

CUSTOMER REGISTRATION & BROKERAGE AGREEMENT TERMS AND CONDITIONS

These terms and conditions, together with the Customer Registration Form, constitute the Customer Registration and Brokerage Agreement between **Landmark Operations Limited (ABN 73 008 743 217)** trading as **LandmarkWATER (the Broker)** and the Water Licence Entitlement Holder (**the Customer**), collectively known as the **Parties**.

1. RESPONSIBILITIES & ACKNOWLEDGEMENTS

a) Acknowledgement of the Broker and the Customer

- i) The Customer Registration and Brokerage Agreement (the Agreement) is between the Broker and the Customer.
- ii) The Parties are bound by these terms and conditions, and any variations, which are published on the Broker's website www.landmarkwater.com.au (the Broker's Website) at the time that a Trade is concluded.
- iii) The Customer acknowledges that the Broker is a Trade facilitator only. The Broker is not a Purchaser or a Vendor.
- iv) It is the responsibility of the Customer to read, understand and accept the Broker's terms and conditions as well as the trading rules of each Exchange (collectively the Terms and Conditions), as published on the Website from time to time, before the Customer authorises the Broker to use the nominated Exchange's Services. These Services may be withdrawn by the Broker and/or the Exchange at any time and without notice.
- v) The Customer acknowledges that the Exchange may use electronic means to deliver documentation and notifications to the Customer.
- vi) The Customer agrees that the date of receipt of such documentation or notification from the Exchange is the date that the electronic communication is dispatched by the Exchange and enters the information system outside the control of the Exchange sending that communication.

b) Eligibility of the Customer and the Broker

- i) It is a condition of the Customer's registration that the Customer and the Broker are 18 years or older and have the capacity to enter into the Agreement and be bound by the Terms and Conditions.
- ii) The Customer and the Broker warrant that the information provided in the Registration Form is true and accurate.

c) Authority to Trade on behalf of a Customer

- i) The Customer is aware that the Broker may utilise the Services of multiple Exchanges from time to time.
- ii) The Customer agrees to be bound by the Terms and Conditions of each Exchange and indemnifies the Broker from any damage that the Customer may suffer as a result of the Broker utilising the products or Services of an Exchange.
- iii) The Broker will only utilise the products and Services of an Exchange under written instructions from the Customer.

d) Fees & Commissions

- i) The Customer acknowledges that the Broker charges a commission on every successful Trade that transfers and settles, and such payment is due and payable out of the settlement funds.
- ii) The commission payable will be displayed on the Broker's Website and on the Authority to Act documentation.
- iii) The Customer acknowledges that a Trade may require more than one Regulatory Water Authority to approve a transfer of Allocation and each Regulatory Water Authority may charge an application fee, which may vary between Regulatory Water Authorities.
- iv) The Customer acknowledges that each Exchange used by the Broker may charge a transfer processing fee and such fees may vary from Trade to Trade and may vary between each Exchange.
- v) The fees referred to in this clause 1(d) will be published on the Exchange's Website and will be due and payable by the Customer upon a listing to trade being matched with a counter party, creating a Trade.
- vi) The Customer acknowledges that the fees and commissions referred to in this clause 1(d) (collectively the Fees and Commissions) may vary from time to time.
- vii) The Customer agrees that they will be liable for the payment of all Fees and Commissions upon entering into a Trade.

e) Payments

- i) The Customer must provide the Broker with its bank account details to enable the payment of any settlement monies or to refund any monies due to be refunded to the Customer.
- ii) The Customer must complete the appropriate *Direct Debit Request* (DDR) Form prior to the listing of any Buy Order.
- iii) The Customer must abide by the terms and conditions of any DDR agreement.
- iv) The Purchaser of an Allocation acknowledges that they are liable for the full payment of the Allocation purchased, as well as all Fees & Commissions due.
- v) The Purchaser must have sufficient funds available in their nominated bank account for the payment of the water purchased and all Fees and Commissions that are payable.
- vi) The Purchaser authorises the Broker and/or the Exchange to deduct from the Purchaser's nominated bank account, by way of the DDR agreement, the full payment for the Allocation purchased as well as any Fees and Commissions due, within 24 hours of a Trade occurring.
- vii) The Seller acknowledges that upon the occurrence of a Trade, the Seller becomes liable for the payment of all Fees and Commissions due.
- viii) The Seller authorises the Broker and/or the Exchange to deduct the Fees and Commissions payable from the settlement monies at the time of settlement.
- ix) In the event that a Trade is denied, the Exchange will refund to the Purchaser any payments made in relation to that Trade, minus any Fees and Commission due in accordance with the Exchange's Terms and Conditions.
- x) Payment of settlement monies will be by way of Electronic Funds Transfer (EFT) to the Customer's nominated bank account. The payment may be made directly from the Exchange and will usually occur as soon as possible after the receipt of the Regulatory Water Authority's transfer approval notification, but no later than 14 days after the approval date.

