listing Offers

- 2.1 To apply to list an Offer on the Water Exchange, a Seller must:
  - (1) correctly complete, sign and submit to MIL:
    - (a) a Form WEX/2, if the Seller is an MIL Seller; or
    - (b) a Form WEX/3, if the Seller is not an MIL Seller;
  - (2) specify the Offer price in whole dollars;
  - (3) if the Seller is an MIL Seller, have available in the Seller's Water Allocation Account at least the volume of Tradeable Rights specified in the Offer; and
  - (4) if the Seller is not an MIL Seller, either:
    - (a) nominate a Water Exchange Account in the name of the Seller which has credited to it at least the volume of Water Allocation specified in the Offer; or
    - (b) satisfy the following conditions:
      - (i) pay as cleared funds any fees in the Schedule of Standard Service Charges applicable to External Annual Transfers plus GST;

- (ii) deliver to MIL an application to State Water for the Minister's approval of a Pre-Offer Transfer, duly signed by the Seller and with the Seller's details completed; and
- (iii) deliver to MIL a notice setting out the Minister's approval of the Pre-Offer Transfer in respect of the Offer, in a form acceptable to MIL.

2.2 MIL must, within one Business Day after a Seller complies with rule 2.1, either:

- (1) list the Offer on the Water Exchange; or
- (2) refuse to list the Offer for any reason and give notice to the Seller of the refusal within a reasonable time;

and the choice made by MIL is made at its absolute discretion.

2.3 When an Offer is listed on the Water Exchange:

- (1) if the Seller is an MIL Seller, MIL must debit the volume of Tradeable Rights specified in the Offer from the Seller's Water Allocation Account and credit that volume of Tradeable Rights to the Seller's Water Exchange Account; and
- (2) if the Seller is not an MIL Seller and has carried out a Pre-Offer Transfer in accordance with rule 2.1(4)(b), MIL must credit the volume of Water Allocation specified in the Offer to the Seller's Water Exchange Account.

2.4 Once listed, a Seller must not transfer or offer for sale any Tradeable Rights in the Seller's Water Exchange Account other than on the Water Exchange.

2.5 MIL may, at its absolute discretion, refuse to make Water Allocation in a Water Exchange Account available for supply under an Entitlements Contract.

2.6 Listed Offers in respect of each type of Tradeable Right are ranked from lowest to highest in accordance with the price specified in the Offer, with earlier Offers ranking lower than later Offers at the same price.

2.7 A Seller may apply to MIL to alter the price specified in an Offer by, and only by, submitting a correctly completed and signed Form WEX/5. An alteration to the price of an Offer takes effect when MIL alters the price of the Offer listed on the Water Exchange, but the price of the Offer remains unaltered until then.

### 3. Listing Bids

3.1 To apply to list a Bid on the Water Exchange, a Buyer must:

- (1) correctly complete, sign and submit to MIL:
  - (a) a Form WEX/4I, if the Buyer is an MIL Buyer; or
  - (b) a Form WEX/4E, if the Buyer is not an MIL Buyer;
- (2) specify the Bid price in whole dollars; and
- (3) pay as cleared funds to MIL's nominated bank account:

- (a) the amount payable for the volume of Tradeable Rights at the price specified in the Bid; and
- (b) all applicable fees set out in the Schedule of Standard Service Charges plus GST, including any fees that may be payable to State Water in relation to the transfer of Water Allocation to the Buyer.

3.2 MIL must, within one Business Day after a Buyer complies with rule 3.1, either:

- (1) list the Bid on the Water Exchange; or
- (2) refuse to list the Bid for any reason and give notice to the Buyer of the refusal within a reasonable time;

and the choice made by MIL is made at its absolute discretion.

3.3 Listed Bids in respect of each type of Tradeable Right are ranked from highest to lowest in accordance with the price specified in the Bid, with earlier Bids ranking higher than later Bids at the same price.

3.4 A Buyer may not alter the price specified in a Bid.

## 4. **Matching Bids and Offers**

4.1 Bids and Offers are matched as follows:

- (1) the highest-ranked Bid in respect of a type of Tradeable Right is paired with the lowest-ranked Offer in respect of the relevant type of Tradeable Right so that either the Bid or the Offer is fully satisfied;
- (2) a new ranking of Bids and Offers is established after deducting the volume of Tradeable Rights paired under paragraph (1), with the remainder of a partly satisfied Bid or Offer being ranked as a new Bid or Offer made at the time of the original Bid or Offer;
- (3) the processes set out in paragraphs (1) and (2) are repeated until the highest-ranked Bid price is below the lowest-ranked Offer price;
- (4) where the highest-ranked Bid and lowest-ranked Offer prices respectively do not match or overlap, such Bids and Offers will not participate in the process outlined in paragraph (3); and
- (5) any Bids or Offers which have not been matched at the completion of the process described in paragraph (3) will remain listed until removed or withdrawn in accordance with rule 12 or rule 13.

