



# Healthy Waterways

## Network Rules

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## 1 Definitions and interpretation

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- 1.1 The words and phrases used in the Network Rules have the meanings set out at [Appendix Schedule 1](#) to the Network Rules.
- 1.2 In the interpretation of the Network Rules, unless the context otherwise requires, the interpretation rules set out at Schedule 1 apply.

## 2 Paramountcy

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- 2.1 The ~~Network Rules are~~ ~~Constitution is~~ to be consistent with and read together with the ~~Constitution~~ ~~Network Rules~~. If there is any inconsistency between the Network Rules and the Constitution, the provisions of the ~~Constitution~~ ~~Network Rules~~ prevail.
- ~~2.2 If any inconsistency exists between the provisions of the Network Rules and the Constitution, the Parties must take all reasonable steps within their power to amend the Constitution to remove the inconsistency.~~
- ~~2.3 Each of the Parties will use reasonable efforts to do or cause to be made or done all acts, events, matters and things within its power or control to ensure that the terms of the Network Rules are carried out and given full effect.~~

## 3 Objectives

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- 3.1 The ~~Members~~ ~~Network Participants~~ will assist the Company to discharge the ~~Objectives~~ set out in clause 4 of the ~~Constitution~~ ~~under the Network Rules~~.
- ~~3.2 The objectives of the Healthy Waterways Network are to:~~
  - ~~(a) contribute to improvements in the ecosystem health of Moreton Bay and South East Queensland's other coastal, estuarine and freshwater waterways in support of the SEQ Healthy Waterways Vision through delivery of:~~
    - ~~(i) independent and rigorous science including coordination of relevant scientific activities;~~
    - ~~(ii) relevant aquatic ecosystem monitoring, including ambient ecosystem health and other monitoring;~~
    - ~~(iii) activities related to effective and broad-reaching communication, education, capacity building and motivation; and~~
    - ~~(iv) evaluation and reporting of relevant matters, including the results of monitoring and the effectiveness of programs intended to secure changes in attitudes, knowledge and behaviour; and~~
  - ~~(b) provide, where appropriate, a mechanism for the development, coordination or delivery of programs or activities with broad application to the South East Queensland region and in a manner consistent with the Queensland State Government's natural resource management regional plan, which are not the responsibility of any particular agency.~~
- ~~3.3.2 The Objectives will be delivered~~ ~~effected~~ through activities such as including:



- (a) active participation by the Parties in the Network Activities;
- (b) promotion of the Healthy Waterways Network and the Network Activities by the Parties;
- (c) development and conduct of Projects consistent with the Network Activities; and
- (d) dissemination of Healthy Waterways IP in accordance with the Network Rules.

## **4—Relationship**

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- 4.1—No Party will, unless otherwise expressly provided, have any authority to act for or to assume any obligation or responsibility on behalf of any other Party except by express agreement between the Parties concerned.
- 4.2—During the continuance of the Healthy Waterways Network, the relationship between the Parties will not constitute a partnership, trust or agency relationship for any purpose unless expressly provided otherwise.
- 4.3—The rights, duties, obligations and liabilities of the Parties under the Network Rules are several and not joint or joint and several.

## **5—Term of Healthy Waterways Network**

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- 5.1—Unless otherwise agreed by the Parties, the Network Rules will commence operation on the Commencement Date and will remain in force until the earlier of:
  - (a) a resolution by the Board that there are insufficient Network Participants to fund the Core Network Program;
  - (b) when only one Investor Network Participant remains; or
  - (c) the Company is wound up by law.

## **6.4 Entitlements Types of Membership**

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- 6.1—There are three (3) mutually exclusive categories of Network Participants:
  - (a) Investor Network Participants;
  - (b) Contributing Network Participants; and
  - (c) General Network Participants.
- 6.2—An Investor Network Participant is a Network Participant who:
  - (a) pays the Annual Membership Fee;
  - (b) contributes to the Core Network Program Costs; and
  - (c) participates in the Core Network Program.
- 6.34.1—In addition to the rights described in the Constitution, a Class A Member Investor Network Participant:
  - (a) will be entitled to appoint a representative to the Network Committee in accordance with clause 11.2(b);



~~(b) may put forward nominees for positions on the Network Committee described in clauses 11.2(c) and 11.2(d) and for Independent Directors;~~

~~(e)(a) will be granted a non-exclusive, royalty-free, worldwide, non-transferable licence (but not the right to sublicense) to use and display the Healthy Waterways Trade Marks in accordance with the Trade Mark Guidelines;~~

~~(d)(b) subject to clauses 1224 and 1322, any relevant Project Schedule and not prejudicing the ability of the Company to seek appropriate protection for Intellectual Property rights in the Healthy Waterways Data and Healthy Waterways IP, Reports and Deliverables:~~

- ~~(i) will be granted a non-exclusive, worldwide, non-transferable licence to use Healthy Waterways IP for internal purposes other than Commercialisation;~~
- ~~(ii) will be granted a non-exclusive, worldwide, non-transferable licence to use Healthy Waterways Data for any purposes; and~~
- ~~(iii) will be granted a non-exclusive, worldwide, non-transferable licence, including a right of sublicense, to use Reports and Deliverables from Healthy Waterways Projects for internal purposes other than Commercialisation;~~

~~(e) is entitled to send up to two (2) representatives to Strategic Network Meetings; and~~

~~(f) is entitled to send up to two (2) representatives to Annual Network Meetings.~~

~~6.4 A Contributing Network Participant is a Network Participant who:~~

~~(a) pays the Annual Membership Fee; and~~

~~(b) participates in Network Activities on a Project by Project basis.~~

~~6.5 A Contributing Network Participant:~~

~~(a) will be granted a non-exclusive, royalty free, worldwide, non-transferable licence (but not the right to sublicense) to use and display the Healthy Waterways Trade Marks in accordance with the Trade Mark Guidelines; and~~

~~(b) is entitled to send one (1) representative to Annual Network Meetings.~~

~~6.6 A General Network Participant is a Network Participant who pays the Annual Membership Fee.~~

~~6.74.2 In addition to the rights described in the Constitution, a A-Class B Member receives regular newsletters and access to online Healthy Waterways Network resources. General Network Participant:~~

~~(a) is entitled to send one (1) representative to the Annual Network Meeting; and~~

~~(b) receives regular newsletters and access to online Healthy Waterways Network resources.~~

~~6.8 A person applying to join the Healthy Waterways Network must specify the category of membership for which it is applying.~~



## ~~7~~ Membership Fees

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- ~~7.1~~ The Annual Membership Fee payable by a Network Participant is:
- ~~(a)~~ if an Investor Network Participant or Contributing Network Participant—\$5,000;
  - ~~(b)~~ if a General Network Participant:
    - ~~(i)~~ natural resource management or environment group—\$50; or
    - ~~(ii)~~ any other organisation or body corporate—\$2000.
- ~~7.2~~ The Board may waive or reduce the fee payable by a General Network Participant on a case by case basis.
- ~~7.3~~ The Annual Membership Fee may be varied by the Company with a Special Resolution of the Network Committee.
- ~~7.4~~ Each Network Participant must pay to the Company that Network Participant's Annual Membership Fee at the beginning of each Financial Year within thirty (30) days of receipt of an invoice from the Company.
- ~~7.5~~ Annual Membership Fees must be paid in cash, by direct deposit to the Company bank account, or by cheque unless otherwise agreed by the Board.

## ~~8~~ Core Contributions

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- ~~8.1~~ The Investor Network Participants must make the Core Contributions towards the conduct of the Core Network Program in the manner set out in this clause 8.
- ~~8.2~~ At least one month before the start of a Financial Year, the Company must provide each Investor Network Participant with:
- ~~(a)~~ the Core Network Program Costs for the upcoming Financial Year;
  - ~~(b)~~ the Projected Budget;
  - ~~(c)~~ the calculation of the Core Contribution for the Investor Network Participant for the upcoming Financial Year calculated in the manner set out in clause 8.4; and
  - ~~(d)~~ an invoice for the cash component of the Core Contribution notified under clause 8.2(c) for the first Half Year or Full Year.
- ~~8.3~~ An Investor Network Participant must:
- ~~(a)~~ pay to the Company the cash component of its Core Contribution in advance within 30 days of receipt of an invoice from the Company;
  - ~~(b)~~ apply to the Projects conducted under the Core Network Program, the non-cash component of its Core Contributions as specified in the relevant Project Schedules; and
  - ~~(c)~~ provide the Company with confirmation that the Investor Network Participant will pay future Core Contributions towards the Core Network Program Costs in accordance with the Projected Budget.



~~8.4 In preparing the Annual Budget for approval under clause 15, the Company must include the proposed method (subject to clauses 8.5, 8.6 and 8.7) for calculating the Core Contribution of each Investor Network Participant.~~

~~8.5 The individual Core Contributions of the State Network Participants will be agreed between the State Network Participants and the Company.~~

~~8.6 The individual Core Contributions of the Local Authority Network Participants will be calculated in the same proportion as each Local Authority Network Participant's population, in the relevant catchment, bears to the combined population of all Local Authority Network Participants.~~

~~8.7 The individual Core Contributions of the remaining Investor Network Participants will be agreed between the relevant Investor Network Participant and the Company.~~

## **95 Undertakings of ~~Members~~Network Participants**

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~~9.15.1~~ Each ~~Member~~Network Participant will:

- (a) diligently support or conduct the Network Activities in pursuit of the Objectives and observe and perform its obligations set out in the Network Rules;
- (b) keep the Company and other ~~Members~~Network Participants informed about the results of Projects and, to the extent permitted by a ~~Member~~Network Participant's confidentiality obligations and internal rules, regulations and policy requirements, about new opportunities to conduct Projects;
- (c) subject to clause 14, publicise and promote the Healthy Waterways Network so as to make its role widely known within each ~~Member~~Network Participant's organisation and to the public generally;
- (d) encourage other persons to join the Healthy Waterways Network and participate in Network Activities;
- (e) not do or cause or permit to be done any act, matter or thing whereby any Party's rights to Background Intellectual Property, Healthy Waterways IP or Commissioned Project IP could be jeopardised in any way;
- (f) not unreasonably delay any action, approval, direction, determination or decision which is required of it under the Network Rules or Constitution;
- (g) act in good faith with respect to the Company and each other ~~Member~~Network Participant; and
- (h) ensure that its employees, agents, officers and other representatives involved in any way with the Healthy Waterways Network, give full force and effect to and honour the terms of the Network Rules.

