

draft

**DRAFT MODEL CHARTER OF A WATER USER  
ASSOCIATION WITH A GENERAL ASSEMBLY**

**APPROVED  
At Foundation Assembly**

Protocol \_\_\_\_\_ " \_\_\_\_\_ " \_\_\_\_\_ 200\_\_

**CHARTER**

**Of the \_\_\_\_\_ Water User Association**

\_\_\_\_\_ Rayon  
200\_

## **CHAPTER I GENERAL PROVISIONS**

### **Article 1. Name of the Water User Association**

The \_\_\_\_\_ Water User Association (hereinafter 'the Association') is a water user unity (Association) established in accordance with the Law on Unions (Associations) of Water Users of 2002 and has its headquarter at \_\_\_\_\_, \_\_\_\_\_ Street, \_\_\_\_\_ Village, \_\_\_\_\_ Rayon, \_\_\_\_\_ Oblast.

### **Article 2. Association Service Area**

The Service Area of the Association consists of agricultural lands with a total irrigation area of \_\_\_\_\_ hectares that are capable of receiving irrigation water from \_\_\_\_\_ canals and/or \_\_\_\_\_ River as described in the attached plan.

### **Article 3. Objective of the Association**

The Association is a participatory non-commercial organisation established on the basis of voluntary membership that acts in the public interest for the purpose of operating and maintaining the irrigation system situated within the Association Service Area and distributing irrigation water to water users. The activity of the Association is not limited in time.

### **Article 4. Legal status of the Association**

1. The Association is a legal entity having a seal that bears its name written in Kyrgyz and Russian. The Association is legally constituted after its registration with the appropriate organism of the Ministry of Justice of the Kyrgyz Republic.
2. The Association is not responsible for the liabilities of its members. The Association is responsible for its own debts through its own assets.

## **CHAPTER II TASKS AND ACTIVITIES OF THE ASSOCIATION**

### **Article 5. The principal tasks of the Association**

The principal tasks of the Association are:

- a) to operate the irrigation system[s] within the Association Service Area and to distribute water to Association members on the basis of annual agreements;

- b) to distribute water on a contractual basis to persons who own or use irrigated land within the Association Service Area and who are not members of the Association;
- c) to rehabilitate and improve irrigation systems within the Association Service Area and to undertake construction works as necessary;
- d) to purchase irrigation water from the \_\_\_\_\_ (insert name of water supplier) that operates and maintains the \_\_\_\_\_ main canal (insert name of the relevant canal), for distribution within the Association Service Area;

**ALTERNATIVE SUB-ARTICLE d)**

- d) 'to abstract water from the \_\_\_\_\_ River and/or from groundwater reserves for distribution within the Association Service Area;

- e) to procure, substitute, operate and maintain irrigation equipment;
- f) to manage water delivery and prevent water pollution;
- g) to undertake land improvement works; and
- h) to train Association members in irrigation techniques and promote the use of new techniques and technology.

**Article 6. Association activities**

In order to fulfill its tasks, the Association may:

- a) obtain and as necessary renew any permission or licence to abstract and/or use water required by law required by law;
- b) prepare operation and maintenance plans for the supply of water;
- c) monitor the implementation of the plans;
- d) plan and implement the rehabilitation and modernization of the irrigation system[s] within the Association Service Area in order to reduce water losses and increase efficiency;
- e) plan, install, operate and maintain measuring devices on the irrigation system[s] in order to assess the distribution of water to the various users and to ensure a proper operation of the system;
- f) introduce a schedule of water supply among outlets for an equitable distribution of water proportionate to the area and to the cropping pattern;
- g) settle irrigation disputes among members with mutual understanding and cooperation;
- h) collect fees to cover the costs of the Association;
- i) prevent cases of breaches of land and water legislation by Association members and also land users that are non members of the Association and to require liquidation of these breaches and damage repayments;
- j) use property of the Association in accordance with current legislation of the Kyrgyz Republic;
- k) educate and guide members in economic and efficient use of available water and on the techniques of applying irrigation and other reclamation measures.
- l) maintain accounts of the management cost and operation and maintenance costs separately and have them audited annually;
- m) prepare annual reports; and

- n) undertake other lawful activities reasonably necessary to achieve its principal tasks.

