
Hunter Water Corporation
ABN 46 228 513 446

And

[Insert]

Agreement to Provide Services
To Community Association DP

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Accessible means the unfettered and unencumbered ability of Hunter Water to access the Master meter and the Sub meters for reading and recording purposes.

Association Property means the Community Property in the Community Scheme.

Automated Meter Reading means the system to be developed by Hunter Water for implementation in the future as another means of reading meters.

Business Day means means a day that is not:

- (a) a Saturday or Sunday, or
- (b) a public holiday or a bank holiday in the place to which the letter was addressed.

Community Association means a corporation constituted under section 25 of the *Community Land Development Act 1989* (NSW) and is established under Section 5 of the *Community Land Management Act 1989* (NSW).

Community Management Statement means the statement registered with the Community Plan as a statement of the by-laws and other particulars governing participation in the Community Scheme.

Community Parcel means the land the subject of the Community Scheme.

Community Plan means a plan for the subdivision of land into a Community Scheme.

Community Property means the lot shown in a Community Plan as community property.

Community Scheme means the manner of subdivision of land by a Community Plan.

Customer Contract means the contract prepared by Hunter Water under section 36 of the *Hunter Water Act 1991* (NSW) as varied from time to time.

Design Criteria means the Hunter Water design criteria as varied from time to time, the current version of which is attached in Schedule 1.

GST means goods and services tax under *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

Hunter Water By-Laws means the by-laws which are to be made by the Community Association pursuant to clause 2, a draft of which is in Schedule 2.

Law means any statute, ordinance, proclamation, order or regulation present or future.

Lot means a lot within the Community Parcel other than Association Property.

LPMA means Land & Property Management Authority, a division of the Office of Finance and Services.

Master Meter means the meter used to record the total amount of water used by the Community Association.

Master Meter Fees and Charges means the fees and charges payable by the Community Association to Hunter Water.

Owner means the registered proprietor for the time being of any Lot, their successors and assigns.

Public Authority means a public or local authority that is constituted by or under an Act.

Services means:

- (a) supplying water;
- (b) providing sewerage and drainage services; and
- (c) disposing of waste water.

Sub meter means the sub meter installed on each Lot by Hunter Water to record the amount of water used by each Owner.

Sub Meter Fees and Charges means the fees and charges payable by each Owner to Hunter Water.

1.2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) headings and clause numbers are for convenience only and do not form part of the document or affect its interpretation;
 - (b) the singular number includes the plural and vice versa, unless the context requires otherwise;
 - (c) a reference to a party includes that party's executors, administrators, trustees, successors and permitted assigns;
 - (d) a reference to a person includes an individual, corporation, unincorporated association, partnership, joint venture or government body;
 - (e) references to any statute, ordinance or other law include all regulations and other instruments under it and all consolidations, amendments, re-enactments or replacements of it;
 - (f) money references are in Australian dollars, unless otherwise provided;
 - (g) a reference to a '**month**' means a calendar month;
 - (h) if a party is a corporation, a reference to that party's authorised officer includes an '**officer**' of the corporation as defined in the *Corporations*
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Act 2001 (Cth), or any other person authorised to act on its behalf;

- (i) an expression used in this Agreement which is defined in the Customer Contract has the same meaning as in the Customer Contract unless it is also defined in this Agreement, in which event the definition in this Agreement prevails.

2 Background

2.1 The parties acknowledge:

- (a) Hunter Water currently provides the Services to the Community Parcel and a Master Meter is installed on the Community Parcel;
- (b) the Community Association is the Customer as defined under the *Hunter Water Act 1991 (NSW)* in relation to the Master Meter.

3 Obligations

3.1 Installation of meters

The Community Association must:

- (a) ensure there is a Master Meter for the Community Parcel;
- (b) ensure each Owner installs a water meter assembly on the Owner's Lot which complies with the Design Criteria;
- (c) register the Hunter Water By-Laws;
- (d) comply, and ensure that each Owner complies with any Law requiring any upgrade of the Master Meter or a Sub meter necessary for Hunter Water to implement Automated Meter Reading.