## **106 Role of the Company**

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~~10.16.1~~ The Company will operate, manage and administer the Healthy Waterways Network in accordance with the Constitution and the Network Rules ~~and the Constitution~~ including:





- (a) overseeing and participating in the conduct of the Network Activities and the meeting of the Objectives;
- (b) approving, monitoring and, if required, initiating protocols or procedures for the development, management and implementation of Network Activities;
- (c) approving Network Activities to be undertaken and monitoring progress of Network Activities being undertaken;
- ~~(d) establishing and overseeing the operation of the Network Committee;~~
- ~~(e)(d)~~ preparing the Annual Report, the Network Strategic Plan, the Business Plan and, the Annual Budget ~~and the Projected Budget~~ for the conduct of the Network Activities;
- ~~(f)(e)~~ determining and implementing procedures for sourcing and accepting contributions, donations, grants and money generally to be applied towards the conduct of the Network Activities;
- ~~(g)(f)~~ administering the financial requirements of the Healthy Waterways Network; and
- ~~(h)(g)~~ carrying out such other necessary and incidental functions as are ascribed to the Company under the Constitution and in furtherance of the Objectives ~~Network Rules or that the Network Participants may request that the Company undertake in pursuit of the Objectives.~~

#### ~~10.26.2~~ The Company must ensure that the CEO:

- (a) acts as chief executive officer of the Company and attends all Board meetings in person or, if unable to attend in person, sends a representative to act in his or her place;
- (b) is the person primarily responsible for overseeing the carrying out of the Network Activities in accordance with the Network Strategic Plan and the Business Plan;
- (c) under the strategic direction of the Board, is responsible for the day-to-day management of the Healthy Waterways Network; and
- ~~(d) directs the application of all Annual Membership Fees, Core Contributions and other funding in accordance with the Annual Budget;~~
- ~~(e)(d)~~ facilitates interaction of the Company, Member~~the Network Participants~~ and other key stakeholders;
- ~~(f) prepares the reports and other information to be provided by the Company to the Network Participants under the Network Rules; and~~
- ~~(g) carries out such other tasks as required of the CEO under the Network Rules or the Constitution, or by the direction of the Board.~~

~~10.3 The Board may delegate any of the functions required of it under the Network Rules in accordance with the Board's powers of delegation under the Constitution.~~

## ~~11 Composition and Role of Network Committee~~

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### ~~Composition~~



~~11.1 The Interim Board will establish the Network Committee as an advisory committee to the Board under the Constitution.~~

~~11.2 The Network Committee will comprise:~~

- ~~(a) the Chair, or other Director nominated by the Chair;~~
- ~~(b) one (1) representative nominated by each of the Investor Network Participants;~~
- ~~(c) one (1) person representing the research and scientific community appointed by the Board;~~
- ~~(d) one (1) person representing the general community appointed by the Board; and~~
- ~~(e) one (1) person appointed by IWC.~~

~~11.3 The Founding Company Member's right to appoint a person as a member of the Network Committee under clause 11.2(e) will cease when the Founding Company Member:~~

- ~~(a) joins the Healthy Waterways Network as an Investor Network Participant; or~~
- ~~(b) ceases to be a member of the Company in accordance with clause 7.4 of the Constitution.~~

~~11.4 The maximum term of a Network Committee Member appointed under clause 11.2(c) or clause 11.2(d) is three (3) years.~~

~~11.5 A retiring Network Committee Member may be nominated and appointed for a further term.~~

### ~~**Chairperson of Network Committee**~~

~~11.6 The Director who is nominated under clause 11.2(a) will:~~

- ~~(a) act as chairperson of the Network Committee and provide leadership to the Network Committee;~~
- ~~(b) ensure that decisions, advice and recommendations of the Network Committee are communicated to the Board; and~~
- ~~(c) generally facilitate interaction between the Network Committee and the Board.~~

### ~~**Role**~~

~~11.7 The Network Committee will provide advice and recommendations to the Board on:~~

- ~~(a) the development of the Network Strategic Plan, the Business Plan (in particular the Core Network Program), the Annual Budget and the Projected Budget; and~~
- ~~(b) the use of the resources available for Network Activities taking into account the following:~~
  - ~~(i) the Objectives;~~
  - ~~(ii) the Network Strategic Plan;~~
  - ~~(iii) the Business Plan; and~~



~~(iv) — the outcomes of the Strategic Network Meetings and other Healthy Waterways Network fora.~~

~~11.8 The Network Committee will perform the functions required of it under the Network Rules and provide advice and recommendations to the Board on the major issues relating to the operation of the Healthy Waterways Network, including:~~

- ~~(a) — electing the Directors in accordance with clause 13;~~
- ~~(b) — receiving the Annual Report on the operation of the Healthy Waterways Network, including Financial Statements;~~
- ~~(c) — approving variations to the Constitution of the Company;~~
- ~~(d) — approving by Special Resolution variations to the Network Rules, which the Board has passed on resolution under clause 33 or approving by Special Resolution variations to the Network Rules to be put to the Board for approval or otherwise under clause 33;~~
- ~~(e) — approving the admission of new Network Participants under clause 27;~~
- ~~(f) — expelling a Network Participant under clause 25; and~~
- ~~(g) — such other activities as may be required of it under the Network Rules or as requested of it by the Board.~~

### ***Filling vacancies***

~~11.9 Where a vacancy arises on the Network Committee for a member appointed under clause 11.2(c) or 11.2(d), the Board will call for nominations from the Investor Network Participants and in that notification will identify the category of member required to fill the vacancy.~~

~~11.10 The right of an Investor Network Participant to nominate a candidate under clause 11.9 is subject to the Investor Network Participant having fully paid all Annual Membership Fees and Core Contributions then due and owing.~~

~~11.11 Subject to clause 11.10, an Investor Network Participant may nominate a person for appointment to a vacancy on the Network Committee by giving notice to the Company:~~

- ~~(a) — stating the name of the nominee;~~
- ~~(b) — stating that the nominee consents to the nomination;~~
- ~~(c) — signed by the Investor Network Participant and the nominee; and~~
- ~~(d) — including a statement of the relevant skills, qualifications and experience the nominee would bring to the position.~~

~~11.12 The Board will fill vacancies on the Network Committee under clause 11.9 from the nominees provided by the Investor Network Participants.~~

## **~~12 Procedures for Network Committee meetings~~**

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### ***Appointment of Alternate***

~~12.1 Each Network Committee Member may appoint an Alternate to attend meetings in his or her place provided:~~



- ~~(a) — notice of the appointment is given to the chairperson of the Network Committee at least 24 hours before the first meeting which the Alternate will attend (or such other period as the Network Committee accepts); and~~
- ~~(b) — the appointment of the Alternate terminates on the termination of the appointment of the Network Committee Member for whom the person is the Alternate or the period set out in the notice of appointment, whichever occurs first.~~

### ***Procedure for meetings***

~~12.2 — Except as provided for in this clause 12, the Network Committee may regulate its own proceedings and will meet at least once each Financial Year and at such other times as the Network Committee Members consider appropriate to properly discharge its obligations under the Network Rules, whether in person or by telephone or other means of instantaneous communication.~~

~~12.3 — The Network Committee Members will endeavour to reach agreement on all matters on a consensus basis.~~

~~12.4 — If any decision of the Network Committee goes to a vote then each Network Committee Member's voting entitlement is calculated in accordance with clauses 12.5 and 12.6.~~

~~12.5 — Each Network Committee Member is entitled to the number of votes calculated as equal to the proportion that the Core Contribution of the Investor Network Participant appointing that Network Committee Member bears to the Core Network Program Costs for the then current Financial Year, in accordance with the following formula:~~

$$\mathbf{NV = (CC/CNPC) \times 100}$$

~~Where:~~

~~**NV** is the number of votes;~~

~~**CNPC** is the Core Network Program Costs for the then current Financial Year; and~~

~~**CC** is the relevant Investor Network Participant's Core Contribution for the current Financial Year.~~

~~12.6 — The Network Committee Members appointed under clauses 11.2(a), 11.2(e), 11.2(d) and 11.2(c) each have one vote.~~

~~12.7 — The Director who chairs the Network Committee does not have a casting vote.~~

~~12.8 — The Network Committee may, without meeting, make a decision, reach agreement or pass a resolution, if a notice detailing the decision, agreement or resolution is sent to every Network Committee Member and if the required majority of those members sign a document containing a statement that they are in favour of the decision, agreement or resolution set out in the notice. The decision or agreement is reached or the resolution is passed when the last Network Committee Member required to constitute the requisite majority signs. A facsimile transmission, email or other document produced by mechanical or electronic means under the name of the Network Committee Member with that member's authority is deemed to be a document in writing signed by the member for the purposes of this clause 12.8.~~



~~12.9 A quorum of the Network Committee is 40% of the members being present at the meeting either in person or by telephone or other means of instantaneous communication, provided that there is at least one State Network Participant, one Local Authority Network Participant and one Water Utilities Network Participant (provided that there exists a member in these categories) present at the meeting either in person or by telephone or other means of instantaneous communication.~~

~~12.10 A meeting of the Network Committee may be called by the Board or by two (2) or more Network Committee Members.~~

~~12.11 Network Committee Members must be given at least 14 days notice of a meeting.~~

~~12.12 The Parties will provide the Network Committee with such details regarding the conduct of the Network Activities as the Network Committee may require.~~

## **13 Appointment of Board**

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### ***Appointment of Directors***

~~13.1 The Board will be comprised of five (5) Independent Directors appointed by the Network Committee in accordance with the Network Rules.~~

~~13.2 At present, the Directors of the Company comprise of:~~

- ~~(a) four (4) Independent Directors appointed at the first Network Committee meeting by the Network Committee in accordance with the Network Rules; and~~
- ~~(b) one (1) person appointed by the Founding Company Member.~~

~~13.3 After the Founding Company Member becomes an Investor Network Participant or ceases to be a member of the Company in accordance with clause 7.4 of the Constitution, the Directors will be comprised of five (5) Independent Directors appointed by the Network Committee in accordance with the Network Rules.~~

~~13.4 If the Founding Company Member joins the HW Network as an Investor Network Participant, the IWC Nominee Director will hold office until the fifth Independent Director set out in clause 13.1 is appointed as Director.~~

~~13.5 If the Founding Company Member ceases to be a member of the Company in accordance with clause 7.4 of the Constitution, the IWC Nominee Director will cease to hold office from the date the Founding Company Member's membership of the Company ceases.~~

~~13.6 Within 30 days of the Founding Company Member becoming an Investor Network Participant or ceasing to be a member of the Company in accordance with clause 7.4 of the Constitution, the Directors must call for nominations from the Investor Network Participants for the fifth Independent Director under clause 13.1.~~

~~13.7 The right of an Investor Network Participant to nominate a person under clause 13.8 or to fill a vacancy under clause 13.18 is subject to the Investor Network Participant having fully paid all Annual Membership Fees and Core Contributions then due and owing.~~



~~13.8 An Investor Network Participant may nominate a person for appointment as an Independent Director by giving a notice to the Company:~~

- ~~(a) stating the name of the nominee;~~
- ~~(b) stating that the nominee consents to the nomination;~~
- ~~(c) signed by the Investor Network Participant and the nominee; and~~
- ~~(d) including a statement of the relevant skills, qualifications and experience of the nominee would bring to the Board;~~
- ~~(e) stating the nominee has met the requirements for appointment under the Corporations Act 2001 (Cth);~~
- ~~(f) stating the nominee is not an employee of a Network Participant or the Company (for the purposes of this definition, an employee does not include an elected representative or a non-executive director of a board associated with a Network Participant); and~~
- ~~(g) detailing any potential conflicts of interest or perceived conflicts of interest the nominee may have in regards to the Company.~~

