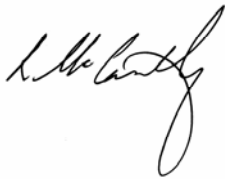


Standard Supply Contract Pioneer River Water Supply Scheme (No. 1)

Water Act 2000

Section 122A – Chief Executive may approve standard supply contracts

I, Robert Michael McCarthy, chief executive of the Department of Natural Resources and Mines, approve the following standard supply contract for the storage and delivery by resource operations licence holders of water under water allocations, excluding water allocations for distribution loss, and distributed by a distribution operations licence holder in the Pioneer River Water Supply Scheme.



Robert Michael McCarthy
Chief Executive

15 June 2005

Table of Contents

1	Release of Water	1
2	Overall Statutory Framework for Services	1
3	The ROL Holder’s Obligations	2
4	Customer’s Obligations	2
5	Separate Agreements	3
6	ROL Holder Water Charges and Other Charges Payable under this Agreement	4
	6.1 Payment of Charges	4
	6.2 Acceptance of Payment of Charges	4
	6.3 Invoicing	4
	6.4 Calculation and Payment of ROL Holder Water Charges	4
	6.5 Re-invoicing after Errors	4
	6.6 Payment	5
	6.7 Interest on Arrears	5
	6.8 Obligations where Another Person has Diverted on Behalf of the Customer	5
	6.9 Charges in Arrears	5
7	Term	5
	7.1 Initial Term	5
	7.2 Changes to Contract Conditions	5
	7.3 Notice of New Terms	6
	7.4 Customer’s Response to New Terms	6
	7.5 Failure to hold Water Entitlement	6
8	The ROL Holder Rules and Charges	6
	8.1 The ROL Holder Rules	6
	8.2 The ROL Holder Water Charges	6
	8.3 Process to make or amend the Consumption or Fixed Charges	7
	8.4 Index Review of the Consumption and Fixed Charges	7
9	Customer Obligations – The ROL Holder Works	7
	9.1 Customer not to Damage	7
10	Non-release Authorisations	7
	10.1 Suspension or Restriction of Releases	7
	10.2 Direction Not to Take Water	8
	10.3 If Customer does Not Comply with Direction Not to Take Water	8
11	Water Quality	8
	11.1 No Warranty by the ROL Holder	8
	11.2 Customer to Test	9
	11.3 Customer to Indemnify	9
	11.4 Release by Customer	9
12	Assignment/Subcontracting by the ROL Holder	9
	12.1 Assignment by the ROL Holder	9
	12.2 The ROL Holder may Subcontract	9
13	Amendment, Transfer, Lease or Addition to Customer’s Allocation	9
	13.1 Notice of Application	9
	13.2 Effect of Approval	10
	13.3 Amendment, Transfer, Lease, Dealing With, Change, or Additional Contract Outside the Water Supply Scheme	10
	13.4 The ROL Holder’s Duty Unaffected	10
	13.5 Further or Amended Supply Agreement	10
14	Power of Sale	11
	14.1 Charge of Allocation	11
	14.2 Exercise of Statutory Power	11
	14.3 Further Powers	11
	14.4 Manner of Dealing	11
	14.5 Application of Sale Proceeds	11
	14.6 Power of Attorney	11
15	Substantial Destruction or Damage to the ROL Holder Works	12
16	Limitation of Liability and Release	13
	16.1 Extent of Liability for Losses	13

16.2	Customer has Remedies under the Act	13
16.3	Releases by Customer	13
16.4	Indemnity by Customer	14
17	Default and Termination	14
17.1	Termination	14
17.2	Payment on Termination for Breach by Customer	14
17.3	Termination Amount	14
18	Security	14
18.1	Request for Security	14
18.2	Provision of Security	14
18.3	Form of Security	15
18.4	No Services without Security	15
18.5	Release of Security	15
19	Dispute Resolution	15
19.1	Activation	15
19.2	Appointment of representative	15
19.3	Discussions	15
19.4	Negotiation of procedures	15
19.5	Methods of resolution	16
19.6	Exchange of information	16
19.7	Termination	16
20	Native Title	16
20.1	Existence of Native Title	16
21	GST	16
22	Miscellaneous	17
22.1	Obligations for the Benefit of Third Parties	17
22.2	Notices	17
22.3	Entire Agreement	17
22.4	Amendment	17
22.5	No Waiver	17
22.6	Stamp Duty and Costs	17
22.7	Further Assurances	18
22.8	Details from Register	18
22.9	Costs of Approval	18
22.10	Allocation of Payments	18
23	Definitions/Interpretation	18
23.1	Definitions	18
23.2	Interpretation	23

Background

This is the standard supply contract approved by the chief executive under section 122A of the *Water Act 2000*, for the storage and delivery by a resource operations licence holder of water under a water allocation, excluding a water allocation for distribution loss, and distributed by a distribution operations licence holder, in the Pioneer River Water Supply Scheme.

Application of Contract

This contract applies to the holder of:

- (a) a water allocation, excluding a water allocation for distribution loss, granted under the Pioneer Valley Resource Operations Plan and for which no supply contract otherwise exists between the holder of the Resource Operations Licence and the holder of the water allocation on the day the water allocation is recorded on the Water Allocations Register;
- (b) the Resource Operations Licence under which the water allocation is managed.

Standard Conditions

1 Release of Water

The Resource Operations Licence (ROL) Holder must release water from the ROL Holder Works, as the ROL Holder reasonably estimates will satisfy the likely demand of the Customer from time to time. The Customer accepts that the release of water by the ROL Holder is subject to:

- (a) the Resource Operations Licence;
- (b) the Distribution Operations Licence;
- (c) the Customer's Allocation;
- (d) the ROL Holder's estimate of the likely demand of other customers within the Water Supply Scheme;
- (e) the availability of water from the ROL Holder Works;
- (f) the capacity (including capability) of the ROL Holder Works;
- (g) the capacity (including capability) of the DOL Holder Works;
- (h) the provisions of the Act; and
- (i) this Agreement.

2 Overall Statutory Framework for Services

In the performance of this Agreement, the ROL Holder and the Customer acknowledge that, under the Act, each party is required to comply with:

- (a) the Act;
- (b) the Water Resource Plan;
- (c) the Resource Operations Plan;
- (d) the critical water sharing rules, if any;
- (e) the drought management plan, if any;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (f) the Resource Operations Licence;
- (g) the Distribution Operations Licence; and
- (h) the Strategic Asset Management Plan.