## **Article 7. Association principles**

The following principles shall be applied regarding the implementation of this Charter and the operation of the Association:

1. Ensuring full participation of all members of the Association in establishment and operation.
2. Decision making processes in the Association shall be fair and democratic.
3. Guaranteeing free access to information for Association members about its activity.
4. Ensuring guarantee of a fair and equitable distribution of irrigation water for all Association members.
5. Ensuring rational and careful use of water so as to minimise waste, and prevent erosion, salinisation and the over-watering of irrigated lands.
6. Ensuring environmental security, and providing rights and legal interests of owners and users of the land plots.

### **CHAPTER III MEMBERSHIP OF THE ASSOCIATION**

## **Article 8. Eligibility for membership**

1. **Subject to sub-article 3, every natural or legal person who owns a plot of agricultural land within the Association Service Area or who has a legal right to use such a plot of land for a period of more than three years has the right to become a member of the Association.**
2. **A person who holds a use right over a plot of land cannot become or remain a member of the Association if the owner of that land plot is or becomes a member.**
3. **A natural or legal person who has the right to use a plot of agricultural land within the Association Service Area on the basis of a lease, can become a member of the Association on provision of a copy of the lease or the written agreement of the landlord.**
4. **A person who has been expelled from the Association shall not be entitled to re-join the Association within a period of five years from the date of their expulsion.**
5. **Every application to join the Association shall be made in writing to the Council.**
6. **The Council must admit every eligible applicant to membership forthwith unless:**

- a) the applicant acquired the right to own or use land that was previously owned or used by a member of Association who owes outstanding fees to the Association, in which case membership shall be denied until such outstanding fees have been discharged;
  - b) the application is made during the irrigation season in which case admission to membership shall be postponed until the end of the irrigation season.
7. The restriction in article 5a) shall not apply in the case of a successor to a physical person who has died owing money to the WUA provided the successor becomes personally responsible for paying off the liabilities of the deceased person in accordance with a Schedule agreed with the Council.
  8. The Register of Members which must be maintained in accordance with article 44 is conclusive as to whether or not a person is a member of the Association.

## **Article. 9. Termination of membership**

1. An Association member who ceases to own a land plot within the Association Service Area or who loses the legal right to use such a land plot, or ceases to be eligible for membership in accordance with article 8(3) shall cease to be a member of the Association.
2. A member may be expelled from an Association by a decision of the General Assembly, on the proposal of the Council, in the case of:
  - (a) systematic non-compliance with the WUA Charter or any regulations approved by the General Assembly;
  - (b) refusal to pay fees or penalty fines due to the WUA;
  - (c) unreasonable refusal to repair or pay for any damage to WUA equipment; or
  - (d) illegal water abstraction or repeated failure to comply with water distribution schedules.
3. Any decision by the Association to expel a member shall be appealable to the courts.

## **Article. 10. Resignation of members**

1. Every member of the Association has the right to resign from the Association, provided that they first reimburse any specific expenses incurred by the Association relating to the design, construction, rehabilitation or operation of the irrigation system as a result of that person's membership.
2. A member who wishes to resign from the Association shall apply to the Council in writing. The Council shall at its next meeting, if it accepts the

**application, order the applicant's name to be removed from the Association's Register of Members and that the applicant be notified accordingly.**

3. The right to resign from the Association may not be exercised until the end of the irrigation season.

## **CHAPTER IV RIGHTS AND DUTIES OF ASSOCIATION MEMBERS**

### **Article. 11. Rights of members**

**Every member of the Association has the right:**

- a) **to a fair and equitable share of the irrigation water which is distributed by the Association;**
- b) **to participate in the decision making processes of the Association;**
- c) **to vote at General Assembly meetings providing that he is not arrears with any fees due to the Association;**
- d) **to propose agenda items for discussion at meetings of the General Assembly;**
- e) **to nominate candidates for and stand for election to the Association management organs;**
- f) **to benefit from services provided by the Association;**
- g) **to compensation where they suffer damage to their crops or to their land as a result of the negligence of any staff employed by the Association or as a result of operation and maintenance activities undertaken by the Association on their land; and**
- h) **to inspect the accounts and records that the Association is required to maintain by law.**

### **Article. 12. Duties of members**

**Every member of the Association must:**

- a) **observe the provisions of this Charter and any internal regulations made by the General Assembly;**
- b) **promptly pay any fees to the Association levied in accordance with this Charter by a specified date;**
- c) **comply with the watering schedules and must only take irrigation water in accordance with those schedules;**
- d) **ensure that he does not damage any equipment which is used or owned by the Association;**
- e) **pay the repair or replacement costs of any equipment which is damaged as a result of any his willful or negligent act or omission;**
- f) **provide information to the Association about his use of land and water;**