~~13.9 The Company must convene a meeting of the Network Committee as soon as practicable after the period for nominations ends to consider the nominees. The Network Committee may establish a sub-committee to review the nominees and prepare a short list for consideration by the Network Committee.~~

~~13.10 The Independent Directors will be elected by majority vote of the Network Committee.~~

~~13.11 Where there are more nominees than positions to be filled under clause 13.1, the ballot for the election will be on a preferential basis and conducted in such a usual and proper basis as the Network Committee determines.~~

~~13.12 The Network Committee will endeavour to ensure that the Independent Directors appointed under clause 13.1 represent as broad a range as possible across the skills identified in clause 26.6 of the Constitution, namely:~~

- ~~(a) corporate governance;~~
- ~~(b) science;~~
- ~~(c) community engagement;~~
- ~~(d) financial management;~~
- ~~(e) business; or~~
- ~~(f) law.~~

~~13.13 The term of an Independent Director appointed under clause 13.1 is four (4) years or such other period nominated by the Network Committee.~~

~~13.14 A retiring Independent Director may be renominated.~~

~~13.15 The IWC Nominee Director may be replaced by the Founding Company Member.~~

### ***Appointment of Chair***

~~13.16 The Independent Directors will appoint one of their own as Chair.~~



~~13.17 The term of the Chair will be two (2) years unless otherwise agreed by the Independent Directors.~~

### ***Filing vacancies***

~~13.18 Where a vacancy arises on the Board for a Director, the Board will call for nominations from the Investor Network Participants and clauses 13.8 to 13.13 will apply to the process for filling the vacancy.~~

~~13.19 Where a vacancy arises on the Board for the IWC Nominee Director, the Board will submit a request to Founding Company Member to notify the Company of the person to be appointed to fill that vacancy.~~

## **147 Network meetings and fora**

### ***Annual Network Meeting***

~~14.17.1~~ Once each Financial Year, the Company must convene a meeting open to all ~~Members Network Participants~~ (“Annual ~~General Network~~ Meeting”).

~~14.27.2~~ The purpose of the Annual ~~General Network~~ Meeting is to report to the ~~Members Network Participants~~ on the ~~activities of the Company, including the Network Activities~~ undertaken in the previous Financial Year.

### ***Strategic Network Meeting***

~~14.3 The Company must convene an annual meeting (“Strategic Network Meeting”) open to:~~

- ~~(a) — Investor Network Participants;~~
- ~~(b) — Contributing Network Participants;~~
- ~~(c) — the Network Committee;~~
- ~~(d) — the Board;~~
- ~~(e) — the CEO, and~~
- ~~(f) — such other persons invited at the request of the Board.~~

~~14.4 The purpose of the Strategic Network Meeting is to:~~

- ~~(a) — provide feedback and recommendations to the Network Committee and the Board on the development of the Network Strategic Plan, the Business Plan and the Network Activities, in particular the Core Network Program; and~~
- ~~(b) — provide a forum for key stakeholders to engage in high level policy discussions on issues in respect of both waterways and catchment management and on broader natural resource management issues.~~

~~14.57.3~~ The Company will facilitate discussion and interaction between the ~~Members, key stakeholders Network Participants, the Network Committee~~ and the Board through the establishment of permanent and/or ad hoc steering groups, roundtables and other fora.



## **158 Provision of Company Documents and Reports**

~~15.1 For each Financial Year during the operation of the Healthy Waterways Network, the Company must prepare:~~

- ~~(a) the Network Strategic Plan;~~
- ~~(b) the Business Plan;~~
- ~~(c) the Annual Budget; and~~
- ~~(d) the Projected Budget.~~

~~15.2 The Network Strategic Plan, the Business Plan, the Annual Budget for the first Financial Year of the Healthy Waterways Network are set out in Annexures C to E of the Network Deed.~~

~~15.3 At least four (4) months before the end of each subsequent Financial Year, the GEO must prepare drafts of the Network Strategic Plan, the Business Plan, the Annual Budget and the Projected Budget and seek input from the Strategic Network Meeting and the Network Committee before submission to the Board for approval.~~

~~15.4 In considering and approving the draft Network Strategic Plan, Business Plan, Annual Budget and Projected Budget, the Board must take into account the Objectives and the advice and recommendations received from the Strategic Network Meeting and the Network Committee.~~

~~15.5 The Company must operate the Healthy Waterways Network in accordance with the Network Strategic Plan, the Business Plan and the Annual Budget.~~

~~15.68.1~~ The Company must:

- (a) make available to the MembersNetwork Participants, a copy of the current Network Strategic Plan;
- (b) make available to the Class A Members, Investor Network Participants a copy of ~~the Projected Budget~~, the Business Plan and the Annual Budget; and
- ~~(c) advise the Network Committee of any changes to the Network Strategic Plan, the Business Plan, the Annual Budget or the Projected Budget.~~

## **16 Financial Management and Reporting**

~~16.1 The Annual Membership Fees, Core Contributions and other funding will be used by the Company only for the purpose of pursuing the Objectives, which may include the operating expenses of the Company, and in accordance with the Network Strategic Plan, the Business Plan and the Network Rules.~~

~~16.2 The Company must expend the Annual Membership Fees, Core Contributions and other funding only in accordance with the Annual Budget unless otherwise approved by the Board.~~

~~16.3 The Company must keep proper financial records and accounts in accordance with Australian accounting standards.~~

~~16.48.2~~ The Company must, within ~~sixfour~~ (64) months after the end of each Financial Year, provide an annual written report to the MembersNetwork





~~Participants~~ on the Network Activities conducted in the previous Financial Year, including information regarding:

- (a) Projects undertaken;
- (b) progress in relation to the Network Strategic Plan and the Business Plan;
- (c) achievements that are material to the fulfilment of the Objectives;
- (d) use and dissemination of the Healthy Waterways IP; and
- (e) a copy of the Financial Statements of the Company.

~~46.58.3~~ Without limiting the obligations of the Company under the *Corporations Act 2001* (Cth), the Company must, within ~~four~~<sup>three</sup> (43) months of the end of each Financial Year, prepare Financial Statements on the financial position of the Company, including:

- (a) the income and expenditure of the Company during the Financial Year;
- (b) its assets and liabilities as at the end of the Financial Year; and
- (c) a cashflow statement.

~~16.6~~ ~~The CEO must, within four (4) months after the end of each Financial Year, conduct a review of the suitability of Network Participants in accordance with the Network Participant Suitability Guidelines and provide an annual report to the Board and the Network Committee, including any recommendations for review by the Board and/or Network Committee.~~

~~16.78.4~~ ~~Members~~~~The Network Participants~~ must provide the information and such other assistance and cooperation as reasonably requested by the Company to enable the preparation of the reports required under the Network Rules.

~~16.88.5~~ Each ~~Class A Member~~~~Investor Network Participant~~ and its nominated employees, agents and auditors will be entitled at all reasonable times to inspect and have provided to them as soon as reasonably practicable, but in any event within 10 Business Days of receipt of notice by the Company, copies of all documents, records and accounts under the control of the Company relating to the Network Activities and the Healthy Waterways Network at the expense of the ~~Class A Member~~~~Investor Network Participant~~ together with such explanations as the ~~Class A Member~~~~Investor Network Participant~~ may reasonably require.

~~16.98.6~~ The Annual Report prepared for ~~Members~~~~Network Participants~~ under clause 8.2 may be sent to ~~Members~~~~Network Participants~~ by post or email or by providing the ~~Members~~~~Network Participants~~ with access to a web version.

## **179 Projects**

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~~17.49.1~~ The Network Activities may be carried out through discrete Projects. Projects will either be Healthy Waterways Projects or Commissioned Projects and will be established in accordance with this clause 9.

### **Healthy Waterways Projects**

~~17.29.2~~ The agreement for a Healthy Waterways Project will consist of:

- (a) a completed Project Schedule signed by the Company and the Project Participants; and



(b) the Healthy Waterways Project Terms.

**47.39.3** Healthy Waterways Projects are to be carried out under the Healthy Waterways Project Terms and any variations approved under clause 9.4.

**47.49.4** Any variation to the Healthy Waterways Project Terms for a particular Healthy Waterways Project must be approved by the Company and set out in the relevant Project Schedule.

**47.59.5** Approval of Healthy Waterways Projects and Commissioned Projects will be in accordance with policies established by the Board.

### **Commissioned Projects**

**47.69.6** Commissioned Projects may be entered into:

(a) by the Company and the Commissioning Party only, provided that the Project Participants have agreed the terms of the Commissioned Project Agreement, in which case the Company may subcontract the Project Participants to conduct the Commissioned Project through completion and execution of a Project Schedule; or

(b) by the Company, the Commissioning Party and the Project Participants.

**47.79.7** The Company must use reasonable efforts to ensure that the details of the Commissioned Project Agreement address the matters listed in the template Project Schedule in [Attachment A to the Network Rules Schedule 2](#).

**47.89.8** Where a Project requires the involvement of persons outside the Healthy Waterways Network, the Company may enter into a contract with those persons to procure their involvement in the Project. The relevant Project Schedule or Commissioned Project Agreement will include any special conditions which may be required relating to the involvement of those persons.

### **4810 Access to Location of Network Activities**

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**48.410.1** The Network Activities may be conducted at the premises of the Company, ~~Members Network Participants~~ and such other locations recommended by the Board and agreed with the owner or occupier of the approved location.

**48.210.2** Subject to clause 10.3, each ~~Member Network Participant~~ must at all reasonable times, and within 14 days of receipt of notice, allow the Company and its Directors, officers, employees, agents and contractors to:

(a) access the part of the ~~Member Network Participant~~'s premises where the Network Activities are being conducted and view the performance of the Network Activities; and

(b) access, inspect and copy material, records, accounts and other financial material relevant to the Network Activities, including for the purposes of an audit.

**48.310.3** A ~~Member Network Participant~~ granting access ("Host") to the Company, or its Directors, officers, employees, agents or contractors, may impose as a condition, that the Company's Directors, officers, employees, agents or contractors:



- (a) comply with the Host's reasonable policies and guidelines relating to accessing the premises, including in relation to security and occupational health and safety; and
- (b) observe reasonable obligations of confidentiality and non-disclosure that protect the interests of the Host and any other party to whom the Host may owe obligations of confidentiality.

## **4911 Background Intellectual Property**

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**49.411.1** A reference to a Party's Background Intellectual Property under this clause ~~1149~~ includes Background Intellectual Property of the Company which is made available for the Network Activities by the Company.

**49.211.2** A Party may, either under a Project Schedule or by notice to the CEO, make its Background Intellectual Property available to the Network Activities on such terms and conditions as the Party determines, including any restrictions on the use of that Background Intellectual Property. The Company will record those terms and conditions in the register of Background Intellectual Property under clause 11.5.

**49.311.3** Each Party represents and warrants to each other Party that, as at the time of making the Background Intellectual Property available under clause 11.2:

- (a) to the best of its knowledge and belief it is entitled to make the Background Intellectual Property available on the terms and for the purposes the same is offered;
- (b) except to the extent disclosed to the other Parties at the time of making the Background Intellectual Property available, that Background Intellectual Property is not encumbered in a way which prevents the same being used on the terms it has been made available; and
- (c) it will not assign, encumber or otherwise deal with, dispose of or use the Background Intellectual Property in a manner inconsistent with the terms on which the Background Intellectual Property has been made available by the Party under this clause 11.