3 The ROL Holder's Obligations

- (a) The ROL Holder shall release water within the Water Supply Scheme;
- (b) The ROL Holder shall permit the holder of the Distribution Operations Licence to divert water to the Distribution Network;
- (c) Where consultation is required under this Agreement, the ROL Holder shall:
- (d) consult fairly and reasonably with the Customer or any entity representing customers of the ROL Holder within the Water Supply Scheme; and
- (e) allow the Customer a reasonable opportunity to participate in any such consultation;
- (f) The ROL Holder shall, at approximately annual intervals, during this Agreement publish a report comparing the performance of the ROL Holder with the Service Targets;
- (g) The ROL Holder shall publish Service Targets and revise these from time to time after considering changes in customer needs determined through customer consultation, and changes in industry practice and procedures;
- (h) The ROL Holder is not obliged to release water to enable the Customer to take water during a Stream Flow Period.

4 Customer's Obligations

The Customer:

- (a) may take only the water the Customer is entitled to take under the Customer's Allocation;
- (b) in taking water, must comply with:
 - (i) this Agreement;
 - (ii) each State Direction; and
 - (iii) the ROL Holder Rules.
- (c) must pay Charges;
- (d) must not, by any act or omission, cause the ROL Holder to breach the Resources Operation Licence or cause a breach of the Distribution Operations Licence;
- (e) must not take more than the Customer's Maximum Delivery Volume, except as allowed by this Agreement or as a Statutory Right;
- (f) must not take water until approval is granted and, if required, registration of the Customer as the holder of the Customer's Allocation;
- (g) where a system for the ordering of water is in place under the ROL Holder Rules:
 - (i) must take water only to the extent the Customer has complied with the ordering system;
 - (ii) must not take water at a rate or volume greater than the amount ordered;
 - (iii) must take reasonable measures to take all water that has been ordered by the Customer, unless
 - (A) it is unreasonable for the Customer to take the water;
 - (B) the Customer was unable to take the water due to an Event of Force Majeure; or

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (C) in the Customer's reasonable opinion, the water was not of a suitable quality for the Customer's usual purpose; or
 - (D) provided for under the ROL Holder Rules.
- (iv) agrees that all water ordered will be accounted for under the water sharing rules administered under the Resource Operations Licence, that is:
 - (A) where the water sharing rules contain capacity sharing arrangements or provide for water accounting at the ROL Holder Works, water orders by the Customer will be used to determine water available to the Customer; or
 - (B) where water sharing rules do not provide for water accounting at the ROL Holder Works, water meter readings will be used to determine water available to the Customer;
- (h) bears the risks of:
 - (i) destruction of or damage to the works the Customer takes water under the Customer's Allocation or the Distribution Network from an Event of Force Majeure or resulting from the ROL Holder's releasing water, under this or any other agreement or the Resource Operations Licence or resulting from the diversion of water into the Distribution Network by the holder of the Distribution Operations Licence;
 - (ii) Supply Water Losses;
 - (iii) the exercise of a Statutory Right, for example, a water permit issued by the Regulator; and
 - (iv) any action taken under a State Direction;
- (i) during the Term must procure and maintain in full force and effect and comply with the terms of:
 - (i) the Customer's Water Entitlement;
 - (ii) the Customer's Development Permit;
 - (iii) Customer's Allocation, if any
- (j) authorises the holder of the Distribution Operations Licence to order on behalf of the Customer a release of water under this Agreement; and
- (k) acknowledges that the ROL Holder is not responsible for the works through which the Customer takes water under the Customer's Allocation or the DOL Holder Works.

5 Separate Agreements

Where the Customer and the ROL Holder have made an agreement, whether before or after the making of this Agreement, in addition to this Agreement, which relates to water within the Water Supply Scheme, then:

- (a) default by the Customer under any such agreement constitutes default by the Customer under each such agreement;
- (b) amounts owing by the ROL Holder under one agreement may be set off against amounts owing by the Customer under every other agreement;
- (c) any security provided in connection with an agreement may be used by the ROL Holder as if given as security for obligations under all agreements and for all debts due by the Customer to the ROL Holder;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (d) a failure to pay any debt due by the Customer to the ROL Holder when due, is a default under each such agreement.

6 ROL Holder Water Charges and Other Charges Payable under this Agreement

6.1 Payment of Charges

- (a) The Customer must pay Charges to the DOL Holder.
- (b) The ROL Holder will include any amount of the Charges payable by the Customer in an invoice of the DOL Holder and this Agreement will apply to any such amount as if it had been in a ROL Holder invoice.
- (c) To remove any doubt, the Customer's obligation to pay any charges under this Agreement is to the ROL Holder only and not to the DOL Holder but the obligation to pay any Charges may be satisfied by payment to the DOL Holder

6.2 Acceptance of Payment of Charges

- (a) The Customer authorises the DOL Holder to pay Charges to the ROL Holder.
- (b) The ROL Holder will accept payment from the DOL Holder of any amount payable by the Customer under this Agreement as payment from the Customer or evidence of payment by the Customer to the DOL Holder as payment from the Customer.

6.3 Invoicing

The ROL Holder may, unless otherwise required by Law, give to the DOL Holder details of any amount of Charges payable by the Customer and will give details of ROL Holder Water Charges at approximately quarterly intervals or as published in the ROL Holder Rules.

6.4 Calculation and Payment of ROL Holder Water Charges

- (a) Fixed Charges shall be calculated and payable in advance for the relevant period in which the invoice is rendered.
- (b) Consumption Charges shall be rendered in arrears no more frequently than quarterly.
- (c) For the purposes of calculating Consumption Charges, the volume of water taken by the Customer includes water taken under a Customer's Allocation during a Stream Flow Period. For these purposes the ROL Holder is entitled to rely on meter information provided by the DOL Holder.

6.5 Re-invoicing after Errors

If an error is discovered in any invoice, within 2 years from the date of the invoice, the ROL Holder may give the DOL Holder, details of an amount for the Charges payable by the Customer reflecting the error. If the error is such that the ROL Holder is to reimburse the Customer, reimbursement may be effected by carrying the reimbursable amount forward to be set off against amounts payable on the next invoice or by refunding the reimbursable amount on request by the Customer. Such a request may be made by telephone or in writing to the ROL Holder.

If the error is such that the Customer is obliged to pay the ROL Holder an additional amount, then the ROL Holder will include that amount in an invoice of the DOL Holder.

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

6.6 Payment

The Customer must pay all Charges included in DOL Holder invoices within 30 days after the date of the invoice.

Where the Customer has notified the DOL Holder of a dispute about the invoice under clause 19, the Customer must pay to the DOL Holder the undisputed amount in accordance with this clause. Once the dispute is resolved, the agreed amount outstanding must be paid within 30 days.

