

Standpipe hire terms

Recitals

- A. Icon Water owns portable metered hydrant standpipes and the water network in the Australian Capital Territory.
- B. The Hirer has submitted a Standpipe Hire Request to Icon Water for the hire and use of a standpipe for the purposes of conducting its business.
- C. Icon Water has agreed to hire the Standpipe to the Hirer and permit its use for the purposes of taking water by measure for the hire period as set out in the Standpipe Hire Request (the "Hire Period") subject to the terms of the Standpipe Hire Request and these Standpipe Hire Terms, (together, the "Agreement").
- D. The Hirer has agreed to hire the Standpipe from Icon Water and use the Standpipe only in accordance with the terms of this Agreement.

Conditions of hire

Part A Use and operation

Who may operate a standpipe?

1. The Hirer must not permit any person to operate and use the Standpipe unless:
 - (a) that person is an employee, agent, officer or contractor of the Hirer (the "Hirer Personnel");
 - (b) the name of that person has either been set out in the Standpipe Hire Request or provided to Icon Water in writing; and
 - (c) that person has satisfied Icon Water's training requirements concerning the operation and use of standpipes and the protection of Icon Water's network.

Conditions of use

2. The Hirer and any Hirer Personnel authorised to operate the Standpipe must do so in accordance with:
 - (a) all operating instructions provided by Icon Water at the time of hire or available on its [website](#); and
 - (b) any lawful direction given by Icon Water during the Hire Period.

Without limiting any other remedy Icon Water may have, the Hirer acknowledges that any failure to do so may constitute an offence under applicable utilities law for interference with a regulated utility network.

3. The Hirer must use the Standpipe only on hydrants connected to the Icon Water network water mains. The Standpipe must not be used in Queanbeyan, NSW or anywhere else outside the ACT.

Title and risk

4. The Standpipe remains at all times the property of Icon Water and the Hirer agrees that it has no proprietary title rights or interest in the Standpipe.
5. All risk in the Standpipe passes to the Hirer on delivery, and, subject to the terms of this Agreement, only reverts when returned to Icon Water.

Personal Property Securities Act 2009

6. In this clause:
 - i. **Personal Property** has the same meaning in the PPSR;
 - ii. **PPSA** means the *Personal Property Securities Act 2009* (Cth);
 - iii. **PPSR** means the personal property securities register; and
 - iv. **Security Interest** has the same meaning in the PPSA.
7. Icon Water may allocate any amount or payment received from the Hirer in any manner it determines, but in default will apply that amount first to the payment of any unsecured amount owing to Icon Water, next as to any reasonable enforcement expenses and then as to any secured balance owing.
8. As continuing security for the money the Hirer owes Icon Water and the compliance by the Hirer of all its obligations under this contract, the Hirer:
 - i. charges and grants in favour of Icon Water a Security Interest in all of the Hirer's present and after-acquired Personal Property;
 - ii. charges in favour of Icon Water any interest in the Standpipe;
 - iii. acknowledges that Icon Water has received valuable consideration from the Hirer for the charge and the creation of the Security Interest;
 - iv. agrees that the Security Interest attaches immediately; and
 - v. agrees and acknowledges that Icon Water may register the Security Interest on the PPSR at any time and Icon Water will not be obliged to remove or amend the registration until Icon Water has received all moneys owing under this contract and the Standpipe is returned to Icon Water.

9. The Hirer will not allow to be perfected or attached in favour of any person, a Security in any of the monies from time to time payable to Icon Water, or in any property belonging to Icon Water, including the Standpipe.
10. The Hirer waives its rights to receive:
 - i. a statement of account under section 132 of the PPSA;
 - ii. notice of a proposal by Icon Water to retain the Standpipe under section 135 of the PPSA; and
 - iii. a verification statement confirming under section 157 of the PPSA.
11. The Hirer agrees to do anything reasonably required by Icon Water to ensure that Icon Water at all times has a continuously perfected Security Interest over all of Icon Water's property, including the Standpipe.