**49.411.4** The Parties acknowledge and agree that the Background Intellectual Property will remain the property of the Party that made the Background Intellectual Property available for the Network Activities.

**49.511.5** The Company must maintain a register recording all Background Intellectual Property made available by a Party for Network Activities.

**49.611.6** Subject to strict compliance with these Network Rules and Parties not prejudicing the ability of the owner of Background Intellectual Property to seek appropriate protection for Background Intellectual Property, each Party has a non-exclusive, royalty-free, worldwide, non-transferable licence to use any other Party's Background Intellectual Property to undertake the Network Activities excluding Commercialisation.

**49.711.7** Where it is necessary for the conduct of the Network Activities, the Company may grant to a third party a non-exclusive royalty-free, worldwide, non-transferable sublicense to use a ~~MemberNetwork Participant~~'s Background



Intellectual Property, which has been made available under clause 19.2, for the purposes of the Network Activities excluding Commercialisation.

~~19.8~~11.8 The Parties agree:

- (a) to take all necessary steps to protect the other Parties' Background Intellectual Property;
- (b) to give each other prompt notice of any infringement of the other Parties' Background Intellectual Property that comes to their notice; and
- (c) to give all assistance which the owner of Background Intellectual Property, to whom notice has been given under clause 11.8(b), may reasonably require in order to protect the Background Intellectual Property provided that the Party requiring the assistance reimburses the Party providing the assistance for all associated reasonable costs and expenses.

## **2012 Healthy Waterways IP**

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~~20.4~~12.1 Subject to any variations set out in a Project Schedule, the outcomes of the Network Activities will be owned as follows:

- (a) the Reports and copyright in those Reports will be owned by the Company;
- (b) the Deliverables will be owned by the Company;
- (c) any Healthy Waterways IP will be owned by the Company;
- (d) Commissioned Project IP will be owned in accordance with the Commissioned Project Agreement and any relevant Project Schedule;
- (e) Healthy Waterways IP produced by students will be owned in accordance with arrangements established under clause 16; and
- (f) the Healthy Waterways Trade Marks will be owned by the Company.

~~20.2~~12.2 Subject to clauses 13, 14 and any relevant Project Schedule, the Company, at its discretion, will place any Healthy Waterways IP in the public domain in such a manner as to:

- (a) ensure that the maximum benefits accrue to Australia; and
- (b) facilitate better decision making,

on terms similar to the Government Information Licensing Framework.

~~20.3~~12.3 The Company will use reasonable endeavours to secure as part of the terms of a Commissioned Project Agreement a right to grant:

- (a) to a ~~Class A Member Investor Network Participant~~; and
- (b) to a ~~Class B Member Contributing Network Participant~~, but only in respect of Commissioned Project IP generated in a Commissioned Project in which the ~~Class B Member Contributing Network Participant~~ is a Project Participant,

a non-exclusive, royalty-free, worldwide, non-transferable right to use, reproduce and adapt Commissioned Project IP:

- (c) for the Network Activities; and



(d) in the ordinary business operations of the Investor Network Participant or the Contributing Network Participant, excluding Commercialisation.

**20.412.4** Each Party will cooperate with each other Party and promptly do all acts and execute all documents that may be necessary or desirable to vest ownership of the Reports, the Deliverables, the Healthy Waterways IP and the Commissioned Project IP in accordance with this clause 12.

**20.512.5** Each ~~MemberNetwork Participant~~ will on request from the Company:

- (a) provide the Company with information regarding the Healthy Waterways IP and the Commissioned Project IP; and
- (b) give the Company access to all records and information in its possession in relation to the Healthy Waterways IP and the Commissioned Project IP.

**20.612.6** Each Party must use its reasonable efforts to ensure that its employees, agents and sub-contractors participating in the Network Activities identify the Healthy Waterways IP and Commissioned Project IP generated or developed by such person and must:

- (a) properly communicate details of it to the CEO;
- (b) promptly do all acts and things and execute all documents necessary or required for vesting ownership of the Healthy Waterways IP and Commissioned Project IP under clause 12.4; and
- (c) maintain the confidentiality and do nothing to prejudice the interests of the Company in the Healthy Waterways IP or any interests of a third party in Commissioned Project IP.

**20.712.7** Net returns arising from the Commercialisation of the Healthy Waterways IP and, subject to the Commissioned Project Agreement, Commissioned Project IP by the Company will be retained by the Company to be utilised for the Network Activities.

**20.812.8** The Company will maintain a register of Healthy Waterways IP and Commissioned Project IP.

## **2113 Confidentiality**

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**21.413.1** Subject to clause 13.4, each Party agrees to keep confidential and not disclose to any person Confidential Information of another Party disclosed to it or which becomes known to it through the conduct of the Network Activities.

**21.213.2** The onus of showing that information is not Confidential Information will rest on the receiving Party.

**21.313.3** Each Party must use reasonable efforts:

- (a) to ensure that the Party and the Party's employees, agents, consultants, advisers and contractors who participate in the Network Activities or acquire access to Confidential Information, comply with the obligations of confidentiality and use as if parties to the Network Rules; and
- (b) to minimise the risks of disclosure of Confidential Information by any of the abovementioned employees, agents, consultants, advisers or contractors who cease to be employed or contracted by the Party and to



ensure the they continue to be bound by such obligations of confidentiality.

**21.413.4** Each Party may:

- (a) use Confidential Information of another Party only for the purposes of the Network Activities and as restricted by any conditions on the use of the Confidential Information placed by the Party who owns the Confidential Information;
- (b) disclose Confidential Information to its:
  - (i) employees, agents, consultants, contractors and students;
  - (ii) directors and officers; and
  - (iii) legal, financial and other professional advisers, who have a need to know for the purposes of the Network Activities (and only to the extent that each has a need to know and subject to any conditions placed by the Party who owns the Confidential Information), provided that the disclosure is made subject to an obligation of confidentiality on the same terms as this clause 13;
- (c) use and disclose Confidential Information where authorised under a Project Schedule or a Commissioned Project Agreement;
- (d) disclose Confidential Information to the extent required by law, subject to giving prior notification to the Party whose Confidential Information is required to be disclosed; and
- (e) if the ~~MemberNetwork Participant~~ is the State of Queensland or a local authority or a statutory body of the State of Queensland, disclose Confidential Information to its responsible Minister or in response to a request by a House, Council or a committee of the Parliament or Council or to the Auditor-General.

**21.513.5** The obligations of confidentiality imposed on a Party under this clause 13 survive cessation of the Healthy Waterways Network or a ~~MemberNetwork Participant~~'s expulsion or withdrawal from the ~~CompanyHealthy Waterways Network~~ until such time as the Confidential Information is no longer confidential.

## **2214 Publications and Public Announcements**

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**22.114.1** The ~~MembersNetwork Participants~~ and the Company acknowledge that the sharing of information, subject to any confidentiality obligations, is a fundamental aspect of the Healthy Waterways Network.

**22.214.2** Subject to clauses 13, 14.3, 14.5 and 14.6, and to any restrictions set out in a Commissioned Project Agreement or relevant Project Schedule, a ~~MemberNetwork Participant~~ may publish the results of its own work arising from the Network Activities. Publications will include institutional affiliations of authors as well as an acknowledgement that the work was carried out under the auspices of the Healthy Waterways Network.

**22.314.3** The Board will determine guidelines for the making of publications, public disclosures and public announcements relating to the Network Activities, which guidelines will recognise the desire of ~~MembersNetwork Participants~~ to



publicise their participation in the Healthy Waterways Network and the obligations of confidentiality set out in clause 13.

**22.414.4** The Parties will comply with the guidelines developed by the Board under clause 14.3.

**22.514.5** The Parties acknowledge and agree that the prime responsibility for public announcements in relation to Network Activities vests in the Company.

**22.614.6** A Party (other than the Company) must not make any publications, public disclosures or public announcements on behalf of the Company or in relation to ~~the Network Rules~~ of the Network Activities outside of the guidelines established by the Board without first obtaining the approval of the CEO.

## **2315 Privacy**

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**23.115.1** Each Party must comply with its obligations under the *Privacy Act 1988* (Cth) and the relevant privacy laws of every Party's State or Territory ("Privacy Legislation").

**23.215.2** If a Party has no obligations under the Privacy Legislation, the Party must ensure that it has procedures in place to deal with Personal Information received, created or held by the Party under the Network Rules or a Project Agreement.

**23.315.3** The procedures referred to in clause 15.2 must at least comply with the National Privacy Principles under the *Privacy Act 1988* (Cth).

**23.415.4** A Party must:

- (a) only use Personal Information received, created or held by the Party under the Network Rules or a Project Agreement ("Party-held Personal Information") to meet its obligations under the Network Rules or Project Agreement;
- (b) ensure that any person, who accesses Party-held Personal Information with the Party's approval, is aware of, and gives a written undertaking to comply with this clause 15;
- (c) ensure that any subcontract made under the Network Rules or Project Agreement enforceable obligations requiring the subcontractor to comply with this clause 15; and
- (d) cooperate with reasonable requests or inquiries made by the Federal Privacy Commissioner, the Commonwealth or the relevant State in respect of the management of Party-held Personal Information.

## **2416 Students**

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**24.416.1** The Parties acknowledge that any enrolled student of a university who may take part in the Network Activities is bound by the statutes, regulations, rules and procedures of the relevant university governing the submission and presentation of theses and other material for examination in the course for which such student is enrolled ("University Rules") and the University Rules will always prevail over the Network Rules to the extent that the Network Rules conflict with University Rules.



- 24.216.2** The Network Rules do not affect the operation of the *Copyright Act 1968* (Cth) in relation to copyright in any student's thesis provided that the Company must obtain from the enrolling university and the student a licence for the Company (with a right to grant sublicences) to use, reproduce and adapt the thesis as necessary or convenient to conduct the Network Activities and for the use, dissemination and Commercialisation of the Healthy Waterways IP.
- 24.316.3** The Company may require as a condition of a student's involvement in the Network Activities that the student enter into a written agreement with the enrolling university that sets out the terms of the student's involvement. The terms of the agreement must be consistent with the terms of the University Rules and, subject to clause 16.1, the Network Rules.
- 24.416.4** Any agreement entered into with a student under clause 16.3 must be consistent with the following principles:
- (a) copyright in a student's thesis will belong to the student;
  - (b) any restrictions on the right to publish a student's thesis will only be those reasonably necessary to protect the Background Intellectual Property of the Parties, the Healthy Waterways IP and the Commissioned Project IP and any restrictions on publication of the Healthy Waterways IP must not exceed 18 months from the date of submission of the student's thesis;
  - (c) subject to clause 16.4(d), the right of a student to have any thesis examined must not be inhibited; and
  - (d) an examiner of a thesis may be required to provide appropriate acknowledgement of confidentiality to protect Confidential Information, Background Intellectual Property, Healthy Waterways IP and Commissioned Project IP.