3.2 Sub meters

- (a) Hunter Water will install a Sub meter on each Owner's water meter assembly when:
 - i. all Owners within the Community Association have complied with 3.1(b); and
 - ii. the Community Association has complied with 3.1(c)
- (b) The Hunter Water obligations in this Agreement do not commence until:
 - i. the Hunter Water By-laws are registered at LPMA; and
 - ii. all Sub meters are installed.

4 Acknowledgements

4.1 The Community Association acknowledges:

- (a) Each Owner will be deemed to be a Customer on and from installation of
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a Sub meter and will be bound by the obligations contained within the Customer Contract and the *Hunter Water Act 1991* (NSW).

- (b) Pursuant to the Customer Contract Hunter Water may from time to time:
- i arrange for planned interruptions to the Services.
 - ii interrupt, limit or place restrictions on the provision of the Services in the event of a significant operational difficulty

and, where practicable, Hunter Water will provide advance notice of such interruption, limitation or restriction to the Community Association and the Community Association will then notify each Owner.

- (c) Hunter Water will, if it becomes aware of any defective or unauthorised work within the Community Parcel, serve notice on the Community Association requiring the defective or unauthorised work to be remedied within the time specified by Hunter Water.

5 Account for Service

- (a) Where Sub meters are installed in accordance with this Agreement Hunter Water will raise accounts:
- (1) to each Owner for the Sub Meter Fees and Charges; and
 - (2) to the Community Association for the Master Meter Fees and Charges.
- (b) Clauses 4 and 5 of the Customer Contract will apply to accounts raised pursuant to clause 5(a).

6 Obligations

6.1 Obligation to maintain and repair

- (a) The Community Association is responsible for maintaining all pipes and fittings within the boundaries of the Community Parcel except for pipes and fittings within each Owner's Lot.
- (b) Each Owner is responsible for maintaining their water system within their Lot as provided under the Customer Contract.
- (c) Hunter Water is responsible for maintaining and repairing the Sub meters.

6.2 Defective or unauthorised work

The Community Association must promptly notify Hunter Water of any defective or unauthorised work.

7 Default

7.1 Events of default

The following will constitute default events by the Community Association or Owner:

- (a) failure to comply with any obligation under this Agreement whether a formal demand for compliance has or has not been made; or
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- (b) failure to comply with any Law present and future relating to the installation and operation of any Sub meter and/or Automatic Metering System; or
- (c) a breach of the Customer Contract, the *Hunter Water Act 1991* (NSW) or the Hunter Water By-Laws.

7.2 Effect of Default Events

Upon the happening of a default event and provided the default continues for at least 30 days after a written request by Hunter Water made to the Community Association or the Owner as applicable to remedy the default, Hunter Water:

- (a) will take all steps necessary to recover any fees and charges owing; and
- (b) will commence reading the Master Meter and will raise a single account to the Community Association for the Master Meter Fees and Charges.

7.3 Termination of Agreement

- (a) The Community Association may terminate this agreement by giving 30 days written notice to Hunter Water.
- (b) Hunter Water may terminate this agreement at any time after the giving of notice referred to in clause 7.2 if the Community Association or Owner fails to comply with such notice.
- (c) Upon termination by either party, Hunter Water will commence reading the Master Meter and will raise a single account to the Community Association for the Master Meter Fees and Charges.

8 Dispute resolution

8.1 Procedure to resolve a dispute

In the case of a dispute between the parties, the process for resolution outlined in the Customer Contract will be followed.

9 Notices

- (a) A Notice or other communication connected with this Agreement (**Notice**) must be in writing and given by a party, its authorised officer or its lawyer.
 - (b) A Notice must be:
 - (1) delivered to the recipient's address or registered office;
 - (2) posted to the recipient's address or registered office by prepaid ordinary post (or airmail, if posted to or from a place outside Australia); or
 - (3) faxed to the recipient's facsimile number, as set out in this Agreement, or notified from time to time.
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- (c) Service of a Notice is deemed to have occurred, if sent:
 - (1) as a delivered letter - at the time it is delivered;
 - (2) as a posted letter - on the 2nd Business Day after posting (or the 7th, if posted to or from a place outside Australia); or
 - (3) by facsimile - on production of a report by the sender's facsimile machine, confirming the successful transmission to the addressee's facsimile number of all pages comprising the Notice.