f) Relationship of Parties

- i) The Customer acknowledges that they will not have any direct contact with the Exchange, unless specifically authorised in writing by the Broker.
- ii) The Exchange is independent of the Broker and the Customer.
- iii) Both the Exchange and the Broker are independent of any Regulatory Water Authority.
- iv) All communications will be between the Broker and the Customer or between the Broker and the Exchange, unless otherwise authorised in writing by the Broker.

2. TRANSACTION PROCEEDINGS

a) Responsibilities of the Customer

- i) The Customer must provide appropriate evidence to the Broker demonstrating ownership of its Water Licence and/or an authority to act on behalf of the Water Entitlement Licence Holder.
- ii) Prior to listing any orders on the Exchange, the Customer must: complete all necessary registration documentation; accept the Terms and Conditions; and accurately complete the Authority to Act form.
- iii) The Customer must provide all necessary information required by the Regulatory Water Authority to process the Customer's transfer Application.
- iv) All Fees & Commissions that are due for payment must be paid by the Customer before an Application to transfer is sent to the relevant Regulatory Water Authority for approval.

b) Responsibilities of the Broker

- i) The Broker may withdraw all or any portion of its Services without notice.
- ii) The Broker does not warrant or guarantee a Customer or an Exchange's ability to complete a Trade.
- iii) The Broker will not list any orders until the Customer has fully completed the customer registration process and provided the correct *Authority to Act* documentation.
- iv) The Broker or the Broker's Agent will forward the completed Application to the relevant Regulatory Water Authority for approval after a Trade occurs.

c) Approval & Settlement

- i) The Regulatory Water Authority is responsible for approving an Application to transfer Allocation.
- ii) The settlement of any monies will not occur until after notification is received from the Regulatory Water Authority that an Application is approved.
- iii) The Broker and the Exchange are not liable to the Customer if the Regulatory Water Authority refuses the Application.

3. GENERAL CONDITIONS

a) GST

- i) Except as expressly provided in the Agreement or on the Website, all amounts referred to are in Australian Dollars and do not include GST.

b) Privacy

- i) The Broker and the Exchange are bound by the privacy policies Published on their Websites, which may be varied from time to time.
- ii) It is a condition of utilising the Services and accessing the Website that the Customer accepts the privacy policies that are Published on that Website at the conclusion of a Trade.
- iii) The Exchange will not enter into any direct contact with the Customer.
- iv) In the course of operating its business, the Broker may disclose personal information to its service providers and the Exchanges, who assist the Broker in operating its business.
- v) The Broker's service providers are subject to strict privacy rules and must comply with these rules at all times.
- vi) The Broker will not divulge any personal or private information to any other party without the Customer's permission, excluding such information as may be required to facilitate a matched Trade and to assist with the approval and settlement processes under the Terms and Conditions of this Agreement.
- vii) Personal information about the Customer that is provided by the Customer and by other sources, is protected under the *Information Privacy Act 2000*. Disclosure of such information may be required by law (eg. under the *Social Security Act*). The Customer authorises the Broker to disclose such information where necessary to the Regulatory Water Authority or any other third party as may be required to facilitate a Trade.
- viii) The Customer authorises any Regulatory Water Authority, legal representative, government body, financial institution or any other third party to provide information to the Broker that is required to assist in the completion and processing of a Trade.

c) Site and Service

The Customer acknowledges and agrees that:

- i) The Broker will provide the Services with reasonable skill and care;
- ii) The Website and Services may not be available, accessible or secure at all times;
- iii) The Website and Services may not always operate without error;
- iv) Information contained on the Website does not constitute advice. The Customer must seek their own professional advice; and
- v) The Broker accepts no liability for any damage that may result from the transmission of any electronic nuisances or viruses via the Website.

d) Intellectual Property

- i) The Customer acknowledges and agrees that the intellectual property of the Broker remains the property of the Broker at all times.
- ii) The Customer has no right, title or interest in the intellectual property of the Broker.
- iii) Unless authorised in writing by the Broker, the Customer must not use or copy any material on the Website, except for the purpose of Trading an Allocation.

e) Governing Law and Jurisdiction

- i) The Agreement is governed by and construed in accordance with the law from time to time in force in Victoria.
- ii) The Website and Services are governed by the laws in force in Victoria at the time the Agreement is executed.