## **2517 Effect of wWithdrawal or expulsion from the Company**

~~25.1 Subject to the provisions of this clause 25, a Network Participant:~~

- ~~(a) may withdraw from the Healthy Waterways Network by giving one (1) month's notice to the Board; and~~
- ~~(b) may be expelled from the Healthy Waterways Network by either:~~
  - ~~(i) a resolution of the Board; or~~
  - ~~(ii) a Special Resolution of the Network Committee,~~  
~~provided:~~
    - ~~(iii) Due Cause has been shown;~~
    - ~~(iv) the Network Participant has been given thirty (30) days notice by the Company of the existence of Due Cause; and~~
    - ~~(v) the Network Participant has failed within that thirty (30) days to remedy the default the subject of the Due Cause.~~

~~25.2 For the purposes of this clause 25, Due Cause means:~~

- ~~(a) failure to pay the Annual Membership Fee or Core Contribution when due;~~





- ~~(b) unauthorised disclosure or use of the Reports, Deliverables, the Healthy Waterways IP, Commissioned Project IP, Confidential Information or the Background Intellectual Property of another Party;~~
- ~~(c) breach of the Network Rules;~~
- ~~(d) becoming insolvent, bankrupt or being subject to the appointment of a mortgagee, a receiver or manager or an investigator to investigate its affairs, or making any arrangement or composition for the benefit of creditors or being the subject of winding up proceedings;~~
- ~~(e) failure to resolve a conflict of interest;~~
- ~~(f) continuance of a Force Majeure for at least 12 months that prevents the Network Participant from complying with its obligations under these Network Rules; or~~
- ~~(g) such other matters as the Board by unanimous resolution reasonably and properly declares to be a Due Cause.~~

~~25.3~~17.1 If the ~~Member~~Network Participant is expelled or withdraws from the Company under clause 7.1 then, in addition to the effects set out in clause 7.2 of the ConstitutionHealthy Waterways Network:

- ~~(a) the Network Participant must pay to the Company any unpaid Annual Membership Fees, Core Contributions or other monies due and owing on or before the date the expulsion or withdrawal takes effect;~~
- ~~(b)~~(a) any licence to its Background Intellectual Property granted under clause 11 or under a Commissioned Project Agreement continues on the same terms on which it was granted to the extent necessary to allow the remaining ~~Members~~Network Participants and the Company to conduct the Network Activities;
- ~~(c)~~(b) in the case of a ~~Class A Member~~Investor Network Participant, the right to use the Healthy Waterways IP and the Commissioned Project IP specified in clause 12.3 is a right to use the Healthy Waterways IP and Commissioned IP as available at the date the expulsion or withdrawal takes effect;
- ~~(d)~~(c) in the case of a ~~Class B Member~~Contributing Network Participant, any rights of use granted under clause 12.3 immediately cease;
- ~~(e)~~(d) the right to use the Healthy Waterways Trade Marks immediately ceases;
- ~~(f)~~(e) except for the purposes of this clause 17.1, the ~~Member~~ Network Participant ceases to be a member of the Healthy Waterways NetworkNetwork Participant and subject to these Network Rules;
- ~~(g)~~(f) the expulsion or withdrawal does not affect the enforceability of any other rights or obligations the Parties have accrued at that time;
- ~~(h)~~(g) there will be no entitlement to any refund of any part of any membership or subscription fees~~the Annual Membership Fee or Core Contribution~~ paid by the ~~Member~~Network Participant;
- ~~(i)~~(h) unless the Board otherwise resolves, the ~~Member~~Network Participant must continue to participate in and provide contributions to any current Project in which it is involved on the terms of the Network Rules and the relevant Project Schedule or Commissioned Project Agreement; and



~~(j)(i) the expulsion or withdrawal does not relieve the **MemberNetwork Participant** of the obligations imposed on it under this clause 17 and clauses 13 [Confidentiality], 14 [Publications etc], 18 [Insurance], 19 [Settlement of Disputes] or the obligations assumed before the date of termination in respect of clauses 11 [Background Intellectual Property] and 12 [Healthy Waterways IP].~~

~~25.417.2 Withdrawal or expulsion of any **MemberNetwork Participant** does not relieve the remaining **MembersNetwork Participants** of their obligations under the Network Rules. Remaining **MembersNetwork Participants** must continue to conduct the Network Activities and perform the terms of the Network Rules.~~

~~25.5 If a Network Participant breaches the Network Rules, the Board may, in addition to any other rights granted under this clause 25, suspend membership privileges until the breach is rectified.~~

## ~~26 Cessation of the Healthy Waterways Network~~

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~~26.1 Unless the Parties otherwise agree, the Healthy Waterways Network will cease immediately on termination of the Network Rules under clause 5.1.~~

~~26.2 Cessation of the Healthy Waterways Network for any reason is without prejudice to the continuing enforceability of any rights or obligations of the Parties accrued at the date of cessation.~~

~~26.3 Cessation of the Healthy Waterways Network does not relieve the Parties of the obligations imposed on them under this clause 26 and clauses 21 [Confidentiality], 22 [Publications etc], 28 [Insurance], 29 [Settlement of Disputes] or the obligations assumed before the date of cessation in respect of clauses 19 [Background Intellectual Property] and 20 [Healthy Waterways IP].~~

## ~~27 Entry of new Network Participants~~

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### ~~General Network Participants~~

~~27.1 A person seeking to join the Healthy Waterways Network as a General Network Participant must:~~

- ~~(a) complete the approved application form;~~
- ~~(b) submit the signed application form that includes a signed acknowledgment that the applicant, if admitted, will comply with the Network Rules to the Company; and~~
- ~~(c) pay the Annual Membership Fee to the Company.~~

~~27.2 After consideration of an applicant's suitability in accordance with the Network Participant Suitability Guidelines the CEO may admit an applicant under clause 27.1 as a General Network Participant.~~

### ~~Contributing Network Participant/Investor Network Participant~~

~~27.3 The Chair in consultation with the CEO will consider all applications from persons seeking to join the Healthy Waterways Network as a Contributing Network Participant in accordance with the Network Participant Suitability Guidelines. Following consideration as to the suitability of such applicants, the Chair may admit a new Contributing Network Participant in accordance with this clause 27.~~



~~27.4 The Board will consider all applications from persons seeking to join the Healthy Waterways Network as an Investor Network Participant in accordance with the Network Participant Suitability Guidelines. Following consideration as to the suitability of such applicants, the Board may resolve to admit a new Investor Network Participant in accordance with this clause 27.~~

~~27.5 If an applicant is considered suitable in accordance with clause 27.3 or 27.4, the Company, on behalf of itself and the existing Network Participants, will enter into a joinder deed with the new Network Participant under which the Parties and the new Network Participant will:~~

- ~~(a) admit the new Network Participant to the Healthy Waterways Network as either an Investor Network Participant or a Contributing Network Participant;~~
- ~~(b) if joining as an Investor Network Participant:
  - ~~(i) agree the amount of the new Investor Network Participant's Core Contribution for the Financial Year in which it joins; and~~
  - ~~(ii) provide indicative confirmation that it will pay future Core Contributions towards the Core Network Program Costs in accordance with the Projected Budget for the subsequent two (2) Financial Years; and~~~~
- ~~(c) agree to the participate in the Healthy Waterways Network in accordance with the Network Rules.~~

## **2818 Insurance**

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~~28.18.1~~ Each ~~MemberNetwork Participant~~ is responsible for effecting and maintaining any insurance policies that the ~~MemberNetwork Participant~~ considers appropriate in respect of its participation in the Healthy Waterways Network and the performance of its obligations under the Network Rules.

~~28.218.2~~ The Company will effect such insurances as determined by the Board to cover its role in relation to the Healthy Waterways Network and the performance of its obligations under these Network Rules, including public liability insurance, professional indemnity insurance and directors' and officers' liability insurance.

~~28.3 This clause 28 survives the cessation of the Healthy Waterways Network or a Network Participant's expulsion or withdrawal from the Healthy Waterways Network.~~

## **2919 Settlement of Disputes**

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~~29.419.1~~ If a dispute arises between the Parties ("Dispute"), the Parties agree to negotiate in good faith to resolve the Dispute, including participating in any dispute resolution process or protocols established by the Board and the Network Committee.

~~29.219.2~~ If the Dispute has not be resolved by negotiation within thirty (30) days using the processes or protocols referred to in clause 19.1, then any Party to the Dispute may refer the Dispute to mediation and will do so before initiating proceedings in a court to resolve the Dispute.



- | ~~29.3~~19.3 A Dispute that is referred to mediation will be referred to the Institute of Arbitrators and Mediators (“IAMA”) and will be conducted in Brisbane, Queensland in accordance with the IAMA mediation and conciliation rules.
- | ~~29.4~~19.4 If the Dispute has not been resolved with forty (40) days of referral to IAMA any Party to the Dispute may initiate proceedings in a court.
- | ~~29.5~~19.5 Nothing in this clause prevents a Party from seeking urgent interlocutory relief through courts of appropriate jurisdiction.

## **3020 Force Majeure**

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~~30.4~~20.1 In this clause ~~2030~~, Force Majeure means:

- (a) war, whether declared or undeclared, revolution or act of public enemies;
- (b) riot or civil commotion;
- (c) strike, stoppage, ban, limitation on work or restraint of labour;
- (d) act of God;
- (e) fire, explosion, flood, storm, tempest, landslide or washaway;
- (f) act of restraint of any governmental, semi-governmental or other public or statutory authority; and
- (g) any order of any court,

in so far as the event could not have been overcome, prevented or remedied by the exercise of reasonable care by a Party and is not otherwise dealt with under the Network Rules.

| ~~30.2~~20.2 No Party will be liable in any circumstances for any failure to perform its obligations under the Network Rules where such failure is due to any cause of Force Majeure beyond the Party’s reasonable control.

| ~~30.3~~20.3 Each Party must use all reasonable efforts:

- (a) to comply with the Party’s obligations under the Network Rules despite the intervention or occurrence of any such cause of Force Majeure;
- (b) to cure the cause of Force Majeure, if possible; and
- (c) as soon as the cause of Force Majeure ceases to have effect on performance of the Party’s obligations under the Network Rules, resume compliance with those obligations.

## **3121 Waiver**

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| ~~31.4~~21.1 A waiver by a Party of any rights arising from a breach or non-observance by any other Party of a term of the Network Rules does not waive any rights arising from any subsequent continuation of that breach or non-observance, or any further or other breach or non-observance of the same or any other term of the Network Rules.

## **3222 Conflicts of Interest**

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| ~~32.4~~22.1 The phrase “conflict of interest” in this clause 22 means a conflict of interest that is likely to interfere with or restrict the ability of the ~~Member~~Network



~~Participant~~ to either meet its obligations under the Network Rules or, to carry out the Network Activities it is involved in, fairly and independently.

~~32.222.2~~ Each ~~MemberNetwork Participant~~ warrants to the other ~~MembersNetwork Participants~~ that, to the best of its actual knowledge and belief as at the date that ~~MemberNetwork Participant~~ joined the ~~CompanyHealthy Waterways Network~~, there is no conflict of interest.