6.7 Interest on Arrears

Any amounts charged to the ROL Holder under clause 14.1 if not paid by the Customer when due, will accrue interest at either the rate applicable to such amount under any agreement between the Customer and the ROL Holder or otherwise at the Overdue Rate, calculated on a daily basis and compounded at the end of each calendar month, from the due date for payment up to and including the date the unpaid amount is paid. The ROL Holder may include interest payable under this clause in a subsequent DOL Holder invoice to the Customer.

6.8 Obligations where Another Person has Diverted on Behalf of the Customer

Where:

- (a) another person diverts water on behalf of the Customer; and
- (b) in taking the water from that other person, the Customer has taken more water than:
 - (i) the Customer was entitled to take from that person; or
 - (ii) was ordered from that person;

then,

- (c) the Customer will pay the Consumption Charge, calculated on the volume of water that would have been diverted to allow the water to be taken or ordered; and
- (d) the Customer will be deemed to be in breach of clause 4(d).

6.9 Charges in Arrears

If the Customer is in arrears for payments for Charges, the ROL Holder may give details in an invoice of the DOL Holder:

7 Term

7.1 Initial Term

This Agreement commences on the Commencement Date and continues unless terminated under its provisions.

7.2 Changes to Contract Conditions

The Customer acknowledges that some provisions of this Agreement may be rendered inappropriate over time and accept that the ROL Holder may initiate consultation with the Customer, or if the Customer elects the DOL Holder or any group representing customers within the Water Supply Scheme (if such group exists) with a view to establishing new terms and conditions.

7.3 Notice of New Terms

Where, after consultation with the Customer, the DOL Holder or a group representing customers within the Water Supply Scheme, the ROL Holder has determined new terms and conditions which should apply to the Release Services, the ROL Holder may by written notice given to the Customer 3 months prior to a Review Date, notify the Customer of the new terms and conditions.

7.4 Customer's Response to New Terms

If the Customer, prior to the relevant Review Date, accepts in writing the new terms and conditions, then as and from the relevant Review Date this Agreement shall terminate and the new agreement shall apply.

If the Customer does not accept the new terms and conditions by the relevant Review Date, the ROL Holder may by written notice to the Customer through the DOL Holder, given not later than 3 months after the relevant Review Date, elect to continue to provide Release Services to the Customer on the terms of this Agreement or to terminate this Agreement as and from the date of such notice.

7.5 Failure to hold Water Entitlement

If, on any Review Date, the Customer does not hold a water entitlement, that part of this Agreement that relates to the water entitlement shall automatically terminate as and from such Review Date.

Where the Customer holds an Additional Contract, that part of this Agreement for the supply of water available under the Additional Contract will terminate on the relevant Termination Date for the Additional Contract.

8 The ROL Holder Rules and Charges

8.1 The ROL Holder Rules

The ROL Holder may make and amend the ROL Holder Rules concerning the Water Supply Scheme, including:

- (a) implementing the ROL Holder's rights and obligations as the holder of the Resource Operation Licence; and
- (b) setting out, clarifying or amending the rights and obligations of the ROL Holder and the Customer under this Agreement,

provided that the ROL Holder Rules:

- (c) are not inconsistent with the Resource Operations Licence and this Agreement;
- (d) are not inconsistent with the Strategic Asset Management Plan if any; and
- (e) have been the subject of consultation with the Customer, or if the Customer elects the DOL Holder or any group representing more than one customer within the Water Supply Scheme (if such group exists).

8.2 The ROL Holder Water Charges

The ROL Holder may make or amend:

- (a) the Consumption or Fixed Charges as and from any Review Date as provided in clause 8.3, except where the Charges are Regulated Charges; and

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (b) where the Consumption or Fixed Charges are no longer Regulated Charges, the first Review Date will be the date from which such Consumption or Fixed Charges are not Regulated Charges.

8.3 Process to make or amend the Consumption or Fixed Charges

- (a) During the period commencing 6 months before any Review Date and expiring 6 months after any Review Date the ROL Holder may notify the Customer through the DOL Holder of the amount of the Consumption Charges and/or the Fixed Charges as and from the relevant Review Date;
- (b) In determining such Charges the ROL Holder shall:
 - (i) act reasonably; and
 - (ii) have regard to the criteria which would be taken into account under any statutory regime for prices oversight from time to time applying in Queensland;
- (c) The ROL Holder's determination of such Charges, shall be final and binding on the parties unless the same is manifestly unreasonable having regard to the criteria which would be taken into account under any statutory regime for prices oversight from time to time applying in Queensland.

8.4 Index Review of the Consumption and Fixed Charges

Where the relevant Charges are not Regulated Charges, as and from each 1 July which is not a Review Date, the Consumption Charges and the Fixed Charges shall be increased by the proportion by which the Index Number last published for the period immediately prior to the relevant 1 April has increased, over the Index Number published for the relevant period immediately prior to the preceding 1 April.

9 Customer Obligations – The ROL Holder Works

9.1 Customer not to Damage

The Customer shall not damage or by any act or omission permit damage to the ROL Holder Works.

10 Non-release Authorisations

10.1 Suspension or Restriction of Releases

The ROL Holder may suspend or restrict releases of water from the ROL Holder Works:

- (a) during maintenance or replacement of
 - (i) the ROL Holder Works; or
 - (ii) the DOL Holder Works;
- (b) where the ROL Holder or the holder of a Distribution Operations Licence in the Water Supply Scheme is carrying out works for new water infrastructure;
- (c) where, in the reasonable opinion of the ROL Holder, such release:
 - (i) may cause or contribute to damage to the property, livestock, crops or assets of any person (including the ROL Holder, the Customer or the holder of a Distribution Operations Licence);
 - (ii) may cause or contribute to loss of life or injury to persons;
 - (iii) may cause or contribute to an adverse effect on public health;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (iii) is likely to constitute a breach by the ROL Holder of its obligations under the Resource Operations Licence, any Law or an agreement;
- (iv) would be impractical considering the level of demand, performance of the watercourse (including potential water losses), performance of the Distribution Network and the requirements of other customers within the Water Supply Scheme at the time;
- (d) by reason of an Event of Force Majeure;
- (e) where provided for under the ROL Holder Rules.