4.2 Upon matching of a Bid and an Offer, a binding contract is formed between the Buyer and Seller whose Bid and Offer are matched for the sale and purchase of Tradeable Rights at the price and volume matched and subject to these Exchange Terms and Conditions.





## 10. **Water Exchange Accounts**

- 10.1 MIL will establish a Water Exchange Account for a Seller that is not an MIL Seller if MIL accepts an application by the Seller to list an Offer on the Water Exchange.
- 10.2 MIL will establish a Water Exchange Account for a Buyer that is not an MIL Buyer if:
- (1) MIL accepts an application by the Buyer to list a Bid on the Water Exchange; or
  - (2) the Buyer places a Phone Order.
- 10.3 If a Buyer has Water Allocation credited to its Water Exchange Account, the Buyer may:
- (1) nominate the Water Exchange Account under rule 2.1(4)(a) when applying to list an Offer on the Water Exchange;
  - (2) apply for an External Transfer of the Water Allocation; or
  - (3) apply for an Internal Annual Transfer of the Water Allocation in the Buyer's Water Exchange Account to a Water Allocation Account nominated by the Buyer.
- 10.4 All External Transfers are subject to:
- (1) MIL receiving from the transferor an application to State Water for the Minister's approval of an External Transfer to the transferee of the Water Allocation to be transferred, duly signed by the transferee and with the transferee's details completed;
  - (2) MIL receiving from State Water notice of the Minister's approval of the External Transfer in a form acceptable to MIL; and
  - (3) payment of all applicable fees set out in the Schedule of Standard Service Charges plus GST.

## 11. **Payments by Buyers and Sellers**

- 11.1 All payments made by Buyers and Sellers must be made using one of the methods set out in Schedule 1.

## 12. **Closure of a Water Exchange Year**

- 12.1 At the time notified on MIL's web site for closure of the Water Exchange on the last Business Day of a Water Exchange Year:
- (1) MIL must remove all Bids and Offers from the Water Exchange;
  - (2) if a Seller is an MIL Seller, MIL must debit any Tradeable Rights in the Seller's Water Exchange Account and credit that volume of Tradeable Rights to the Seller's Water Allocation Account; and
  - (3) if a Seller is not an MIL Seller, MIL must carry out an External Transfer to the Seller of the Water Allocation in the Seller's Water Exchange Account, subject to MIL receiving from State Water a notice setting out the Minister's approval of the External Transfer, in a form acceptable to MIL.

- 12.2 Within 10 Business Days, MIL must pay to each Seller whose Offer is removed from the Water Exchange under rule 12.1(1) an amount equal to:
- (1) the amount held by MIL in respect of Tradeable Rights sold by the Seller in Transactions; less
  - (2) all applicable fees set out in the Schedule of Standard Service Charges plus GST; less
  - (3) any outstanding debt owed by the Seller to MIL, by way of set-off.
- 12.3 Within 10 Business Days, MIL must pay to each Buyer whose Bid is removed from the Water Exchange under rule 12.1(1) an amount equal to:
- (1) the amount paid by the Buyer to MIL in respect of the Bid; less
  - (2) if applicable, an amount to account for a Transaction where the Bid was partly satisfied; less
  - (3) all applicable fees set out in the Schedule of Standard Service Charges plus GST; less
  - (4) any outstanding debt owed by the Buyer to MIL, by way of set-off.
- 12.4 If the Minister does not approve an External Transfer required to be carried out under rule 12.1(3), the Seller must elect either to:
- (1) nominate a different WAL for the External Transfer, and rule 12.1(3) applies; or
  - (2) apply for an Internal Annual Transfer of the Water Allocation in the Seller's Water Exchange Account to a Water Allocation Account nominated by the Seller.
- 12.5 All Tradeable Rights in a Seller's or Buyer's Water Exchange Account at the end of the last Business Day of a Water Exchange Year will be cancelled and taken to have been forfeited by the Seller or Buyer. MIL is not liable to compensate anyone in respect of cancelled Tradeable Rights.
13. **Removal and withdrawal of Bids and Offers**
- 13.1 A Seller may apply to withdraw an Offer at any time by, and only by, submitting a correctly completed and signed Form WEX/6.
- 13.2 MIL must, if an MIL Seller submits a correctly completed and signed Form WEX/6 in respect of an Offer:
- (1) remove the Offer from listing on the Water Exchange by the end of the next Business Day;
  - (2) within 10 Business Days, pay to the Seller the amount equal to:
    - (a) any amounts paid for a Transaction in respect of the Offer; less
    - (b) all applicable fees set out in the Schedule of Standard Service Charges plus GST; less
    - (c) any outstanding debt owed by the Seller to MIL, by way of set-off; and