~~32.322.3~~ If a ~~MemberNetwork Participant~~ has a conflict of interest, the ~~MemberNetwork Participant~~ must disclose the conflict to the Company and use all reasonable efforts to remove the conflict.

## **3323** ~~Amendment of Network Rules~~

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~~33.123.1~~ The Network Rules may be amended only by:

- (a) a resolution of the Board; and
- (b) a ~~sSpecial r~~Resolution of the ~~Company in general meeting~~.~~Network Committee.~~

## **3424** ~~Goods and Services Tax~~

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~~34.124.1~~ If any GST is payable in respect of the supply under these Network Rules, then the Party making the supply (the "Supplier") will provide a tax invoice to the Party paying for the supply ("Recipient") and the amount payable by the Recipient is to be increased so that the Supplier receives an amount ("Increased Price") which, after subtracting the GST liability of the Supplier on that Increased Price, results in the Supplier retaining the original amount payable to the Supplier.

## **35** ~~Notices~~

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~~35.1~~ Any notice, request, consent or other communication in connection with the Network Rules:

- (a) ~~must be in writing; and~~
- (b) ~~must be:~~
  - (i) ~~left at the physical address of the addressee; or~~
  - (ii) ~~sent by:~~
    - A. ~~prepaid ordinary post (airmail if posted to or from a place outside Australia); or~~
    - B. ~~facsimile transmission,~~  
~~to the address or facsimile number of the addressee specified in the Network Deed or in the Network Participant's application for membership or if the addressee has given written notice of an alternative address or facsimile number, then to that address or facsimile number.~~

~~35.2~~ A notice, request, consent or other communication takes effect from the time it is received unless a later time is specified in it.

~~35.3~~ A notification of a change of address or facsimile number is not effective until:



- ~~(a) in the case of the Company, the Company notifies all Network Participants; and~~
- ~~(b) in the case of a Network Participant, the Network Participant notifies the Company.~~

~~35.4 A letter or facsimile is taken to be received:~~

- ~~(a) in the case of a posted letter, on the third (or seventh, if posted to or from a place outside Australia) day after posting;~~
- ~~(b) in the case of a facsimile transmission, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient provided that if the transmission is completed after 5.00pm on a Business Day or is sent on a day that is not a Business Day, the message will not be deemed to have been received until the next Business Day.~~

Confidentiality was removed  
from this document by resolution



Confidentiality was removed  
from this document by resolution



## Appendix Schedule 1 – Definitions and interpretation

### Definitions

|   |   |
|---|---|
| <b>Alternate</b>                        | means a person appointed by a Network Committee Member under clause 12.1.   |
| <b>Annual Budget</b>                    | means the annual budget for the conduct of the Network Activities prepared by the Company and approved by the Board under clause 15.  |
| <b>Annual Membership Fee</b>            | means the membership fee payable by a Network Participant set out in clause 7.1.  |
| <b>Annual Network Meeting</b>           | means the annual meeting of Network Participants under clause 14.1.   |
| <b>Annual Report</b>                    | means the annual report to be provided by the Company to the Members Network Participants under clause 8.2.   |
| <b>Annual Report Card</b>               | means the annual Ecosystem Health Report Card produced under the Ecosystem Health Monitoring Program (EHMP). The EHMP is a comprehensive marine, estuarine and freshwater monitoring program.   |
| <b>Background Intellectual Property</b> | means Intellectual Property which is: <ul style="list-style-type: none"> <li>(a) made available to the Network Activities by a person and which has been adequately identified to the Company by that person before being made available; and either</li> <li>(b) in existence at the Commencement Date; or</li> <li>(c) brought into existence after the Commencement Date other than as a result of the performance of the Network Activities.</li> </ul> |
| <b>Board</b>                            | means the board of directors of the Company <del>and where the context requires in the Network Rules, a reference to “Board” will include a reference to the “Interim Board”.</del>   |
| <b>Business Day</b>                     | means any day other than Saturdays, Sundays and public holidays in Brisbane, Queensland.  |
| <b>Business Plan</b>                    | means the business plan developed on a three (3) year rolling basis and reviewed annually, for the operation of the Company, and in particular how the Company contributes to achieving the Network Strategic Plan, approved by the Board <del>under clause 15.</del>   |
| <b>CEO</b>                              | means the person appointed by the Board to act as   |





|  |   |
|--|---|
|  | chief executive officer of the Company.   |
| <b>Chair</b>                             | <del>means the chairperson of the Board.</del>  |
| <b>Commencement Date</b>                 | means 1 November 2010, <del>the later of:</del><br>(a) <del>1 July 2010; or</del><br>(b) <del>the date the third Network Deed is executed by a Founding Network Participant and the Company;</del><br><del>but in any case not before the State of Queensland has executed a Network Deed.</del> [1]  |
| <b>Commercialisation</b>                 | in relation to Intellectual Property, means to:<br>(a) manufacture, distribute, market, hire or sell the Products or any part of them to a third party for a fee;<br>(b) offer to manufacture, distribute, market, hire or sell the Product or any part of them to a third party for a fee;<br>(c) provide or offer Services to a third party for a fee; or<br>(d) licence, sublicense, joint venture or make any other similar arrangement with any third party to do any of those things. |
| <b>Commissioned Project</b>              | means a Project that has been specifically commissioned and funded by a person, or that the relevant Parties have decided will be undertaken as a Commissioned Project.   |
| <b>Commissioned Project Agreement</b>    | means an agreement for the conduct of a Commissioned Project entered into between the Company and the Commissioning Party and in some instances the Project Participants.   |
| <b>Commissioned Project Deliverables</b> | means the deliverables of a Commissioned Project specified in the relevant Commissioned Project Agreement.  |
| <b>Commissioned Project IP</b>           | means the Intellectual Property generated or created from the conduct of a Commissioned Project.  |
| <b>Commissioned Project Report</b>       | means all reports provided to the Company in relation to a Project in accordance with the relevant Commissioned Project Agreement.  |
| <b>Commissioning Party</b>               | means the person who commissions and funds a Commissioned Project.  |
| <b>Company</b>                           | means Healthy Waterways Ltd ACN 137 943 554.  |
| <b>Confidential Information</b>          | means all information which is:   |



- (a) by its nature confidential;
- (b) indicated by one of the Parties to be confidential;
- (c) reasonably likely to be of a confidential nature,

including:

- (d) technical, strategic or commercial information of a Party;
- (e) information concerning Intellectual Property of a Party;
- (f) information the disclosure of which could prejudice the registration, Commercialisation or value of Intellectual Property; and
- (g) all trade secrets and all financial accounting, marketing and any other information belonging to, used by or relating to any Party in the conduct of its business operations,

but excluding:

- (h) the interpretation, analysis and application of general information in the public domain;
- (i) information that, before disclosure, is in the public domain or in published literature or after disclosure becomes part of the public domain or is published other than as a result of a breach of these Network Rules;
- (j) information that is received by the recipient of the Confidential Information under these Network Rules ("Recipient") from a third party without any obligation to hold in confidence and which has not been obtained by that third party directly or indirectly from the person disclosing it under these Network Rules ("Discloser");
- (k) information that is independently developed by an employee or officer engaged by the Recipient while having no knowledge of the Discloser's Confidential Information; or
- (l) information the Discloser has identified in writing to the Recipient as being released from the obligation of



|   |   |
|---|---|
|   | confidentiality.  |
| <b>Constitution</b>                         | means the constitution of the Company.  |
| <del>Contributing Network Participant</del> | <del>means a Network Participant who satisfies the criteria set out in clause 6.4.</del>  |
| <del>Core Contribution</del>                | <del>means the cash and non-cash contributions made by an Investor Network Participant to the Core Network Program Costs.</del>   |
| <del>Core Network Program</del>             | <del>means that sub-set of the Network Activities that focus on the delivery of outcomes for Investor Network Participants as identified in the Business Plan and the Network Strategic Plan including the delivery of:</del> <ul style="list-style-type: none"> <li><del>(a) Healthy Waterways Network governance;</del></li> <li><del>(a) ecosystem health and event monitoring regional programs covering freshwater, estuarine and marine systems including release of the Annual Report Card;</del></li> <li><del>(b) business support and office infrastructure to support delivery of subclauses (a) and (b).</del></li> </ul> |
| <del>Core Network Program Costs</del>       | <del>means that portion of the Annual Budget allocated to the delivery of the Core Network Program.</del>   |
| <b>Deliverables</b>                         | means the deliverables of a Project specified in the relevant Project Schedule to a Healthy Waterways Project Terms Agreement.  |
| <b>Director</b>                             | means a director of the Company.  |
| <del>Due Cause</del>                        | <del>means an event described in clause 25.2.</del>   |
| <b>Financial Statements</b>                 | means the financial statements to be prepared by the Company under clause 8.3.  |
| <b>Financial Year</b>                       | means a period of 12 months beginning on 1 <del>July and ending on 30 June the following year.</del> <u>January and ending on 31 December provided however, the first Financial Year of the Healthy Waterways Network will be the period beginning on the Commencement Date and ending on 31 December 2010.</u>   |
| <b>Force Majeure</b>                        | means an event described in clause 20.  |
| <del>Founding Company Member</del>          | <del>means International WaterCentre Pty Ltd ACN 115 590 255.</del>   |
| <del>Founding Network Participants</del>    | <del>means a person who signs a Network Deed.</del>   |
| <del>Full Year</del>                        | <del>means a Financial Year.</del>  |



|   |  |
|---|--|
| <b>General Network Participant</b>                | <del>means a Network Participant who satisfies the criteria set out in clause 6.6.</del>   |
| <b>Government Information Licensing Framework</b> | means the Queensland Government open content licensing framework.  |
| <b>GST</b>  | has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).   |
| <b>Half-Year</b>                                  | <del>means a 6 month period ending on 30 June or 31 December.</del>  |
| <b>Healthy Waterways Data</b>                     | means all Ecosystem Health Monitoring Program (EHMP) sampling data generated or created under the EHMP contracts between the Company and the State of Queensland through its Department of Environment and Resource Management.  |
| <b>Healthy Waterways IP</b>                       | means all Intellectual Property and know-how generated or created from the Network Activities other than Commissioned Project IP, including Project Reports and Deliverables from a Healthy Waterways Project Terms Agreement subject to any variations in a Project Schedule (but excluding Commissioned Project Reports and Commissioned Project Deliverables).  |
| <b>Healthy Waterways Trade Marks</b>              | means the trade marks identified in <a href="#">Attachment B to the Network Rules Schedule 3</a> .   |
| <b>Healthy Waterways Network</b>                  | means the network <a href="#">of Members</a> established under the <a href="#">Constitution and the Network Rules</a> .  |
| <b>Healthy Waterways Project</b>                  | means a Project that is not a Commissioned Project.  |
| <b>Healthy Waterways Project Terms</b>            | means the terms on which a Healthy Waterways Project will be carried out by the Project Participants as set out in <a href="#">Attachment A to the Network Rules Schedule 2</a> .  |
| <b>Healthy Waterways Project Terms Agreement</b>  | means an agreement comprising the Healthy Waterways Terms and a Project Schedule.  |
| <b>Independent Director</b>                       | <p><del>means a person who:</del></p> <ul style="list-style-type: none"> <li><del>(a) — is appointed by the Network Committee under clause 13.1;</del></li> <li><del>(b) — is not an employee of a Network Participant or the Company (for the purposes of this definition, an employee does not include an elected representative or a non-executive director of a board associated with a Network Participant); and</del></li> <li><del>(c) — has met the requirements for appointment under the Corporations Act 2001 (Cth).</del></li> </ul> |



## Intellectual Property

includes all copyright, all rights in relation to inventions (including patents), registered and unregistered trade marks (including service marks), registered designs, confidential information and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields and all other rights with respect to intellectual property as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

## ~~IWC Nominee Director~~

~~means the person appointed by IWC under clause 13.2(b).~~

## ~~Investor Network Participant~~

~~means a Network Participant who satisfies the criteria set out in clause 6.2.~~

## ~~Local Authority Network Participants~~

~~means an Investor Network Participant who is a local government authority.~~

## Machinery of Government Change

means a transfer of responsibility, function or operations either wholly or partly, from a Queensland Government department or agency or Queensland Government body to another Queensland Government department or agency or Queensland Government body.