10.2 Direction Not to Take Water

- (a) Where the Customer:
 - (i) has committed a material breach of this Agreement;
 - (ii) is in arrears for payments for ROL Holder Water Charges and Other Charges, as advised to the ROL Holder by the DOL Holder, for more than 2 months;
 - (iii) has breached this Agreement and has not reimbursed the ROL Holder for costs incurred by the ROL Holder in rectifying the breach;
 - (iv) has not provided the security required under clause 21;
 - (v) has breached any of clauses 4(a), 4(b), 4(c), 4(d) or 4(e), ,the ROL Holder may direct the Customer through the DOL Holder or any person diverting or taking the Customer's Allocation, not to divert or take water under the Customer's Allocation.
- (b) The direction under this clause must give a reasonable time within which:
 - (i) the Customer may object in writing, to the direction; and
 - (ii) the Customer must take the remedial steps required, with examples of "reasonable times" being:
 - (A) 7 days, for the payment of an outstanding debt; and
 - (B) 14 days, for the provision of security under clause 18.

10.3 If Customer does Not Comply with Direction Not to Take Water

Where the ROL Holder considers, including information provided from the DOL Holder, that the Customer, or a person to whom the direction is given, has not complied with or will not comply with a direction under clause 10.2 , the ROL Holder may take all reasonable steps to ensure that the Customer or other person complies with the direction, including:

- (a) not releasing water under this Agreement;
- (b) stopping the Customer's or other person's taking water by making modifications to the ROL Holder Works;
- (c) requesting the DOL Holder to make modifications to the DOL Holder Works.

11 Water Quality

11.1 No Warranty by the ROL Holder

The ROL Holder makes no representation and gives no warranty:

- (a) about the quality of water within the Water Supply Scheme;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (b) that any actions, measures or steps will be taken by the ROL Holder to prevent any adverse effects on the quality of water in the Water Supply Scheme; or
- (c) that water within the Water Supply Scheme is potable or suitable for any purpose (whether or not it is a purpose to which the ROL Holder knows the Customer may put the water).

11.2 Customer to Test

The Customer shall satisfy itself about the quality of water by testing or other means prior to diverting or taking any water in the Water Supply Scheme.

11.3 Customer to Indemnify

The Customer must indemnify the ROL Holder against each claim, action, proceeding, judgment, damage, loss, expense or liability incurred or suffered by or brought or made or recovered against the ROL Holder:

- (a) in connection with the quality of water within the Water Supply Scheme where an act or omission of the Customer or the holder of a Distribution Operations Licence (whether or not under this Agreement) has affected the quality of such water;
- (b) by any person to whom the Customer has supplied water or who the Customer has allowed to take water.

11.4 Release by Customer

The Customer releases the ROL Holder from all claims, actions, demands, proceedings and liability which it may have or claim to have or but for this release might have had against the ROL Holder connected with the quality of water within the Water Supply Scheme or diverted or taken by or on behalf of the Customer.

12 Assignment/Subcontracting by the ROL Holder

12.1 Assignment by the ROL Holder

The ROL Holder may assign its rights and obligations under this Agreement to any person provided such person:

- (a) is or becomes the holder of the Resource Operations Licence or a new licence issued in lieu; and
- (b) such person enters into a covenant in favour of the Customer to be bound by the provisions of this Agreement.

12.2 The ROL Holder may Subcontract

The ROL Holder may subcontract the performance of any of its obligations under this Agreement, but any subcontracting does not release the ROL Holder from liability for performance of that obligation.

13 Amendment, Transfer, Lease or Addition to Customer's Allocation

13.1 Notice of Application

If the Customer:

- (a) applies to amend, transfer, lease or deal with the Customer's Allocation (being an water allocation) in whole or in part;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (b) applies for a change to the Customer's Allocation (being a water allocation) in whole or in part;
- (c) applies for or enters into a contract to acquire, lease or deal with a water entitlement from the Water Supply Scheme; or
- (d) enters into an Additional Contract;

then the Customer shall give written notice of the application to the DOL Holder and the ROL Holder promptly after the application or Additional Contract is made.

13.2 Effect of Approval

Where the amendment, transfer, lease dealing with or change of the whole or part of the Customer's Allocation or of another water allocation or Additional Contract for the Water Supply Scheme is approved, the ROL Holder shall, subject to:

- (a) the payment of all moneys and debts charged to the ROL Holder under this Agreement;
- (b) the payment of all moneys owed by the Customer to the DOL Holder;
- (c) the ROL Holder and the transferee, assignee, the Customer or counterparty to the Additional Contract entering into a further supply contract or an amendment to that customer's agreement on terms acceptable to the ROL Holder in its absolute discretion;
- (d) the ROL Holder and the Customer entering into either a further supply contract or an amendment to this Agreement on terms acceptable to the ROL Holder in its absolute discretion; and
- (e) where all of the Customer's Allocation has been transferred, the ROL Holder and the Customer entering into a release of this Agreement on terms acceptable to the ROL Holder in its absolute discretion,

give the ROL Holder's consent and where required give notice of the existence of a supply contract to the Registrar when that supply contract is made.

13.3 Amendment, Transfer, Lease, Dealing With, Change, or Additional Contract Outside the Water Supply Scheme

Clauses 13.1 and 13.2 apply only to an amendment, a transfer, a lease, dealing with, change or Additional Contract within the Water Supply Scheme.

13.4 The ROL Holder's Duty Unaffected

Where, under the Act, the ROL Holder is to approve the amendment, transfer, lease, dealing with, change or dealing related to the Additional Contract referred to in this clause, the Customer acknowledges that the ROL Holder is obliged to carry out its responsibility under the Act in accordance with the terms of the Act and any other Law binding on it without regard to this Agreement.

13.5 Further or Amended Supply Agreement

Where the ROL Holder is to approve the amendment, transfer, lease, dealing with, change or dealing related to the Additional Contract then its statutory responsibility is not to affect or impede the exercise of its discretion in relation to making or amending a supply contract.

14 Power of Sale

14.1 Charge of Allocation

The Customer charges to the ROL Holder the Customer's Allocation with the due and punctual payment of:

- (a) all moneys payable under this Agreement;
- (b) all moneys payable under the additional agreements referred to in clause 5;
- (c) all debts (including amounts which become a debt due to the ROL Holder under the Act) from time to time due by the Customer to the ROL Holder;
- (d) the Termination Amount payable by the Customer under clause 17.2.

14.2 Exercise of Statutory Power

Where the Customer is in breach of this Agreement or if the ROL Holder is entitled to terminate this Agreement under clause 17.1, the ROL Holder may, subject to giving notice as required by the Act, and the ROL Holder giving the Customer notice of the breach or the existence of the ROL Holder's rights under clause 17.1, sell the Customer's Allocation.

14.3 Further Powers

Where the ROL Holder is entitled to sell the Customer's Allocation, the ROL Holder may also, amend, transfer, lease, deal with, or enter into an Additional Contract the whole or part of the Customer's Allocation.

Where the ROL Holder exercises its power under this clause, then the ROL Holder must use reasonable endeavours to ascertain the amount of the Customer's Allocation that is required to be dealt with to recover the moneys due to the ROL Holder.