Water use and quality

12. The Hirer must comply with all laws applicable to the use of the Standpipe and use of water abstracted from Icon Water's water network via the Standpipe (including any water restrictions in force).
13. The Hirer must take all reasonable and practicable steps to prevent and minimise wastage and environmental harm and not engage in conduct that contaminates water in the network. The Hirer is responsible for any failure to comply with statutory or environmental requirements by the Hirer or the Hirer Personnel.
14. The Hirer is solely responsible for:
 - (a) ensuring that the quality of water on the Hirer's side of the Connection Point is fit for its intended use, either by the Hirer or any other person, free from contamination, and complies with all statutory requirements and applicable health standards. In this clause, Connection Point means the hydrant mushroom valve depressed by the Standpipe when it is connected;
 - (b) ensuring that at all times the Hirer and the Hirer Personnel do not adversely affect the quality of water in mains or otherwise damage the property of Icon Water or a third party (for example, through circumstances including but not limited to back-flow from contaminated containers); and
 - (c) complying with ACT Health's and other relevant health authority requirements.

The Hirer acknowledges that Icon Water does not perform water quality testing at the Connection Point (prior to use or on-supply by the Hirer) under this Agreement. Testing may be requested and undertaken under a separate arrangement.

Operational requirements

15. Before connecting the Standpipe to a water main, the Hirer must:
 - (a) undertake an assessment of all hazards associated with the use of the Standpipe
 - (b) put in place appropriate measures to effectively manage backflow prevention and any other prospective risks, which may include fitting a suitable backflow prevention device to the Standpipe and
 - (c) ensure that it complies with all applicable work health and safety duties, including, so far as reasonably practicable, the health and safety of its workers.

The Hirer must comply with Icon Water's requirements regarding backflow prevention including those provided by Icon Water at the time of hire or available on its website at iconwater.com.au (as amended from time to time).

16. The Hirer must ensure that the Standpipe is:
 - (a) protected from damage at all times and
 - (b) never left unattended whilst fixed to the hydrant.
17. The Hirer must:
 - (a) ensure that the Standpipe is in good working condition;
 - (b) ensure that the Standpipe is properly stored, cleaned and handled;
 - (c) ensure that the Standpipe is properly secured at all times prior to and during transportation;
 - (d) promptly notify Icon Water if the Standpipe is lost or stolen and, in the event of theft, provide a police report or incident number to Icon Water at the time of notification;
 - (e) promptly return the Standpipe to Icon Water:
 - i. if it is damaged or the meter fails to register;
 - ii. for maintenance or replacement when requested by Icon Water;
 - iii. on request by Icon Water at any time; and
 - iv. within one week after the end of the Hire Period.

required under this Agreement;

18. The Hirer must promptly comply with all lawful directions given by Icon Water regarding the use of the Standpipe and the use of water from the Standpipe.
 19. The Hirer must not alter or tamper with the body, operating mechanism, meter, back flow device (if supplied) and serial number on the Standpipe in any way.
 20. Without limiting any other remedies of Icon Water, the Hirer agrees to pay the cost of replacement or repair to a Standpipe, hydrant or Icon Water network water main damaged by the Hirer, Hirer Personnel or its employees, agents and contractors, or if the Standpipe is lost or stolen. The cost must be paid to Icon Water within 21 days of written demand from Icon Water to do so. For reference purposes only, the indicative replacement costs of standpipes are listed in Schedule 1.
- (b) the meter on the Standpipe fails to register for any period; or
 - (c) the meter on the Standpipe is not working correctly, as reasonably determined by Icon Water.