- g) allow the Association to use any pipes, canals, channels, hydrants or other hydro-technical equipment needed for the provision of irrigation and or drainage services which are located on land plots which he owns or uses;
- h) allow staff of the Association onto his land with machines and equipment for fulfillment of works concerning the operation and maintenance of the irrigation system;
- i) observe all rules for the operation of irrigation systems established by the General Assembly of the Association or the Council and comply with any sanctions imposed by the Council/the Dispute Resolution Commission;
- j) comply with any sanctions imposed by the Association for non-compliance with this Charter or any internal regulations of the Association.

### **Article 13. Sanctions**

1. If an Association member fails to pay any fees due to the Association by the specified date, that member must also pay a penalty fine at a rate of [5%] per month, or some other rate specified by the General Assembly, of the outstanding fees due.
2. No irrigation water shall be supplied to an Association member who is more than [60] days in arrears with payments to the Association and any penalty fines due to the Association unless a repayment schedule has been agreed with the Council of the Association.
3. The Council of the Association may impose a penalty fine of [100] soms, or some greater amount as specified in a schedule contained in a regulation approved by General Assembly, on any member who interferes with the delivery of irrigation water or breaches any provision of this Charter or any regulations made by the General Assembly. If a member repeatedly incurs penalty fines the Council may suspend the delivery of water to that member for a specified period.

## **CHAPTER V GOVERNING BODIES OF THE ASSOCIATION**

### **Article. 14. Governing bodies of the Association**

**The Governing Bodies of the Association are:**

- a) the General Assembly which is the supreme body of the Association;
- b) the Council which is responsible to the General Assembly for the operation and management of the Association;
- c) the Audit Commission which is the oversight body of the Association and is responsible to the General Assembly;
- d) the Dispute Resolution Commission which is the arbitration body and is responsible to the General Assembly.

## The General Assembly of the Association

### Article. 15. The General Assembly

1. A meeting of all of the members of the Association organised in accordance with this Charter constitutes the General Assembly of the Association.
2. On the decision of the Council, persons who are not members of the Association may be invited to take part in the proceedings of the General Assembly. The invitees may take part in the debates but do not have voting rights.

### Article. 16. Allocation of votes at meetings of the General Assembly

#### OPTION A

Each member of the Association has one vote at meetings of the General Assembly, irrespective of the size of his land plot within the Association Service Area.

#### OPTION B

1. Each member of the Association shall be allocated votes proportionally to the size of their land plot within the Association Service Area, in accordance with the following table:

Up to 2 hectares ('has')	1 vote
From 2 has to 3 has	2 votes
From 3 has to 5 has	3 votes
From 5 has to 8 has	4 votes
From 8 has to 12 has	5 votes
From 12 has to 16 has	6 votes
From 16 has to 20 has	7 votes
From 20 has to 25 has	8 votes
From 25 has to 30 has	9 votes
From 35 has to 40 has	10 votes
From 40 has to 48 has	14 votes
From 48 has to 56 has	14 votes
From 56 has to 64 has	16 votes
From 64 has to 72 has	17 votes
From 72 has to 80 has	18 votes
From 80 has to 90 has	19 votes
From 90 has to 100 has	20 votes
Above 100 has	21 votes.



The number of votes held by each member shall be recorded in the Register of members. No single member shall hold more than 25% of the total number of votes.

**OPTION C**

1. Each member of the Association shall be allocated votes in proportion to the size of their contribution as a percentage of total of amount of fees levied by the Association during the previous year, in accordance with the following table:

Up to 2%	1 votes
From 2% to 3%	2 votes
From 3% to 5%	3 votes
From 5% to 8%	4 votes
From 8% to 10%	5 votes
From 10% to 13 %	6 votes
From 13% to 16%	7 votes
From 16% to 20%	8 votes
From 20% to 25%	10 votes
From 25% to 30%	15 votes
From 30% to 40%	20 votes
From 40% to 50%	25 votes
Above 50%	30 votes.'

The number of votes held by each member shall be recorded in the Register of members. No single member shall hold more than 25% of the total number of votes.