8 General

8.1 Governing Law

This Agreement is governed by the laws of New South Wales.

8.2 Assignment

- (a) Rights arising out of or under this Agreement may only be assigned by a party with the prior written consent of the other party/parties
- (b) A party will not unreasonably withhold its consent to assignment.

8.3 Severance

If a clause is void, illegal or unenforceable, it may be severed without affecting the other provisions in this Agreement.

8.4 Entire agreement

This Agreement replaces all previous agreements about its subject matter and constitutes the entire agreement between the parties.

8.5 Variation

A variation of this Agreement must be in writing and signed by the parties.

8.6 Waiver

- (a) No right under this Agreement is waived or deemed to be waived, except by written notice signed by the party waiving the right, or its authorised officer.
- (b) A party does not waive its rights under this Agreement by granting an extension or forbearance to another party.

8.7 Costs and expenses

Each party will pay its own costs and expenses arising from this Agreement and any related documents, unless otherwise set out in this Agreement.

8.8 Time of performance

- (a) If a Notice is served or a payment made after 5.00 pm on any Business Day, it is deemed Served or paid on the next Business Day.
- (b) If this Agreement requires something to be done on a day that is not a Business Day, it must be done on the next Business Day.

8.9 Nature of obligations

- (a) An obligation of 2 or more persons under this Agreement binds them jointly and severally.
 - (b) This Agreement is not intended to create a partnership, joint venture
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or relationship of principal and agent between the parties.

8.10 Further action

Each party must take all necessary further action to give full effect to this Agreement.

8.11 Counterparts

This Agreement may be executed in any number of counterparts.

8.12 Survival

The terms of this Agreement survive its termination to the extent permitted by law.

8.13 Confidentiality

The terms of this Agreement are confidential and must not be disclosed (without the prior written consent of the parties) to any person other than the parties professional advisers or as required by Law.

8.14 Binding Effect on Successors and Assigns

The terms of this Agreement are binding on all parties to this Agreement and the parties successors and assigns.

SAMPLE

Signing page

Executed as an agreement

Signed by)
 as authorised representative for)
Hunter Water Corporation ABN 46)
 228 513 446 pursuant to Power of)
 Attorney of Attorney Book)
 No in the presence of:)
)

.....
Signature of Witness

.....
Signature of Authorised Representative

.....
Print name of Witness

[Insert execution provision])
)
)
)
)

.....
Signature of Witness

.....
Signature of Authorised Representative

.....
Print name of Witness

Schedule 1 Design Criteria

Prior to Hunter Water installing sub meters, the following criteria will need to be met:

- (a) The internal water service and each meter assembly are to be installed by a Plumber who is licensed by NSW Fair Trading.
- (b) All work on the internal water service and meter assemblies are to comply with the Plumbing Code of Australia and AS/NZS 3500.
- (c) Each individual service is required to have a lot and unit identification tag located above the meter; either a brass engraved plaque attached to a wall or a brass engraved disc attached to the unit's meter assembly. Discs are to be attached with a non-corrosive metal ring.
- (d) Meters and meter assemblies are located above ground and easily accessible at all times. **Internal meter assemblies must not be higher than 1.5 metres.**
- (e) The meter assemblies are installed in an accessible location for routine reading of the sub meters and for maintenance purposes. Meter assemblies are to be located adjacent to the boundary of each lot. Meter assemblies are not to be installed behind fences, in enclosed areas or confined spaces. There is to be no safety hazards (such as gardens, overgrown vegetation or other obstructions) within the vicinity of the water meter preventing safe access at any time.
- (f) The length of a Hunter Water 20mm meter is 154mm plus Hunter Water meter unions is a total of 276mm. (Therefore the **overall opening dimension** to be left on meter assemblies for 20mm meters is **246mm**).
- (g) If the complex has special security requirements these requirements must be provided prior to entering into an agreement with Hunter Water.