Fees and charges payable

24. The Hirer agrees to pay Icon Water:
 - (a) the Hire Charge calculated on a daily basis;
 - (b) the Consumption Charges; and
 - (c) where applicable, any other fees and charges payable under this Agreement, including as set out in Schedule 1.
25. In addition to clause 18(a) above, the following applies to the calculation of the Hire Charge, applicable to the size of the hydrant (metered standpipe) where the Hirer enters into a Hire Period of:
 - (a) 14 days or less then the charge described as "short-term hire" shall apply;
 - (b) more than 14 days, however less than a quarter of the year, then the quarterly hire rate shall apply; and
 - (c) more than a quarter of the year to one year, then the annual hire rate shall apply.
26. In relation to payment of the Hire Charges:
 - (a) if the Hirer has hired the Standpipe for 3 months or less, it must pay the Hire Charge on return of the Standpipe to Icon Water at the end of the Hire Period. This charge must be paid on the date of return, or, if agreed by Icon Water, within 14 days of receipt of a valid tax invoice from Icon Water.
 - (b) if the Hirer has hired the Standpipe for more than 3 months it must pay the Hire Charge:
 - i. within 14 days of receipt of a valid tax invoice from Icon Water; and
 - ii. on the Hirer's return of the Standpipe to Icon Water at the end of the Hire Period or, where agreed by Icon Water, within 14 days of receipt of a tax valid invoice from Icon Water.
27. In relation to Consumption Charges:
 - (a) if the Hirer has hired the Standpipe for 3 months or less, it must pay the Consumption Charges on return of the Standpipe to Icon Water at the end of the Hire Period. These charges are to be paid by the Hirer on the date of return, or, where agreed by Icon Water, within 14 days of receipt of a tax invoice from Icon Water.

Part B Fees and charges

Reading of the Standpipe meter

21. The Hirer must:
 - (a) on the last business day of each week read the meter and then fill out a reading sheet (in the form attached at Schedule 2). Replacement reading sheets are available on the Icon Water website;
 - (b) on or around 1 September, 1 December, 1 March and 1 June, and otherwise when requested, fill out the online reading sheet available on the Icon Water website. Icon Water may request the Hirer to use an alternative method to notify Icon Water of readings; and
 - (c) in June of each year and on request by Icon Water at any time, bring the Standpipe to Icon Water's premises or make the Standpipe available to Icon Water for meter reading and inspection.
22. The Hirer must ensure that the meter attached to the Standpipe is operational and accurately records water usage during the Hire Period. If the Hirer becomes aware, or reasonably suspects, that the meter is not working correctly, it must notify Icon Water by the close of business on the next business day to arrange return of the Standpipe and collect a replacement standpipe.
23. Icon Water may charge the Hirer based on estimated consumption determined by Icon Water, acting reasonably, if:
 - (a) the Hirer fails to submit its reading sheet or otherwise advise its meter readings when

- (b) if the Hirer has hired the Standpipe for more than 3 months it must pay the Consumption Charges:
 - i. within 14 days of receipt of a tax invoice from Icon Water based on meter readings made by the Hirer in accordance with this Agreement or, where applicable, based on estimated consumption determined by Icon Water, acting reasonably; and
 - ii. on the Hirer's return of the Standpipe to Icon Water at the end of the Hire Period or, if agreed by Icon Water, within 14 days of receipt of a valid tax invoice from Icon Water, based on the increase in the meter reading (if any) since the last payment received or, where applicable, based on estimated consumption determined by Icon Water.

28. If the Hirer fails to:

- (a) submit its reading sheet or otherwise advise of its meter readings when required under this Agreement; or
- (b) promptly notify Icon Water after the Hirer becomes aware that the meter is not working correctly in accordance with clause 11, the Hirer must also pay to Icon Water an administrative fee at the rate set out in Schedule 1.

Taxes, duties and interest

29.