14.4 Manner of Dealing

Without limitation, any Dealing by Attorney may be made:

- (a) by public auction, private treaty or tender;
- (b) for cash or on credit;
- (d) in one lot or in parcels;
- (e) either with or without special conditions or stipulations as to title or time or mode of payment of purchase moneys or otherwise;
- (f) with power to allow the whole or any part of the purchase moneys to be deferred with or without any security; and
- (g) whether or not in conjunction with the sale of any property by any person.

14.5 Application of Sale Proceeds

Any amounts received from the Dealing by Attorney shall be applied in the way required by the Act.

14.6 Power of Attorney

- (a) For valuable consideration and by way of security the Customer irrevocably appoints the Chief Executive Officer of the ROL Holder its attorney to:
 - (i) do anything which the Customer is obliged to do under or in relation to this Agreement but has failed to do so;

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (ii) do anything which the Customer is entitled to do under the Act in relation to the Customer's Allocation; or
 - (iii) amend, transfer sell, lease, deal with or enter into an Additional Contract concerning the Customer's Allocation and do and execute all acts, deeds, documents and things as shall be necessary to give effect to such amendment, change, sale, lease or Additional Contract.
- (b) Without limitation, the Attorney may at any time:
- (i) do anything which in the opinion of the ROL Holder or Attorney is necessary or expedient to secure, preserve, perfect or give effect to the security contained in this Agreement and for this purpose without limitation may execute any application, transfer, lease and other assurance of any of the Customer's Allocation in favour of any purchaser, assignee, lessee or any nominee; and
 - (ii) delegate his powers (including delegation).
- (c) No Attorney may act under this clause:
- (i) unless notice required by clause 14.2 has been given; or
 - (ii) inconsistently with this Agreement.
- (d) To the extent permitted by Law, no Attorney will be liable:
- (i) for any conduct or delay in the exercise or non-exercise of any power;
 - (ii) for any loss (including consequential loss) which results; or
 - (iii) for negligence of the Attorney, where the sale has been made after a public process (eg: auction, tender, public notification of sale),
- except where the liability arises from the fraud or wilful misconduct of the Attorney.
- Nothing in this Agreement limits the Customer's ability to obtain advice or engage another person to act on the Customer's behalf.
- (e) No party to any sale, transfer, or lease or Additional Contract and no person asked to register a Dealing by Attorney is bound to enquire:
- (i) whether the Customer has breached this Agreement or whether this Agreement has become enforceable;
 - (ii) whether a person who is, or purports or is purported to be, an Attorney is duly appointed;
 - (iii) as to the amount of any moneys and whether such moneys are due and payable; or
 - (iv) in any other way as to the propriety or regularity of the Dealing by Attorney.

15 Substantial Destruction or Damage to the ROL Holder Works

This Agreement shall terminate where in the ROL Holder's reasonable opinion, the ROL Holder is no longer able to control the level of water in or the rate of release from the relevant water infrastructure because the ROL Holder Works are substantially destroyed or damaged.

As soon as is reasonably practicable after the ROL Holder has formed the opinion, the ROL Holder shall notify the Customer through the DOL Holder and this Agreement shall terminate from the date stated by the ROL Holder in that notice to the Customer.

16 Limitation of Liability and Release

16.1 Extent of Liability for Losses

To the extent permitted by Law, the ROL Holder shall not be liable to the Customer under or in connection with this Agreement for any claims, actions, proceedings, judgments, cost, expense, loss, damage or liability incurred or suffered by the Customer or by anyone claiming through the Customer for:

- (a) any breach of this Agreement by the ROL Holder;
- (b) any error in the data, assumptions or methodology for a standard, plan or licence issued by a Regulator; or
- (c) complying with a State Direction.

16.2 Customer has Remedies under the Act

The ROL Holder and the Customer acknowledge and agree that clause 16.1 is not intended to limit or affect action which the Customer may take against the ROL Holder under the Act or for the wilfully negligent acts of the ROL Holder.

16.3 Releases by Customer

The Customer releases the ROL Holder from all claims, actions, demands, proceedings and liability which it may have or claim to have or but for this release might have had against the ROL Holder connected with:

- (a) death or personal injury, damage to the works the Customer takes water under the Customer's Allocation, other property, livestock, crops or assets as a consequence of any action by the ROL Holder, including for example, the storing or releasing of water where such action is necessary for the ROL Holder to comply with the requirements of any Law binding on it;
- (b) death or personal injury, damage to the works the Customer takes water under the Customer's Allocation other property, livestock, crops or assets as a consequence of actions of the ROL Holder in remedying a breach of this Agreement by the Customer or a breach of an agreement for the delivery of water which the ROL Holder has with another customer in the Water Supply Scheme for example, in the removal of unauthorised connections or outlets;
- (c) alterations to storage levels or stream and bank conditions however caused including, for example, as a consequence of releases of water by the ROL Holder causing the movement of water weeds to clog pumps, the washing away of pumping pools, slumping of riverbanks, and the impact of sudden losses or fluctuations of flow;
- (d) death or personal injury, damage to the works the Customer takes water under the Customer's Allocation, other property, livestock, crops or assets as a consequence of flooding or inundation caused by overflows from the Distribution Network or the Distribution Network acting as a barrier and as a consequence of circumstances referred to in paragraphs (a), (e), (f) and (h) of the definition of event of force majeure;
- (e) alterations to the Distribution Network or conditions within the Distribution Network however caused including for example the movement of water weeds to clog pumps and the impact of sudden losses or fluctuations of flow or pressure surges within the Distribution Network;
- (f) the circumstances in which the Customer bears the risk as stated in clause 4(h).

16.4 Indemnity by Customer

The Customer must indemnify the ROL Holder against each claim, action, proceeding, judgment, damage, loss, expense or liability incurred or suffered by or brought or made or recovered against the ROL Holder arising out of the circumstances in which the Customer releases the ROL Holder under clause 16.3.

17 Default and Termination

17.1 Termination

The ROL Holder may terminate this Agreement, without affecting the ROL Holder's accrued rights, by giving a notice to the Customer, and a copy to the DOL Holder, of the ROL Holder's intention to terminate on any of the following grounds:

- (a) the Customer (being a natural person) has become a bankrupt;
- (b) the Customer (being a corporation) becomes Insolvent; or
- (c) the Customer breaches a provision of this Agreement and has not remedied that breach within a reasonable period, having regard to the nature of the breach, after service of notice of the breach from the ROL Holder of its intention to terminate.