2. The right of each Association member to vote is dependent on that member not being in arrears with any fees due to the Association.

**Article. 17. Exclusive competencies of the General Assembly**

The exclusive competencies of the General Assembly are:

- (a) to define the main directions of activity of the Association;
- (b) to amend the Charter;
- (c) to issue internal regulations concerning the functioning of the Association;
- (d) to approve the annual budget of the Association;
- (e) to approve the workplan of the Association and watering plan and irrigation schedule;
- (f) to approve the annual report and accounts of the Association;

- (g) to set the annual fees payable by members and non-members for services provided by the Association;
- (h) to elect and removal of the members of the Council including the Chairman
- (i) to approve the work order and mandate of the Audit Commission and the election and dismissal of its members;
- (j) to elect the members of the Dispute Resolution Commission;
- (k) to approve the scale of expenses claims of members of the Council;
- (l) to determine the level of any penalty fines payable by Association members;
- (m) to decide on the reorganisation or liquidation of the Association, appointment of liquidation commission, approving interim and final liquidation balance; and
- (n) to undertake other tasks specified in this Charter or the law.

## **Article. 18. Proceedings of the General Assembly**

The following procedures will be followed in the activities of the General Assembly:

- a) the ordinary meeting of the General Assembly must be summoned at least [once] a year by the Council;
- b) the Council may call an extraordinary meeting of the General Assembly on its own initiative and must call such a meeting on the written request of one fifth of its members or at the request of the Audit Commission;
- c) the General Assembly is quorate provided more than 60 % of members of the Association are present or represented;
- d) meetings of the General Assembly shall be chaired by the Chairman of the Council or in his absence the Deputy Chairman of the Council;
- e) decisions on amending to the Charter and on reorganization and liquidation of the Association are made by majority of two third from total amount of votes of Association members. Simple majority makes decisions on other questions;

### **Option A**

- f) decisions of the General Assembly shall take place by secret ballot;

### **Option B**

- f) decisions of the General Assembly shall be made by show of hands, unless more than fifty percent of voters vote by show of hands for a secret ballot;

### **Option C**

- f) decisions of the General Assembly shall take place by show of hands, save that elections to the Council shall take place by secret ballot.

- g) the Council shall, no later than 30 days before the date of the General Assembly, notify every member about it in any manner which allows for confirmation of receipt of the notification and such notification shall indicate the date, time and agenda of the General Assembly;
- h) the Council shall enable the members of the Association access to materials and previously familiarize themselves with all materials prepared

according to the agenda of the meeting and amendments to it 20 days prior to the General Assembly meeting;

- i) members of the Association have the right to make proposals related to the competence of the General Assembly Meeting for inclusion in the agenda no later than 10 days prior to conducting the General Assembly Meeting;
- h) minutes of all General Assembly meetings must be kept by the Secretary of the Council. The minutes must be signed by the Chairman and maintained in the Association's record of the minutes of the General Assembly.

### **The Council of the Association**

#### **Article. 19. Competences of the Council**

The competencies of the Council of the Association are:

- a) to undertake the general management of the Association's activity;
- b) to control the performance of the executive organ of the Association;
- c) to elect the Chairman of the Council from among its members;
- d) to call General Assembly meetings;
- e) to prepare the agenda of the General Assembly meeting;
- f) to prepare the draft budget and workplan for the approval of the General Assembly;
- g) to develop and implement a standard form agreement for the supply of water to members and non-members;
- h) to award contracts in accordance with the approved budget, work-plan and operation and maintenance plan; and
- i) to fulfill other tasks specified in this charter or the law.

#### **Article. 20. Composition of the Council**

1. The Council of the Association consists of [five] members - the Chairman of the Council, the Deputy Chairman, the Secretary and [two] further members.
2. A member of the Association who wishes to stand for election to the Council must submit a written application to the Chairman at least 21 days before a meeting of the General Assembly at which the elections will take place. The application must be seconded and signed by two other Association members.
3. The Members of the Council shall serve for a term of [three] years and may stand for re-election.
4. Members of the Association that are in arrears with the payment of fees and any other debts to the Association (including penalties) do not have the right to stand for elections to the Council.

5. Each member of the Council of the Association shall represent a defined area within the Association Service Area and shall be elected among the members of that area.