- (a) In this clause 22, a word or expression defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) has the meaning given to it in that Act.
- (b) If a party (Supplier) makes a supply under or in connection with this Agreement in respect of which GST is payable, the recipient of the supply (Recipient) must pay to the Supplier an additional amount equal to the GST payable on the supply (GST Amount).
- (c) If a party is required to reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 22(b).
- (d) If the GST payable by a Supplier on any supply made under or in connection with this Agreement varies from the GST Amount paid or payable by the

Recipient under clause 22(b) such that a further amount of GST is payable in relation to the supply or a refund or credit of GST is obtained in relation to the supply, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause is deemed to be a payment, credit or refund of the GST Amount payable under clause 22(b).

If an adjustment event occurs in relation to a supply, the Supplier must issue an adjustment note to the Recipient in relation to that supply within 14 days after becoming aware of the adjustment.

- (e) A party need not make a payment for a taxable supply made under or in connection with this contract until it receives a tax invoice for the supply to which the payment relates.
30. The Hirer agrees to pay all stamp duty and hire duty (including fines and penalties) payable in relation to this Agreement and in respect of a transaction evidenced by this Agreement. The Hirer shall not be liable for fines or penalties to the extent, if any, that they result from actions or delays of Icon Water.
31. Any amount payable by the Hirer under the terms of this Agreement which is not paid by the due date is a debt due to Icon Water and will incur interest from the original due date, accruing on a daily basis until the date on which the debt is paid. The interest rate will be calculated in accordance with the Supreme Court interest rate(s) for post-judgment interest applying for that period, as set from time to time by the *Court Procedure Rules 2006*. The Hirer will also be liable for all costs Icon Water incurs, directly or indirectly, in recovering a debt owed under this Agreement.

Part C General

Breach and termination

32. The Hirer may terminate this Agreement at any time by returning the Standpipe to Icon Water and paying all outstanding charges.
33. Icon Water may terminate this Agreement:
- a. at any time for any reason by giving one month's notice in writing to the Hirer; or
 - b. immediately if:
 - i. there is any use or attempted use of the Standpipe by a third party or any person who has not satisfied Icon Water's training requirements;
 - ii. the Hirer does not comply with its obligations under this Agreement; or
 - iii. the Hirer becomes bankrupt or insolvent (as applicable).

34. On termination of this Agreement:

- a. the Hirer is not entitled to any compensation as a result of termination of this Agreement;
- b. the Hirer must immediately return the Standpipe to Icon Water; and
- c. the Hirer must pay all fees and charges payable under the terms of this Agreement.

This clause survives the termination of this Agreement.

Icon Water's rights to enter

35. The Hirer authorises Icon Water and its authorised personnel to enter the Hirer's premises at reasonable times following reasonable notice:

- a. to inspect the Standpipe;
- b. to read the Standpipe meter;
- c. to ensure that the Hirer is complying with its obligations under this Agreement;
- d. to collect the Standpipe following termination or expiry of this Agreement; and
- e. to exercise any other rights whether under this Agreement or applicable law.

36. If the Hirer operates a water carting vehicle in the Australian Capital Territory or surrounding region, the Hirer must permit any authorised Icon Water personnel to examine the relevant water carting vehicle for the purpose of locating and checking any standpipes being carried on or within the vehicle, whether or not those standpipes are the Standpipe under this Agreement.

No agency

37. The Hirer must not represent itself, and must ensure that the Hirer Personnel do not represent themselves, as part of Icon Water, or as otherwise able to bind or represent Icon Water.

No assignment

38. This Agreement grants rights that are personal to the Hirer and such rights are not transferable. The Hirer must not:

- a. assign or otherwise deal with its rights under this Agreement; or
- b. sell, assign, pledge, mortgage, let on hire, sub-hire, lease, loan or otherwise part with possession of, permit any other person to use, or otherwise deal with, the Standpipe.

Indemnity

32.