Once all criteria requirements have been met, a Hunter Water representative will inspect the property to confirm these details. If this inspection identifies any of these conditions to be non-compliant, these issues will need to be resolved and before proceeding with an agreement to provide services.

Please note additional fees will be required to be paid prior to proceeding with a second inspection.

Schedule 2 Hunter Water By-Laws

1. In this By-Law the following provisions apply:

Accessible means the unfettered and unencumbered ability of Hunter Water to access the Master meter and the Sub meters for reading and recording purposes.

Automated Meter Reading means the system to be developed by Hunter Water for implementation in the future as another means of reading meters.

Community Association means a corporation constituted under section 25 of the *Community Land Development Act 1989* (NSW) and is established under Section 5 of the *Community Land Management Act 1989* (NSW).

Community Property means the lot shown in a Community Plan as community property.

Hunter Water means Hunter Water Corporation, a public authority within the meaning given to that term in the *Community Land Management Act 1989* (NSW) and a state owned corporation within the meaning given to that term in the *State Owned Corporations Act 1991* (NSW) its successors and assigns.

Hunter Water Design Criteria means the Hunter Water design criteria as varied from time to time.

Lot means a lot within the Community Parcel other than Association Property.

Occupier means any person in lawful occupation of the Lot.

Owner means the registered proprietor for the time being of any Lot, their successors and assigns.

Sub meter means the sub meter installed on each Lot by Hunter Water to record the amount of water used by each Owner.

2. All Owners and Occupiers of Lots must:

- (a) ensure all water and sewer connections including the water meter assembly on their Lot are approved by Hunter Water and are made in accordance with Hunter Water Design Criteria and ensure that all water and sewer connections including the water meter assembly on their lot are repaired and maintained at the sole expense of the Owner as required by Hunter Water (acting reasonably) from time to time;
 - (b) install and/or modify the water meter assembly which complies with Hunter Water Design Criteria and is situated as close as possible to the street boundary of the Lot to provide unfettered access by foot from the internal access ways within the Association Property by Hunter Water Employees/ Contractors;
 - (c) ensure that the water meter assembly is not installed behind fences or in an enclosed area or confined space;
 - (d) ensure that the position of the water meter assembly minimises the risk of harm to Hunter Water employees/contractors. This includes the hazards such as gardens, overgrown vegetation or any other obstruction in the vicinity of the water meter which would prevent safe access to the meter for reading and maintenance;
 - (e) pay any account raised by Hunter Water from a reading of the Sub meter installed on the Owner's Lot, in accordance with Hunter Water's Customer Contract;
 - (f) comply with any request by Hunter Water to upgrade the water meter assembly to enable Hunter Water to implement Automated Meter Reading, promptly when requested to do so;
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- (g) when requested to do so by either the Community Association or Hunter Water, promptly provide access to any water meter or associated water or sewer equipment situated within the lot to Hunter Water's authorised personnel or personnel authorised by the Community Association to allow those personnel to read any water meter, inspect all water and sewer connections including the water meter assembly and, if reasonably required by Hunter Water and subject to the Owner's obligations under paragraph (a) above carry out repair and maintenance work upon those items;
3. Either the Community Association or Hunter Water may give a notice to the Owner or Occupier of a lot requiring that the Owner or Occupier to comply with the terms of this by-law. If any Owner or Occupier fails to comply with any requirement of this by-law relating to access to the lot or any part of the lot or repair and maintenance of the Hunter Water meter, the meter assembly or any water or sewer equipment within a reasonable time after receipt of a notice requiring compliance, the Community Association or Hunter Water may take such steps as may be reasonable to secure such access or to carry out the relevant repair and maintenance at the expense of the proprietor or occupier of the lot.

SAMPLE

Schedule 3

Customer Contract

SAMPLE

SAMPLE