17.2 Payment on Termination for Breach by Customer

Where this Agreement is terminated as a consequence of a breach, by the Customer, the Customer shall pay to the ROL Holder the Termination Amount. However, nothing in this clause shall limit any other rights of the ROL Holder under this Agreement or otherwise against the Customer in relation to any such breach.

17.3 Termination Amount

The Customer acknowledges that the Termination Amount is intended to represent a reasonable assessment of the loss of future profit, increased average operating costs, proportionate share of ongoing fixed costs and decommissioning costs likely to be incurred by the ROL Holder for the ROL Holder Works having regard to the quantities of water supplied and the persons supplied from the ROL Holder Works. The ROL Holder reserves the right to undertake a formal assessment of the Termination Amount, at the cost of the Customer.

18 Security

18.1 Request for Security

The ROL Holder may request the provision of security if:

- (a) the Customer commits a breach nominated in either of clause 10.2 (a)(i), (ii), (iii), or (v) of this Agreement, whether the ROL Holder has given a direction or not; or
- (b) the ROL Holder is not reasonably satisfied as to the financial capacity of the Customer to comply with its obligations under this Agreement.

18.2 Provision of Security

The Customer must provide, promptly after a request in writing by the ROL Holder, a security of an amount equal to one quarter of the Water Charges invoiced for the previous Water Year until the later of:

- (a) termination of this Agreement (for whatever reason); and

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (b) payment of all moneys owing (whether or not then due or owing contingently or prospectively) by the Customer under this Agreement.

18.3 Form of Security

The security may take the form of an on demand guarantee on terms and from a financial institution reasonably acceptable to the ROL Holder.

18.4 No Services without Security

The ROL Holder is not obliged to provide any services under this Agreement until:

- (a) the security is provided to the ROL Holder; and
- (b) thereafter, if the ROL Holder uses the security to pay amounts owing by the Customer under this Agreement, until the Customer has provided further security so that the total security is for an amount not less than the amount calculated under clause 18.2.

18.5 Release of Security

Upon the later of termination of this Agreement and the payment of all moneys owing (whether or not then due or owing contingently or prospectively) the ROL Holder shall release the security to the Customer.

19 Dispute Resolution

19.1 Activation

- (a) The objective of clause 18 is to provide an effective and equitable process for the resolution of disputes and to encourage the participants to discuss and resolve the matter.
- (b) If a dispute arises under this Agreement (apart from a dispute in relation to Charges set under clause 8.3 or clause 8.4, or a dispute which arises either prior to the exercise of rights of termination in clause 5 of the Terms of the Agreement or in relation to such rights of termination), any party may give written notice to the party with whom the dispute exists. The notice shall designate a representative with the appropriate authority to negotiate the dispute.

19.2 Appointment of representative

Within five business days of receipt of the notice referred to in clause 19.1 the recipient shall designate a representative with similar authority.

19.3 Discussions

The representatives shall promptly discuss the dispute, following whatever investigation each considers appropriate.

19.4 Negotiation of procedures

If the dispute is not resolved as a result of the discussions, either party may request the commencement of negotiations in good faith on a dispute resolution procedure, other than litigation or arbitration.

19.5 Methods of resolution

A party receiving a request under clause 19.4 shall promptly discuss the following and other related subjects with the party making the request:

- (a) the mode of proceeding, whether by negotiation, mediation, conciliation, expert appraisal, expert determination or mini-trial;
- (b) the responsibility for payment of the costs of the mode agreed under subclause (a);
- (c) the procedure and timetable for exchange of documents and other information relating to the dispute;
- (d) procedural rules and a timetable for the conduct of the selected mode of proceeding;
- (e) a procedure for selection and compensation of any neutral adviser, expert or mediator that may be employed by the parties in dispute.

19.6 Exchange of information

The parties acknowledge that the purpose of any exchange of information or the making of any offer of settlement under this clause 18 is to attempt to settle a dispute between the parties.

19.7 Termination

Any party may terminate the dispute resolution procedure provided by this clause 19 at any time and pursue other available remedies.

20 Native Title

20.1 Existence of Native Title

If, under any Law relating to Native Title the commencement or performance of this Agreement is affected by Native Title or any requirement under such Law, then this Agreement and the ROL Holder's obligations under this Agreement are subject to any such requirement.

21 GST

The parties agree that:

- (a) all Payments have been calculated without regard to GST;
- (b) the ROL Holder will comply with its obligations under the Trade Practices Act 1974 when calculating the amount of any Payment and the amount of any relevant Payments will be adjusted accordingly;
- (c) if the whole or any part of any Payment is the consideration for a Taxable Supply for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the GST Amount, either concurrently with that Payment or as otherwise agreed in writing;
- (d) any reference to a cost or expense in this Agreement excludes any amount for GST forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit; and
- (e) the payee will provide to the payer a Tax Invoice if subclause (c) applies.

22 Miscellaneous

22.1 Obligations for the Benefit of Third Parties

The Customer acknowledges that a breach by it of its obligations under this Agreement may adversely affect the interests of other customers within the Water Supply Scheme and agrees, for the benefit of such customers, to comply with all its obligations under this Agreement.

22.2 Notices

Any notice given under this Agreement:

- (a) must be in writing addressed to the intended recipient:
 - (i) for the ROL Holder, at the address of its office, nominated in the ROL Holder Rules or if not nominated, closest to the Water Supply Scheme;
 - (ii) for the Customer at the office of the DOL Holder;
- (b) must be signed by a person duly authorised by the sender;
- (c) for a notice given by the Customer will be taken to have been given when delivered, received or left at the above address;
- (d) in the case of a notice by the ROL Holder forwarded by mail, will be taken to have been given 4 days after posting by the ROL Holder;
- (e) if delivery or receipt occurs on a day when business is not generally carried on in the place to which the notice is sent, or is later than 4pm (local time), it will be taken to have been duly given at the commencement of business on the next day when business is generally carried on in that place.

22.3 Entire Agreement

This Agreement contains the entire agreement of the parties concerning its subject matter namely the Release Services of the ROL Holder to the Customer in relation to the Customer's Maximum Delivery Volume and supersedes all earlier agreements. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties concerning its subject matter.

22.4 Amendment

This Agreement may be amended:

- (b) by another agreement executed by all parties; or
- (c) as reasonably required by the ROL Holder, after consultation, where there has been a change in any Law, the Resource Operations Licence, or the Strategic Asset Management Plan, if any.

22.5 No Waiver

No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

22.6 Stamp Duty and Costs

Each party bears its own costs arising out of the preparation of this Agreement but the Customer will bear any stamp duty (including fines and penalties) chargeable on this Agreement, on any instruments executed under this Agreement, and for a transaction

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

evidenced by this Agreement and shall indemnify the ROL Holder for the amount of such stamp duty and associated costs.