- (19) **Schedule of Standard Service Charges**, means the fees and charges listed in the schedule available on MIL's web site at [www.murrayirrigation.com.au](http://www.murrayirrigation.com.au) under > Water Exchange > Charges, as amended from time to time;
- (20) **Seller** means a party who has an obligation to transfer Tradeable Rights under the terms of a Transaction;
- (21) **State Water** means State Water Corporation;
- (22) **Tradeable Rights** means:
- (a) Water Allocation; or
  - (b) Carryover Units; or
  - (c) Annual Transfers of Delivery Entitlements;
- (23) **Transaction** means the sale and purchase of Tradeable Rights in accordance with these Exchange Terms and Conditions;
- (24) **WAL Allocation** means the water to which the holder of a WAL is entitled from time to time under the WAL, as recorded in the water allocation account for the WAL;
- (25) **Water Allocation** means:
- (a) the volume of water recorded in a Water Exchange Account; or
  - (b) Water Allocation as defined in the Entitlements Contract;
- as the context requires;
- (26) **Water Exchange** means the market for the sale and purchase of Tradeable Rights conducted by MIL in accordance with these Exchange Terms and Conditions;
- (27) **Water Exchange Account** means:
- (a) in relation to a Buyer, an account maintained by MIL in the name of the Buyer which records the volume of Tradeable Rights for which the Buyer has made payment following matching of a Bid and an Offer under rule 4 or a Phone Order; and
  - (b) in relation to a Seller, an account maintained by MIL in the name of the Seller which records the volume of Tradeable Rights available to be sold on the Water Exchange;
- (28) **Water Exchange IVR** means the interactive voice response system which may be used by calling the telephone number listed on MIL's web site; and
- (29) **Water Exchange Year** means the dates between which the Water Exchange is open as advertised on MIL's web site from time to time.

22.2 Words and expressions defined in the Entitlements Contract or the Transfer Rules Policy have the same meaning in these Exchange Terms and Conditions unless otherwise defined in these Exchange Terms and Conditions or the contrary intention appears.

- 22.3 The interpretation of these Exchange Terms and Conditions is a function of MIL to the intent that it will have the sole responsibility for determining the meaning of any word, phrase or expression and the proper application of any particular rule from time to time as may be required.
- 22.4 Reference to:
- (1) one gender includes the others;
  - (2) the singular includes the plural and the plural includes the singular;
  - (3) a person includes a body corporate;
  - (4) a party includes the party's executors, administrators, successors and permitted assigns;
  - (5) a thing includes the whole and each part of it separately;
  - (6) a statute, regulation, code or other law or a provision of any of them includes:
    - (a) any amendment or replacement of it; and
    - (b) another regulation or other statutory instrument made under it, or made under it as amended or replaced;
  - (7) dollars means Australian dollars unless otherwise stated; and
  - (8) time is to the time in Deniliquin, New South Wales.
- 22.5 "Including" and similar expressions are not words of limitation.
- 22.6 The word "volume", when used in respect of Carryover Units, includes "number".
- 22.7 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 22.8 Headings and any table of contents or index are for convenience only and do not form part of these Exchange Terms and Conditions or affect their interpretation.
- 22.9 A provision of these Exchange Terms and Conditions must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Exchange Terms and Conditions.
- 22.10 If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- 22.11 **Parties**
- (1) If a party consists of more than one person, these Exchange Terms and Conditions bind each of them separately and any two or more of them jointly.
  - (2) An obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly.
  - (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

## Schedule 1 – Payment methods

- 1.1 **Cheque:** Must be received by MIL at any of its offices or the PO Box listed on MIL's web site before 5 pm on the due date for payment.
- 1.2 **B-Pay:** The payer must have facsimile access so that a B-Pay invoice can be faxed by MIL. Payment must be received by MIL before 5 pm on the due date for payment and must be made on the previous Business Day to ensure it is received by MIL on time. The payer must fax or otherwise communicate to MIL a copy of the payment confirmation.
- 1.3 **Direct Deposit:** Payment must be received by MIL before 5 pm on the due date for payment and must be made on the previous Business Day to ensure it is received by MIL on time. The payer must fax or otherwise communicate to MIL a copy of the payment confirmation. MIL nominates the following bank account:

Commonwealth Bank of Australia  
BSB No. 062 533  
Account No. 10179312 - Murray Irrigation Limited

- 1.4 **Credit Card:** The payer must contact MIL's Finance department before 5 pm on the due date for payment and quote the details of the credit card to be used.