## Network Activities

means the activities of the Healthy Waterways Network undertaken by the Parties under the Constitution and the Network Rules to fulfil the Objectives.

## ~~Network Committee~~

~~means the advisory committee to the Board established under clause 11.1 of the Network Rules.~~

## ~~Network Committee Member~~

~~means a member of the Network Committee.~~

## ~~Network Deed~~

~~means a deed entered into between the Company and a Founding Network Participant for the establishment of the Healthy Waterways Network.~~

## ~~Network Participant Suitability Guidelines~~

~~means the guidelines developed by the Board and/or Network Committee to determine the suitability of applicants for entry as Network Participants under clause 27 and annual review of suitability of Network Participants under clause 16.6.~~

## Network Participants

means:

(a) Founding Network Participants; and

(a) a person subscribing to these Network



|                               |   |
|-------------------------------|---|
| <b>Network Rules</b>          | <p><del>Rules either by the execution of a joinder deed under clause 27.5 or completion of an application form under clause 27.1,</del></p> <p><del>other than a person who has withdrawn from or has been expelled from the Healthy Waterways Network under clause 25.</del></p> <p>means these rules and all schedules and annexures to these rules</p> |
| <b>Network Strategic Plan</b> | <p>means the strategic plan developed on a three (3) year rolling basis, for the conduct of the Network Activities <del>approved by the Board, and in particular the Core Network Program approved by the Board under clause 15.</del></p>  |
| <b>Objectives</b>             | <p>means the objectives of the <del>Company set out in clause 4 of the Constitution Healthy Waterways Network set out in clause 3.2.</del></p>  |
| <b>Parties</b>                | <p>means the <del>Members Network Participants</del> and the Company and <b>“Party”</b> means any one of them.</p>  |
| <b>Personal Information</b>   | <p>has the meaning given to that term in the <i>Privacy Act 1988</i> (Cth).</p>   |
| <b>Product</b>                | <p>in relation to Intellectual Property, means any process, product, article or thing that is made using, or incorporates, that Intellectual Property or any part of that Intellectual Property.</p>  |
| <b>Project</b>                | <p>means a discrete research, education or training project or activity carried out as part of the Network Activities under clause 9.</p>   |
| <b>Project Agreements</b>     | <p>means the Healthy Waterways Project Terms Agreements and the Commissioned Project Agreements.</p>  |
| <b>Project Participant</b>    | <p>means a <del>Member Network Participant</del> or third party who will carry out or contribute to a particular Project as set out in the relevant Project Schedule or Commissioned Project Agreement.</p>   |
| <b>Project Reports</b>        | <p>means all reports provided to the Company in relation to a Project in accordance with the relevant Project Schedule.</p>   |
| <b>Project Schedule</b>       | <p>means the pro-forma schedule set out in Schedule 2 which sets out the details of the Project to be carried out, which is to be completed for each Healthy Waterways Project Terms Agreement proposed project under clause 9.</p>   |
| <b>Projected Budget</b>       | <p><del>means the Annual Budget together with the budget projections for the following two (2) Financial Years,</del></p>   |



|   |  |
|---|--|
| <b>Report</b>   | <del>including the projected Core Network Program Costs.</del>   |
| <b>SEQ Healthy Waterways Vision</b>                     | means an Annual Report or a Project Report.<br><del>Healthy Waterways will be recognised as an organisation that enhances regional collaboration to support decision making, inform policy and inspire collective action for effective catchment management.</del> <i>by 2026, our waterways and catchments will be healthy ecosystems supporting the livelihoods and lifestyles of people in South East Queensland, and will be managed through collaboration between community, government and industry.</i> |
| <b>Services</b>   | means services that are based on or use the Products or the relevant Intellectual Property.  |
| <b>Special Resolution</b>                               | <del>means a decision of the Network Committee passed by at least 75% of the votes cast.</del>   |
| <b>State Network Participant</b>                        | <del>means an Investor Network Participant who is a Queensland Government Department or other Queensland Government statutory body (other than a university or other public teaching or research institution).</del>   |
| <b>Strategic Network Meeting</b>                        | <del>means the meeting held under clause 14.3.</del>   |
| <b>Trade Mark Guidelines</b>                            | means the guidelines issued by the Board from time to time governing the use and display of the Healthy Waterways Trade Marks.   |
| <b>Water Utilities Network Participants</b>             | <del>means the Water Utilities (Distributor—Retail) Network Participants and the Water Utilities (Bulk) Network Participants.</del>  |
| <b>Water Utilities (Bulk) Network Participant</b>       | <del>means an Investor Network Participant who is a new water entity under the South East Queensland Water (Restructuring) Act 2007 (Qld).</del>   |
| <b>Water Utilities (Distributor—Retail) Participant</b> | <del>means an Investor Network Participant who is a distributor retailer under the South East Queensland Water (Distribution and Retail Restructuring) Act 2009 (Qld).</del>   |

## Interpretation

In the Network Rules, unless the contrary intention appears:

- (a) Headings are for ease of reference only and do not affect the meaning of the Network Rules and do not form part of the clause.
- (b) The singular includes the plural and vice versa and words importing a gender include other genders.



- (c) Words used in the Network Rules and defined in the dictionary will have the meaning set out in the dictionary. Other grammatical forms of defined words or expressions have corresponding meanings.
- (d) A reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to the Network Rules and a reference to the Network Rules includes any schedules and annexures attached to the Network Rules.
- (e) A reference to a document or agreement, including the Network Rules, includes a reference to that document or agreement as novated, altered or replaced from time to time.
- (f) A reference to "\$", "\$A", "dollar" or "A\$" is a reference to Australian currency.
- (g) All monetary amounts are exclusive of GST, unless expressed otherwise.
- (h) A reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed.
- (i) A reference to a right includes a benefit, remedy, authority, discretion and power;
- (j) A reference to a Party includes its executors, administrators, successors and permitted assigns and if more than one, includes those persons jointly and each of them severally, their respective executors administrators and assigns.
- (k) A reference to a government department includes its successor departments under any Machinery of Government Change.
- (l) Words importing the whole of the matter or thing include a part of the matter or thing.
- (m) Words and expressions importing natural persons include partnerships, bodies corporate, associations (whether incorporated or not), firms, joint ventures, trusts, authorities, governments and governmental, semi-governmental and local authorities and agencies.
- (n) A reference to a 'subsidiary' of a body corporate is to a subsidiary of that body corporate in accordance with Pt 1.2 Div 6 of the *Corporations Act 2001* (Cth).
- (o) A reference to any legislation or statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes a reference to an enactment, amendment or consolidated statute and any enactment substituted for the enactment and all legislation and statutory instruments issued under, such legislation or provision.
- (p) Words and expressions defined in the *Corporations Act 2001* (Cth) as at the Commencement Date have the meanings given to them in the *Corporations Act 2001* (Cth) at that date.
- (q) Any provision in the Network Rules stating that a Party "must" do something or "must" not do something should be read and construed as an agreement by that Party to do or not to do the matter or thing referred to.
- (r) Each clause in the Network Rules is not, except where expressly provided, limited in meaning or effect by any other clause in the Network Rules.





- (s) A reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form.
- (t) Any agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty entered into by a Party for or with another person binds them severally and an agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty in favour of a Party for or with another person is for the benefit of them severally. A release given to the other person does not release the Party from any other obligation. The granting of time or another indulgence to another person will not release the Party of its obligations under the Network Rules.
- (u) If the day on which:
  - (i) anything, other than a payment, is to be done is not a Business Day, that thing must be done on the preceding Business Day;
  - (ii) a payment is to be made is not a Business Day it must be made on the next Business Day but if the next Business Day falls in the next calendar month it must be made on the preceding Business Day; and
  - (iii) if an act, other than a payment or the giving of a communication, is required to be done on a particular day and the act is done after 5:00pm on that day, it will be deemed to have been done on the following day.



## **Attachment A Schedule 2 – Healthy Waterways Project Terms and Project Schedule**

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The Project Participants have agreed to observe the following terms when conducting Healthy Waterways Projects.

### **1 Dictionary**

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- 1.1 In these Terms, unless the context otherwise requires, the following definitions apply:
- (a) **Asset** means an item of real or personal property over \$5,000 in value but does not include Intellectual Property;
  - (b) **Background Intellectual Property** means Intellectual Property of the Project Participants described as 'Background Intellectual Property' in the Project Schedule;
  - (c) **BIP Participant** means the parties identified in the Project Schedule who will grant to the other Project Participants and the Company the non-exclusive licence to use their respective Background Intellectual Property as provided for in clause 12 of these Terms;
  - (d) **Budget** means the budget for the Project which is set out in the Project Schedule;
  - (e) **Commencement Date** means the date for the commencement of the Project set out in the Project Schedule;
  - (f) **Completion Date** means the date for the completion of the Project set out in the Project Schedule;
  - (g) **Contributed Personnel** means the persons identified in the Project Schedule as the personnel who will conduct the Project;
  - (h) **Deliverables** means the deliverables of the Project set out in the Project Plan;
  - (i) **Milestones** means the milestones of the Project set out in the Project Schedule;
  - (j) **Project** means the project to be carried out on in accordance with these Terms and the Project Schedule;
  - (k) **Project Contributions** means the contributions by the Project Participants and the Company described in the Project Schedule;
  - (l) **Project Fee** means the fee (if any) set out in the Project Schedule, to be paid by the Company to the Project Participants for the conduct of the Project;
  - (m) **Project Leader** means the person identified as such in the Project Schedule;
  - (n) **Project Outcomes** means all reports, Deliverables, and Intellectual Property produced in the conduct of the Project;
  - (o) **Project Plan** means the plan for the conduct of the Project set out in the Project Schedule;



- (p) **Special Terms** means any special terms applicable to a Project, set out in the Project Schedule; and
- (q) **Terms** means these project terms in Schedule 2 and any amendments or Special Terms set out in the Project Schedule.