22.7 Further Assurances

Each party must take all steps, execute all documents and do everything reasonably required by the other party to give effect to any provisions of this Agreement.

22.8 Details from Register

Where any details are to be included in the Customer's Schedule then, if not so included, the relevant details shall be deemed to be those appearing for the Customer in the register that records the details of the Customer's Allocation.

22.9 Costs of Approval

Where information or an approval is to be provided by the ROL Holder under this Agreement or by Law, the Customer shall pay to the ROL Holder an administration charge for the information or dealing with the approval:

- (a) as set out in the Regulated Charge;
- and if there is no such Regulated Charge:
- (b) the charge published from time to time in accordance with clause 9.2, if any.

22.10 Allocation of Payments

To the extent permitted by Law, the ROL Holder may apply payments by the Customer towards payment of such moneys, debts and amounts referred to in clause 14.1 as the ROL Holder determines in its absolute discretion.

23 Definitions/Interpretation

23.1 Definitions

Act means the *Water Act 2000*.

Additional Contract means an agreement, other than this Agreement that enables or will enable the Customer to access a volume of water from the Water Supply Scheme.

Allocation means a water allocation, granted under the Resource Operations Plan.

Charges means Water Charges and Other Charges.

Commencement Date means the date on which the Allocation is recorded on the Water Allocations Register.

Consumption Charges means the Charge described by reference to the volume of water ordered by the Customer for supply by the ROL holder and also taken by the Customer during a Stream Flow Period being either:

- (a) the Regulated Charge for the Customer's Allocation if applicable; or
- (b) where the applicable Regulated Charge ceases to apply, the Consumption Charge determined by varying the previous Regulated Charge clause 8.3, or clause 8.4.

Current Holder means the person who is, at the date of this Agreement, the holder of the water entitlement which is the Customer's Allocation or from which the Customer's Allocation is derived.

Customer means the person who is the holder of the Allocation.

Customer's Allocation means:

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (a) the Allocation;
- (b) any amendment to the interest in the water entitlement mentioned in subclause (a) of this definition as amended under clause 15 and includes:
 - (i) any additional water entitlement of the Customer as amended under clause 13 of this Agreement; and
 - (ii) for the term of an Additional Contract, the amount of the water entitlement forming the basis of the Additional Contract as approved or varied under clause 13.

Customer's Development Permit means any development permit required to be held by the Customer for the works the Customer takes water under the Customer's Allocation under the *Integrated Planning Act 1997*.

Customer's Maximum Delivery Volume means the actual volume of water to which the Customer is entitled to, at a specific time, for the Customer's Allocation, under the Water Resources Plan, the Resource Operations Licence and the Act.

Dealing by Attorney includes a water entitlement, any amendment, change, lease, sale or Additional Contract.

Distribution Network means the pipelines, pumps and other infrastructure owned (including water meters) owner/or managed by the DOL Holder for the purpose of diverting and distributing water to the holders of water allocations distributed under the Distribution Operations Licence in the Water Supply Scheme and includes the watercourses used for water distribution relevant to the DOL Holder in accordance with the Resource Operations Plan.

Distribution Operations Licence means the distribution operations licence granted under the Act and the Resource Operation Plan to authorise the distribution of water to the holders of water allocations in the Water Supply Scheme.

Distribution Rules means any rules and guidelines providing an ordering system for water or access conditions for the taking of water concerning the Distribution Network as maybe made from time to time by the Holder of the Distributions Operations Licence.

Event of Force Majeure means any event or circumstance or combination of events or circumstances which is beyond the reasonable control of the party concerned, including without limiting the generality of the foregoing:

- (a) drought, fire, lightning, explosion, flood, earthquake, storm, cyclone, action of the elements, act of God, natural disaster, radioactive contamination, toxic or dangerous contamination or force of nature;
- (b) riots, civil commotion, malicious damage, sabotage, vandalism, act of a public enemy, war (declared or undeclared), blockades or revolution;
- (c) strikes, lockouts, industrial and/or labour disputes and/or difficulties, work bans or picketing;
- (d) order of any court or the order, act or omission or inaction of any government or governmental authority having jurisdiction (including any act or omission required or authorised to be done under any Compulsory Access Regime) or failure to obtain any necessary governmental consent, permit, authorisation, licence, approval or acknowledgment;
- (e) breakdown or failure of any facilities, machinery or equipment (including but not limited to the failure in any equipment which forms part of any pump or the planned or unplanned deflation of fabribags);
- (f) non-availability of essential equipment, goods, supplies or services (including but not limited to the failure of the supply of electricity to any pump);

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

- (g) existence of Native Title, or any claim for Native Title affecting any part of the land across, under or upon which either the ROL Holder Works or the works the Customer takes water under the Customer's Allocation are constructed; or
- (h) the prevention of access to repair damage to or malfunction of the ROL Holder Works or the works the Customer takes water under the Customer's Allocation caused by any of the events set out above.

Fixed Charges means either:

- (a) the Regulated Charge for the Customer's Allocation if applicable;
- (b) where there is no applicable Regulated Charge, the Fixed Charges described as such in the Customer's Schedule as varied under clause 8.3 or clause 8.4.

GST means the goods and services tax as imposed by the GST Law.

GST Amount means any Payment (or the relevant part of that Payment) multiplied by the appropriate rate of GST (currently 10%) together with any related interest, penalties, fines or other charge.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999*, or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.

Index Number means the Consumer Price Index - All groups for Brisbane, published from time to time by the Australian Bureau of Statistics or where suspended or discontinued a comparable index nominated by the President of the Queensland Law Society.

Input Tax Credit has the meaning given to that term by the GST Law.

Insolvent means with regard to bodies corporate, that one or more of the following events have occurred:

- (a) an application being presented to wind up the body corporate;
- (b) a meeting of members or creditors of the person being called to consider a resolution to wind up the body corporate;
- (c) a scheme of arrangement or a composition being entered into with its creditors, unless such application is dismissed within twenty-one (21) days of its presentation or unless such scheme of arrangement or composition is for the purposes only of a corporate reconstruction in circumstances where the body corporate remains solvent;
- (d) a receiver, receiver and manager or an administrator being appointed over some or all of the assets of the body corporate and such appointment not being revoked within twenty-one (21) days; or
- (e) the body corporate resolves to wind itself up, makes any statement that it is unable to pay its debts when due, takes any action to obtain protection or is granted protection from its creditors under any applicable legislation.