f) Assignment and Successors

- i) The Agreement may not be assigned without the prior written consent of the Broker.
- ii) The Broker may assign its rights and obligations under the Agreement without notice to the Customer.
- iii) If the Agreement is assigned, it will bind and benefit the successors and assigns of the Parties.

g) Entire Agreement

- i) The Published Agreement at the time a Trade concludes contains the entire Agreement between the Parties.
- ii) No verbal or written modifications or variations may be made to the Agreement by the Customer.

h) Exclusions & Indemnities

- i) The Broker shall act as a broker in relation to finding a purchaser for a seller, or a seller for a purchaser, to facilitate a water Trade satisfactory to the Customer. The Broker does not offer any additional services regarding legal advice, financial advice or any other advice in relation to the sale of water.
- ii) The Broker has relied on information provided by the Customer and in the event that any information provided by the Customer is false, misleading or incorrect, the Broker will not be responsible for any loss or damage suffered as a result of the provision of that information.
- iii) The Broker relies on the services of third parties to Trade water including, but not limited to, the Exchange. The Broker is not liable for any loss or damage that is caused by the acts or omissions of any third parties who are a party to a transaction.
- iv) The Customer indemnifies the Broker for any loss or damage suffered by the Broker resulting from any act or omission of the Customer that is in breach of their obligations under the Agreement, or by the provision of any false, misleading or incorrect information to the Broker.

i) Severability

- i) Notwithstanding that any provision of the Agreement may prove to be illegal or unenforceable, the remaining provisions of the Agreement shall continue in full force and effect.

j) Interpretation

In this Agreement unless it is expressly stated otherwise:

- i) A reference to the singular will include the plural and vice versa;
- ii) References to any statute means a statute of the Commonwealth of Australia or of its States or Territories and includes any statutory amendment or re-enactment of a statute or any substitute statute; and
- iii) A reference to any gender shall include all genders.

4. DEFINITIONS

Agreement means the *Customer Registration & Brokerage Agreement* supplied by **LandmarkWATER** and executed by the Customer and the Broker.

Allocation means the temporary water allocation available for Trade or traded by way of assignment or transfer.

Application means an application to the Regulatory Water Authority for the assignment or transfer of Allocation.

Authority to Act means the form that is executed by the Customer and supplied to the Broker in order to place a Buy Order or Sell Order on the nominated Exchange.

Broker means **LandmarkWATER** and/or any of its Agents, who holds a licence agreement with the nominated Exchange and has a Customer Registration and Brokerage Agreement duly executed by the Customer.

Buy Order means a Customer's offer to buy or purchase an Allocation for a nominated value.

Customer means any person or persons that has entered into the Agreement on behalf of a Water Licence Holder.

Electronic Communication means a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both.

Exchange means any one or more of the electronic water trading platforms that the Broker may use from time to time to facilitate the Matching of a Customer's Buy Order or Sell Order and with whom the Broker has a current licence or trading agreement.

Fees and Commissions means the monies charged by the Broker and/or the Exchange for the use of the Services and includes the amount charged to an Exchange by the Regulatory Water Authority to process an Application.

ID means the Personal Identification Number given to a Customer that when used in conjunction with a User Number gives access to the electronic Exchange.

Match means the moment in time when a Sell Order and Buy Order meet to generate a Trade of a fixed volume for a set value.

Modification/Cancellation Form means the Modification/Cancellation Form available from the Broker and duly completed by the Customer to vary the details of any current order.

Parties mean the Broker, the Customer and the various Exchanges.

Published means information that has been placed on a Website.

Purchaser means any person who places a Buy Order for an Allocation on an Exchange's Website or with the Broker.

Registration Form means the registration form that forms part of the *Customer Registration & Brokerage Agreement* and executed by the Customer and the Broker.

Regulatory Water Authority means the Minister of the Crown; the State Government department or agency; a private irrigation corporation; or private irrigation trust which processes, administers, determines upon or otherwise deals with the Application.

Sell Order means a Customer's offer to sell an Allocation for a nominated value.

Service means the services of the Broker and/or the Exchange provide via its Website.

Terms and Conditions means the terms and conditions that govern the access to and use of the services provided by the Broker and/or the Exchange.

Trade means the sale or purchase of an Allocation which occurs when a Sell Order and Buy Order are matched.

User Number means the number provided to a Customer that, when it is used in conjunction with an ID number, provides access to the electronic Exchange.

Vendor means any person or persons that place a Sell Order for an Allocation on an Exchange's Website or with the Broker.

Website means the websites of the Broker and/or the Exchanges.