1.2 Words and phrases used in these Terms that also appear in Schedule 1 [Definitions and Interpretation], and that are not specifically defined in these Terms, will have the meaning given to those words and phrases in Schedule 1.

## **2 Paramourncy**

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- 2.1 Subject to clause 2.2, if there is an inconsistency between these Terms and the Network Rules, the Network Rules will, to the extent of that inconsistency, prevail.
- 2.2 If there is an inconsistency between the Special Terms and the Network Rules, the Special Terms, to the extent of the inconsistency, will prevail.

## **3 Application of Network Rules**

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- 3.1 Subject to clause 2.2, the Project Participants acknowledge and agree that:
  - (a) the conduct of the Project forms part of the Network Activities;
  - (b) all the provisions of the Network Rules that, expressly or by implication, apply to the conduct of Healthy Waterways Projects, will with any necessary amendment, be deemed to form part of these Terms; and
  - (c) these Terms will be read with and deemed to form part of the Network Rules.

## **4 Project**

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- 4.1 In consideration of:
  - (a) the payment of the Project Fee to the Project Participants by the Company under clause 6; and
  - (b) the making available to the Project by the Company of the Project Contributions,the Project Participants will conduct the Project in accordance with the Project Schedule, these Terms and the Network Rules.
- 4.2 The Project will be reviewed annually or as otherwise required by the Board.

## **5 Term**

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- 5.1 The Project will commence on the Commencement Date and, subject to clause 14 will be completed on the Completion Date unless otherwise agreed by the Project Participants and the Board.

## **6 Payment and Project Contributions**

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- 6.1 Each Project Participant must make available to the Project, its Project Contributions in accordance with the Project Schedule.
- 6.2 The Company must:



- (a) pay to the Project Participants the Project Fee; and
  - (b) make or procure the making of the Company's Project Contributions, in accordance with the Project Schedule.
- 6.3 The Company may withhold some or all of the Project Fee and Project Contributions if:
- (a) there has been a shortfall of work scheduled to be completed in any preceding quarter;
  - (b) the Project Participants have not complied with the Project Schedule, these Terms or the Network Rules in conducting the Project; and
  - (c) any Milestones to have been attained by the end of the preceding quarter were not attained.
- 6.4 The Company must release any Project Fee withheld under clause 6.3 on the making good of the shortfall of work or on the attainment of the missed Milestone.

## **7 Project Management**

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- 7.1 The Project Participant who employs the Project Leader must ensure that the Project Leader:
- (a) oversees the Project so that it is conducted in accordance with the Project Plan and:
    - (i) meets the Milestones in accordance with the Project Schedule; and
    - (ii) is within the Budget;
  - (b) manages the Project on a day to day basis;
  - (c) liaises with the Company and the other Project Participants;
  - (d) reports to the CEO when requested; and
  - (e) does all that is required of the Project Leader under these Terms and the Project Schedule.
- 7.2 Each Project Participant must cooperate with the Project Leader and conduct its part of the Project to enable the Project to be conducted in accordance with these Terms and the Project Schedule.

## **8 Reporting and Milestones**

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- 8.1 The Project Leader must report in writing to the CEO:
- (a) any substantial departures from the Project Plan; and
  - (b) any matter that the Project Leader considers will, or may, affect the ability of the Project to satisfy the Milestones or to be completed within Budget, as soon as that matter comes to the attention of the Project Leader.
- 8.2 The Project Leader will submit reports to the Company at the times set out in the Project Schedule with the detail and information reasonably requested by the Company.
- 8.3 The Project Participants must provide:



- (a) the Project Leader with the information reasonably requested by the Project Leader to enable the timely submission of the reports in accordance with these Terms and the Project Schedule;
- (b) the Company with the information reasonably requested by the CEO to enable the timely preparation and submission of the Annual Report in accordance with the Network Rules.

## **9 Deliverables**

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- 9.1 The Project Participant employing the Project Leader must ensure that the Project Leader uses all reasonable endeavours:
  - (a) to ensure the Project meets the Milestones; and
  - (b) to deliver the Deliverables,in accordance with the Project Schedule.
- 9.2 If the Project Leader considers at any time that there is a likelihood that the Project will fail to meet Milestones or deliver Deliverables in accordance with the Project Schedule, the Project Leader must immediately notify the CEO.

## **10 Project Review**

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- 10.1 The Company will review the Project annually and may implement variations to the Project and the Project Plan as required under clause 11.
- 10.2 Subject to clause 11, the Board may terminate the Project if, following a review under clause 10.1, the Board reasonably forms the view that the Project will not achieve its objectives.

## **11 Project Variation**

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- 11.1 The Board may make changes to the Project, the Project Schedule (including the Deliverables) or may terminate part of, or the whole of the Project provided always that:
  - (a) any decision made by the Board must be made only after consultation with the Project Participants and any resulting amendments must be:
    - (i) in writing;
    - (ii) signed by the CEO and the Project Participants;
    - (iii) copied by the CEO to each Project Participant; and
    - (iv) attached to the Project Schedule;
  - (b) if the change to the Project requires an increase or decrease in Project Fees, the Budget or Project Contributions, that increase or decrease will, in the amounts determined by the Board, be subject always to the agreement of the affected Project Participants; and
  - (c) a Project Participant is not required to carry out any amendment to the Project where to do so would be inconsistent with that Project Participant's research capacity or place that Project Participant in a conflict of interest.



- 11.2 The Company is not liable for any work performed or expenditure incurred by the Project Participants in respect of a variation to a Project that has not been approved in accordance with clause 11.1.
- 11.3 Where the Board terminates part of, or the whole of, the Project pursuant to clause 11.1:
- (a) a Project Participant must do everything possible to mitigate its losses arising as a consequence of the termination of the Project; and
  - (b) the Parties will negotiate in good faith reasonable compensation for the Project Participants for the liabilities and expenses which have been reasonably and properly incurred by the Project Participants as a result of the termination. However, the Board has the final determination in this regard.
- 11.4 Where the Board makes changes to the Project, the Project Schedule (including the Deliverables) in accordance with clause 11.1:
- (a) the Project Participants must do everything possible to mitigate their losses arising as a consequence of the variation to the Project; and
  - (b) the Parties will negotiate in good faith reasonable compensation for the Project Participants for the liabilities and expenses which have been reasonably and properly incurred by the Project Participants as a result of the termination. However, the Board has the final determination in this regard.

## **12 Background Intellectual Property**

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- 12.1 Each BIP Participant hereby makes available its Background Intellectual Property in accordance with clause 11 of the Network Rules.

## **13 Project Outcomes**

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- 13.1 The Project Outcomes will be owned and used in accordance with the Network Rules.

## **14 Withdrawal from the Project**

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- 14.1 Where a Project Participant's ("Withdrawing Participant's") Project Contributions in relation to the Project are no longer available through no fault of the Withdrawing Participant or, in the reasonable opinion of the Withdrawing Participant, the Project is no longer relevant to its operations, it may, by written notice to the Board and the other Project Participants, seek consent to withdraw from the Project.
- 14.2 The notice given by a Withdrawing Participant under clause 14.1 is effective on receipt of consent from each of the other Project Participants and the Board.
- 14.3 Any licence to use Background Intellectual Property granted by a Withdrawing Participant under clause 12.1 or the Network Rules will continue despite the withdrawal.
- 14.4 If a Project Participant withdraws from the Project, the Board may by written notice to the other Project Participants terminate the Project if the Board reasonably forms the view that:



- (a) it is no longer possible to conduct the Project with the resources available; or
  - (b) the withdrawal of the Project Participant means that the Project will not achieve its objectives.
- 14.5 A Withdrawing Participant is only entitled to payments for the Project which have been rendered in accordance with these Terms and the Project Schedule before the effective date of withdrawal.

## **15 Contributed Personnel**

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- 15.1 Each Project Participant will make available its Contributed Personnel to conduct the Project in accordance with the Project Schedule.
- 15.2 Subject to this clause 15, the Contributed Personnel of Project Participants remain subject to the terms and conditions of employment under which they are employed by Project Participants.
- 15.3 Project Participants covenant and undertake to procure that Project Outcomes created by any of its Contributed Personnel will be owned and dealt with according to these Terms and the Project Schedule.

## **16 Contributed Assets**

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- 16.1 This clause applies to any Asset:
- (a) included as part of the Project Contributions of a Project Participant; or
  - (b) acquired by a Project Participant in whole or in part from any payments made by the Company to that Project Participant for the conduct of the Project.
- 16.2 Unless otherwise stated in the Project Schedule, or agreed between the relevant Project Participant and the Company:
- (a) legal title to an Asset will be or remain vested in the Project Participant concerned; and
  - (b) an Asset will remain at the premises of the Project Participant having title to the Asset.
- 16.3 During the term of the Project, any Project Participant having title to an Asset:
- (a) must not, without the consent of the Board, encumber the Asset or use the Asset to the detriment of the conduct of the Network Activities, or in a way that prevents the Project Participant from complying with its obligations under these Terms and the Project Schedule;
  - (b) unless agreed with the Company, is responsible for insurance, maintenance and any other costs and liabilities associated with the Asset; and
  - (c) must make the Asset available for use in connection with the Project.
- 16.4 The Company will keep a register of Assets to which this clause 16 applies.



## PROJECT SCHEDULE

1. Project
2. Project Participants
3. Background Intellectual Property; name of BIP Participant making it available and terms on which it is made available.
4. Budget
5. Commencement Date
6. Completion Date
7. Project Contributions
8. Assets
9. Deliverables
10. Reporting Requirements (Project Reports)
11. Project Fee
12. Project Leader
13. Project Plan
14. Contributed Personnel
15. Arrangements for Student Involvement
16. Intellectual Property Arrangements (if different to the Network Rules)
17. Special Terms

*[insert variations to the Project Term (if any)]*

### **Acknowledgement**

The Project Participants acknowledge and agree that they will participate in and contribute to the Project in accordance with the terms of this Project Schedule

*[add signature blocks of Project Participants]*

The Company acknowledges and agrees that this Project has been approved by resolution of the Board

*[signature block for Healthy Waterways Ltd]*

### **Additional requirements for Commissioned Projects**

- A. Contributions of the Commissioning Party
- B. Rights and obligations of the Commissioning Party, the Company and the Project Participants to use, disseminate and Commercialise Project Outcomes (including rights to revenue returns if appropriate).

### **Additional Acknowledgement for Commissioned Projects**





The Project Participants acknowledge that they have been provided with a copy of the Commissioned Project Agreement which is attached to this Project Schedule and agree to its terms.

*[add signature blocks of Project Participants]*

Confidentiality was removed  
from this document by resolution



## Attachment B Schedule 3 – Healthy Waterways Trade Marks

| TM Number | Words/ Image Phrase |
|-----------|---------------------|
| 763115    |                     |
| 1273439   |                     |



|         |  |
|---------|--|
| 1273440 |  |
| 1273441 |  |
| 1273442 |  |
| 1273438 | <p><b>water by design</b><br/>Creating water sensitive communities</p> |
| 1273443 | <p><b>water by design</b><br/>Creating water sensitive cities</p>      |