- (c) The Hirer will at all times indemnify, hold harmless and defend Icon Water, its officers and employees (referred to in this clause as those indemnified) from and against any loss, including:
 - loss of, or damage to, property of Icon Water, including the Standpipe;
 - claims by any person in respect of personal injury or death;
 - claims by any person in respect of loss of, or damage to, any property; and
 - costs, expenses and penalties including the costs of defending or settling any claim referred to in clause 32(a)ii or clause 32(a)iii, arising out of or in connection with:
 - any breach of this Agreement by the Hirer, or negligent, wrongful or unlawful act or omission on the part of the Hirer or the Hirer Personnel; or
 - any use or attempted use of the Standpipe by a third party or any person who is not listed as an operator in the Standpipe Hire Request or Hirer Personnel authorised by Icon Water; or
 - any use of any water extracted from a water main using the Standpipe, by any person (including but not limited to the Hirer, the Hirer Personnel and any of the Hirer's end users and customers).
- (d) The Hirer's liability to indemnify those indemnified under clause 32(a) will be reduced proportionally to the extent that any negligent act or omission of Icon Water contributed to the loss.

Notices

33. Unless expressly stated otherwise in this contract, all notices, certificates, consents, approvals, waivers and other communications (Notices) in connection with this Agreement must be in writing, signed by the sender (if an individual) or an authorised officer of the sender.
34. Notices must be:
 - a) sent to:
 - i. the Hirer: to the property address or fax number set out or referred to in the Standpipe Hire Request; or
 - ii. Icon Water: 12 Hoskins Street, Mitchell, ACT 2601 or email talktous@iconwater.com.au.

b) sent by prepaid ordinary post or in relation to changes to Icon Water's Schedule of Charges only, published in a newspaper circulating in the Australian Capital Territory:

35. However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.
36. Notices take effect from the time they are received unless a later time is specified.
37. If sent by post, Notices are taken to be received 3 days after posting (or 7 days after posting if sent to or from a place outside Australia).

If the notice is by publishing in a newspaper circulating in the Australian Capital Territory, Notices are taken to be received 14 days after being first published in the relevant newspaper.

38. Despite clauses 37 and 38, if a Notice is received after 5.00pm in the place of receipt or on a non-business day, the Notice is taken to be received at 9.00am on the next business day.

Governing law

39. The laws of the Australian Capital Territory govern this contract. Each party submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

Schedule 1

Other fees and charges payable by the Hirer

A. Retrieval Costs

The Hirer must pay Icon Water a rate of \$160.00 per hour plus GST for any retrieval processes or actions it undertakes concerning the Standpipe, in accordance with the Agreement.

B. Administrative Fee

The Hirer must pay Icon Water an administrative fee of \$70.00 per occasion on account of additional administrative costs incurred by Icon Water in requesting provision of late meter readings and/or estimating the Consumption Charges.

C. Indicative replacement costs of standpipes

The indicative replacement cost for a standpipe (according to its meter size) is set out in the table below. This is the *estimated minimum* amount that the Hirer must pay Icon Water for replacement of the Standpipe:

Meter Type	Indicative Replacement Cost at 1 July 2019 (inclusive of GST)
FTS (Low flow – 4L/s)	\$1828.20
FTM (Mid flow – 16L/s)	\$1828.20
Small 32mm	\$896.50
Large 32mm/65mm	\$1545.50
Meter type	Indicative Refurbishment Cost at 1 July 2019 (inclusive of GST)
FTS and FTM (Low/High flow)	Requires quote – minimum \$585.77
Small 32mm	\$509.85 Additional \$265.65 if meter also damaged
Large 32mm/65mm	\$509.85 Additional \$324.50 if meter also damaged

Schedule 2

Hirer name _____

Tanker _____

Standpipe Reading Sheet– SP ____ / _____

Reading Year:

Initial reading:

MONTH	Reading week 1	Reading week 2	Reading week 3	Reading week 4	Reading week 5
January					
February					
March	Submit reading to Icon Water iconwater.com.au				
April					
May					
June	Present standpipe to Icon Water Mitchell for mandatory inspection				
July					
August					
September	Submit reading to Icon Water iconwater.com.au				
October					
November					
December	Submit reading to Icon Water iconwater.com.au				