Law means:

- (a) the principles of law or equity established by decisions of Australian courts;
- (b) any legislation, statutes, acts, rules, orders, regulations, by-laws, local laws, policies or ordinances which are enacted, issued or promulgated by the State, a Minister, a corporation or authority constituted for a public purpose or a local authority; and
- (c) requirements made or arising under or under any of the matters referred to in paragraphs (a) or (b) above.

ML means megalitre.

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

Native Title has the same meaning as used in the *Native Title Act 1993* (Commonwealth).

Net Present Value Rate means rate equal to the Bank Bill Swap Rate (180 Day) and if at any time this rate ceases to be published, then such other rate per annum as may be determined after request by the ROL Holder by a nominee of the President of the Institute of Chartered Accountants in Australia (Queensland Branch).

Other Charges means other amounts payable under this Agreement.

Overdue Rate means a rate of interest equal to the Suncorp-Metway variable business lending rate applicable from time to time plus two percent (2%) and if at any time this rate ceases to be published, then such other rate per annum as may be determined after request by the ROL Holder by a nominee of the President of the Institute of Chartered Accountants in Australia (Queensland Branch).

Payment means any amount payable under or in connection with this Agreement including any amount payable by way of indemnity, reimbursement or otherwise and includes the provision of any non-monetary consideration.

Registrar means the registrar under the Act.

Regulated Charge means a charge payable to the ROL Holder for any service to be provided under this Agreement as set as a rate or charge, or required to be charged for the Customer by the ROL Holder, under any Law.

Regulator means the regulator or chief executive under the Act.

Release Services means the services described in clause 1.

Resource Operations Licence means the resource operations licence granted under the Act under which the Allocation is managed.

Resource Operations Plan means the resource operations plan, if any, from time to time under the Act, which applies to the Water Supply Scheme.

Review Date means 30 June 2007 or the relevant date at five yearly intervals after that date until the expiration of this Agreement.

ROL Holder Water Charges means the total in a Water Year of:

- (i) the Fixed Charges; and
- (ii) the Consumption Charges.

Service Target means a target from time to time nominated by the ROL Holder for the level of services it provides. For example, a Service Target may be about:

- (a) making water available in nominated timeframes at nominated locations;
- (b) notification for and timing of interruptions to supply;
- (c) frequency and duration of interruptions to supply
- (d) timing and duration of planned maintenance;
- (e) response times to applications made under this Agreement.

State Direction means the requirements of any notice published or any regulation made under the Act or any present or future requirement, instruction, direction or order made under any Law which is binding on or which would customarily be observed by a reasonable and prudent holder of the Resource Operations Licence and/or owner/operator of the ROL Holder Works and any modification, extension or replacement thereof from time to time in force.

Statutory Right means the right to take water (other than the Customer's Allocation) under the Act, for example, a water permit issued by the Regulator.

Strategic Asset Management Plan means the Strategic Asset Management Plan approved from time to time under the Act, if any.

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

Stream Flow Period means a period of time as defined in the Resource Operations Plan.

Supply Water Losses means the water lost after release from the ROL Holder Works or otherwise rendered unavailable to be taken, diverted or used by the Customer as a result of:

- (a) evaporation or other natural losses;
- (b) seepage;
- (c) contamination (from whatever cause)
- (d) theft or any unlawful taking;
- (e) the taking by other customers within the Water Supply Scheme of an amount of water greater than that customer is entitled to;
- (f) where a system for the ordering of water is in place under the ROL Holder Rules, and a customer has:
 - (i) taken more water than has been ordered by the customer; or
 - (ii) has not taken all of the water that has been ordered by the customer; or
- (g) breaches of the Water Resource Plan, the Resource Operations Plan or the ROL Holder Rules by other persons; or
- (h) where access conditions (including, for example, a system for the rostering of water) are in place under the Distribution Rules and a Customer has:
 - (i) taken more water than that to which that Customer is entitled; or
 - (ii) taken water at a rate or at a time contrary to such access conditions; or
 - (iii) taken more water than has been ordered by that Customer; or
 - (iv) not taken all of the water that has been ordered by that Customer

the DOL Holder means the holder of the Distribution Operations Licence

the DOL Holder Works means the water infrastructure described in the Distribution Operations Licence

the ROL Holder means the holder of the Resource Operations Licence .

the ROL Holder Rules means the rules and guidelines made and amended from time to time under clause 9.1.

the ROL Holder Works means the water infrastructure described in the Resource Operations Licence.

Tax Invoice has the meaning given to that term by the GST Law.

Taxable Supply has the meaning given to that term by the GST Law.

Term means a term of the Agreement.

Termination Amount means the amount which represents the value as at the date of termination using a discount figure equivalent to the Net Present Value Rate of the Fixed Charges and the Consumption Charges which would have been payable under this Agreement on the assumption that in each Water Year the Customer took the whole of the Customer's Allocation:

- (a) where the Customer has an interest in the water entitlement, for the period of 10 years after the date of termination; and
- (b) where the Customer has an Additional Contract with the ROL Holder for the lesser of the period of 10 years after the date of termination and the unexpired period of the Additional Contract.

Standard Supply Contract – Pioneer River Water Supply Scheme (No. 1)

Termination Date means the date on which the event in clause 7.4 of clause 7.5 first occurs.

Water Allocations Register means the water allocations register defined in the Act.

Water Resource Plan means the water resources plan, if any, from time to time under the Act, that applies to the Water Supply Scheme.

Water Supply Scheme means the scheme described in the Resource Operations Plan

Water Year means the year described as the water year in the Resource Operations Licence and if none is so described the year from time to time nominated by the ROL Holder.

23.2 Interpretation

In interpreting this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to an individual or to a person includes a corporation, firm, association, authority, trust, state or government and vice versa;
- (c) a reference to any gender includes a reference to each other gender;
- (d) where any expression is defined in this Agreement, another part of speech or grammatical form of that expression has a corresponding meaning;
- (e) clause headings are inserted for convenience only and shall not affect the interpretation of this agreement;
- (f) references to "dollars" and "\$" are references to Australian dollars;
- (g) references to time are references to time in the location of the Water Supply Scheme;
- (h) a reference to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment of that legislation or any statutory provision substituted for it and includes any subordinate legislation issued under that legislation or as it may be modified, re-enacted or substituted;
- (i) a reference to a Governmental Authority includes any successor authority;
- (j) a reference to paragraphs, subclauses, clauses and Schedules is a reference to paragraphs, subclauses, clauses and Schedules of this Agreement;
- (k) a reference to any agreement (including this Agreement) or instrument includes that agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (l) a term used in the Act has the same meaning when used in this Agreement;
- (m) a reference to conduct includes any omission and any representation, statement or undertaking, whether or not in writing;
- (n) where the Customer comprises two or more persons the liability under this Agreement shall be joint and several.