## **Article. 21. Meetings of the Council**

1. The members of the Council shall meet at least once every [two] months. The meeting is quorate provided more than two third of the members are present.
2. Decisions are taken with the votes of more than half of the present members. Minutes of all meetings of the Council must be kept by the Secretary, signed by the Chairman and maintained in the Association's record of the minutes of the Council.
3. In the case of deadlock the Chairman shall have a casting vote

## **Article. 22. Reporting requirements of the Council**

1. The Council is responsible to the General Assembly of the Association.
2. Once a year 20 days prior to the General Assembly meeting, the Council shall prepare annual reports and balance sheets. The Council shall present the annual report and the balance sheet to the General Assembly and also present necessary information on request of members of Association.

**The Chairman of the Council**

## **Article. 23. The Chairman of the Council**

The Chairman of the Council is elected by the members of the Council from among their number for a period of [three] years.

## **Article. 24. The tasks of the Chairman of the Council**

The Chairman of the Council has the following obligations and authorities:

- a) to chair the meetings of the General Assembly and meetings of the Council of the Association;
- b) to act as the legal representative of the Association in all questions of its activity;
- c) to act as the spokesman of the Council;
- d) to sign contracts and other legal documents in accordance with resolutions of the Council; and
- e) to undertake other tasks specified in this Charter and the law.

## **The Audit Commission**

### **Article. 25. The Audit Commission**

**The Audit Commission supervises the financial and economic activities of the Association, the Council and its Chairman and reports to the General Assembly of the Association.**

### **Article. 26. Membership of the Audit Commission**

- 1. The Audit Commission consists of [three] members who shall be elected by secret ballot by the General Assembly from among the members of the Association for a three-year term.**
- 2. Members of the Council of the may not at the same time be members of the Audit Commission.**
- 3. The members of the Audit Commission shall elect one of their number to be the Chairman.**

### **Article. 27. Tasks of the Audit Commission**

- 1. The Audit Commission must inspect the accounting records, assets, inventory and reconciliation of bank accounts of the Association at least once a year and may undertake additional inspections on its own initiative.**
- 2. The Audit Commission must undertake additional inspections:**
  - a) on the basis of a decision of the General Assembly;**
  - b) on the basis of a decision by no less than one third of the total amount of members of the Council.**
- 3. The Council of the Association and the Executive Organ must ensure that all the records and accounts are placed at the disposal of the Audit Commission and must fully cooperate with its inspections and enquiries.**
- 4. The Audit Commission shall fulfill its tasks in accordance with a regulation issued by the General Assembly**
- 5. The Audit Commission presents its conclusions and recommendations in a signed report to the General Assembly. If a Commission member disagrees with the conclusions and recommendations in the report, that member may prepare a minority report that describe out the areas of and reasons for disagreement. Both reports must then be submitted to the General Assembly.**
- 6. The Audit Commission upon its own initiative or upon the demand of one fifth of the members of the Association has the right to engage independent auditors to audit the operation of the Association.**

## **Dispute Resolution Commission**

### **Article. 28. Establishment of the Dispute Resolution Commission**

1. Conflicts between members of the Association regarding issues related to the functioning of the Association, water use and water distribution must be solved by the Dispute Resolution Commission of the Association.
2. The Dispute Resolution Commission consists of 5 members elected by the General Assembly from among the members of the Association for a period of four years. The members of the Dispute Resolution Commission elect the Chairman from among their number.
3. A member of the Council may not at the same time be a member of the Dispute Resolution Commission.

### **Article. 29. Dispute resolution procedure**

1. An Association member who alleges that another member has violated the Association's Charter, regulations or watering plan may lodge a written complaint with the Chairman of the Commission.
2. After accepting the complaint the Chairman shall call a hearing of the Commission within 10 days.
3. Both parties to the dispute shall attend the hearing, which shall be held in public and which shall be chaired by the Chairman of the Commission. Another member of the Association may represent interested party in case of impossibility of his presence.
4. The Commission shall hear evidence from both parties to the dispute, which may include documentary evidence and may undertake inspections. The Commission shall hold its deliberations in private and shall announce its verdict within 10 days of the hearing.
5. If the Commission considers that the complaint is false it shall dismiss the complaint. If the Commission is satisfied that the complaint is true it may take a decision to impose sanctions in accordance with the Charter of the unsuccessful party.
6. The Dispute Resolution Commission shall submit an annual report on its activities to the Representative Assembly.

### **Article. 30. Appeals against Dispute Resolution Commission decisions**

**A decision of the Commission to impose sanctions shall be appealable to the courts.**

### **Common provisions on Council and Commission members**

#### **Article. 31. Removal of Council and commission members**

- 1. The General Assembly may remove any of the members of the Council, including the Chairman, and any members of the Audit Commission or the Dispute Resolution Commission from office before the expiry of the term for which they were elected on the grounds of neglect of duty or violation of criminal or administrative law.**
- 2. In the event that the General Assembly removes a member of the Council or a member of a commission from office, it must appoint a replacement at the same meeting.**

#### **Article. 32. Status of Council and Commission members**

- 1. The members of the Council, including the Chairman, and the members of the Audit Commission and the Dispute Resolution Commission are not employees of the Association and do not receive a salary for their services.**
2. In accordance with a decision of the General Assembly, the members of the Council, the Audit Commission and the Dispute Resolution Commission may be reimbursed their reasonable expenses relating to their attendance at Council or Commission meetings. The amount of such expense claims and the procedures for determining such expense claims are specified in a regulation issued by the General Assembly.

### **The executive organ of the Association**

#### **Article. 33. The Executive Organ**

The Executive Organ comprises the Director, the Accountant and the workforce of the Association.

#### **Article. 34. The Director**

1. The Director is responsible to the Council for the performance of the Executive Organ of the Association.
2. The duties of the Director are to:
  - a) undertake the day to day management of the Association's activity;
  - b) implement decisions made by the Council;
  - c) ensure the correct performance of the executive organ;

- d) prepare draft budgets and workplans for the operation and maintenance of irrigation systems;
  - e) provide operational and technical maintenance of irrigation systems;
  - f) prepare contracts for approval by the Council in accordance with the approved budget and workplan for operations;
  - g) conclude contracts up to limits set by the Council in accordance with the approved budget and workplan;
  - h) prepare draft regulations for consideration of the Council and the approval of the General Assembly;
  - i) exercise control over water supply by the water supplier and the distribution of water between association members;
  - j) hire and dismiss staff;
  - k) issue instructions and orders which must be fulfilled by all hired staff;
  - l) maintain the Association's registers and records;
  - m) operate the banking accounts of associations in accordance with provisions approved by the council.
3. The Director is appointed by the Council and his precise terms of reference are defined in his employment contract.
  4. The Director must attend meetings of the Council if invited but does not have a vote.

**Article. 35. The Accountant**

1. The Accountant is hired by the Council and reports to the Council when it meets. When the Council is not meeting the Accountant reports to the Director.
2. The tasks of the Accountant are to accurately maintain the books and records of the Associations in accordance with the instructions of the Council and the Director.
3. The precise terms of reference of the Accountant are specified in his employment agreement.

**Article. 36. Employees**

1. The Director may appoint additional employees of the Association in accordance with the budget and workplan.
2. Employees of the Association do not have the right to stand for election to the Council, the Audit Commission or the Dispute Resolution Commission.

**Chapter VI  
Association Finances and Property of the Association**

**Article. 37. Income of the Association**

1. The sources of income of the Association includes fees payable to the association by members, income received from non-members for the supply of



irrigation water on a contractual basis, interest on bank accounts, donations and grants from the state and other sources and also other sources not prohibited by the legislation of Kyrgyz Republic.

2. Any surplus funds accumulated at the end of the financial year must be retained within the Association and must not be distributed among the Association members.

### **Article. 38. Fees payable by Association members**

1. The Association shall levy the following fees against its members, consisting of:
  - a) a water supply fee by the Water Supplier to the Association according to established tariffs in accordance with concluding annually agreements on the basis of the volume of supplied water;
  - b) an Association water supply service fee to members of the Association based on the volume of water supplied;
  - c) a fee for services relating to the operation and repair of irrigation and drainage infrastructure within the Association Service Area;
  - d) fees for any additional services rendering by the Association to Association members on its instance and agreement; and
  - e) contributions to the Association's Reserve Fund.
2. The irrigation service fee shall be set at a level which allows the Association to cover its operation and maintenance costs of irrigation systems within its Service Area.

### **Article. 39. Reserve Fund**

1. The Association will establish a Reserve Fund and shall open a separate bank account to this end.
2. The Reserve Fund shall only be used to undertake repairs to the irrigation fund within the Association Service Area and to cover the cost of emergency situations.
3. Following the preparation of the annual accounts, any surplus funds accruing to the Association at the end of each financial year shall be paid into the Reserve fund. Contributions gathered by the Association from its members in accordance with article 44 of the Charter shall be paid into the Reserve fund.

### **Article. 40. Supply of irrigation water to non-members**

1. The Association may supply irrigation water to non-agricultural users and also to the owners or users of land plots within its Service area who are not Association members in accordance with a decision of the General Assembly.
2. Charges to such users who are not members are set at a rate that is [fifty] percent higher than the rate that is charged to members.

## **Article. 41. Property of the Association**

The Association owns property transferred to it in an Order of transfer issued by the Government of the Kyrgyz Republic, including any irrigation systems within its Service area. The Association may be endowed with other property rights for irrigation systems.

## **Article. 42. Compensation**

1. A member who suffers damage to his crops and/or his land as result of the negligence of the employees of the Association or as a result of operation and maintenance activities undertaken by the Association on his land may apply in writing to the Council for compensation.
2. The Council shall consider the application at its next meeting and may request the applicant to provide additional informatin and proof of loss as reasonably necessary.
3. If the Council accepts the claim it shall inform the applicant of its decision and the amount of compensation it proposes the Association should pay to the Applicant.
4. If the Association does not have sufficient funds available in its bank account to pay compensation to the member, the Council may agree to offset the compensation payment against current and/or future liabilities of the member to the Associaiton.
5. If the Council rejects the applicant's claim or of the Applicant does refuses to accept the amount of compensation proposed by the Council the Applicant may ask for the matter to be re-considered by the Association's Dispute Resolution Commission. A decision of the Dispute Resolution Commission may be appealed to the Court.

## **CHAPTER VII Records and Bookkeeping**

### **Article. 43. Accounting requirements**

The Association shall maintain its records and books in accordance with normative acts on accounting approved by Ministry of Finance of Kyrgyz Republic.

### **Article. 44. Association Records**

The Association shall maintain the following documents:

- (a) a register of members which is reviewed and updated every year, and which contains a description of the size and location of each member's land plot or plots within the Association Service Area together with the name of the owner of the land plot if different;
- (b) a record of non-members who are supplied with water;
- (c) a plan showing the Association Service Area;
- (d) a record of the quantities of water received by the Association;
- (e) a record of the requests for irrigation water from Association members;
- (f) a record of the quantities of water supplied to members and non-members of the Association or the number of irrigations they receive;
- (g) a record of land use and types of crops grown on that land;
- (h) a record of fees owed and paid by members and non-members;
- (i) the minutes of the meetings of the General Assembly, the Council and the Audit Commission;
- (j) a record of transactions and contracts;
- (k) an inventory of assets; and
- (l) financial accounts.

#### **Article. 45. Association Accounts**

1. The Association shall keep accounts of receipts and expenditure and the Council shall be responsible for the preparation of an annual balance sheet and income and expenditure statement.
2. The annual balance sheet and income and expenditure statement shall be examined by the Audit Commission and approved by the General Assembly.
3. The accounting year is the calendar year from 1 January to 31 December inclusive. The Association presents to the regulating authority and to other concerned state organs report on its activity in established by legislation order and terms.

### **CHAPTER VIII Reorganization and Liquidation of the Association**

#### **Article. 46. Reorganisation of the Association**

Reorganisation of the Association is realised on the basis of decision of the General Assembly on agreement with Regulatory Authority in accordance with the conclusions of an independent auditor.

#### **Article. 47. Liquidation of the Association**

1. Liquidation of the Association is realised by the decision of the General Assembly agreed with Regulatory Authority on the basis and order foreseen by the legislation of Kyrgyz Republic.

- 2. Following the liquidation of the Association, the powers to operate the Association are transferred to the liquidation commission created from members of the Association and representative of Regulatory Authority.**
- 3. Assets and financial means left after satisfaction of all liabilities following liquidation of the Association are subject to distribution among members of the Association, by the decision of liquidation commission.**
- 4. Liquidation is considered to be completed and the Association is considered to be liquidated at the moment of record about this in the organ undertaking the state registration of Associations (its removal from the state register).**
- 5. The books and records of the liquidated Association shall be retained in accordance with the law on the National Archive Fund.**

#### **Article. 48. Court Liquidation**

**The Association can be liquidated under a decision of the court in cases provided in the legislation of the Kyrgyz Republic.**