

# Registration Deed Poll



Unitywater

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# Registration Deed Poll

Dated

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## Parties

**Registered  
Certifier**

of

**Unitywater**

Northern Distribution Retail Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (Qld)

of Unitywater, 33 King Street, Caboolture Qld 4510.

## Background

- A On or about the date of this Deed Poll, the Accredited Entity entered into the Accreditation Deed with Unitywater in respect of performing Functions.
- B The Registered Certifier represents that it is qualified and experienced generally in performing the assessment and other similar Functions to be performed by the Accredited Entity and offers its expertise in these fields.
- C The Accreditation Deed contemplates that the Registered Certifier will provide this Deed Poll for the benefit of Unitywater and perform the RC Functions to enable the Accredited Entity to comply with the Accreditation Deed.

## Agreed terms

### 1 Definitions and interpretation

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#### 1.1 Definitions

In this Deed Poll, terms defined in the Accreditation Deed have the same meaning when used in this Accreditation Deed unless the context otherwise requires.

In this Deed Poll:

<b>Term</b>	<b>Definition</b>
<b>Accreditation Deed</b>	means the Accreditation Deed – Connections between Unitywater and the Accredited Entity dated
<b>RC Functions</b>	means those Functions which the Registered Certifier performs, or has been engaged or employed by the Accredited Entity to perform, in connection with the Accreditation Deed.

## 1.2 Interpretation

In this Deed Poll, unless the context indicates otherwise:

- (a) a singular word includes the plural and vice versa;
- (b) a word which suggests one gender includes the other;
- (c) headings are, in the interpretation of this Deed Poll, to be disregarded;
- (d) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this Deed Poll and references to this Accreditation Deed include any schedules or annexures;
- (e) a reference to a party to this Deed Poll or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (f) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (g) a reference to a document or agreement (including a reference to this Deed Poll) is to that document or agreement as amended, supplemented, varied or replaced;
- (h) a reference to this Deed Poll includes the agreement recorded by this Deed Poll;
- (i) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (j) if any day on or by which a person must do something under this Deed Poll is not a Business Day, then the person must do it on or by the next Business Day;
- (k) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
- (l) a reference to 'month' means calendar month;
- (m) wherever the words 'include', 'included' or 'including' are used in this Deed Poll, those words will be interpreted in all cases as if they were preceded by the further words 'but not limited to' or the appropriate grammatical derivative;
- (n) no provision of this Deed Poll is to be construed against the interests of Unitywater because Unitywater prepared or relies on this Deed Poll; and
- (o) with respect to indemnities:
  - (i) each indemnity in the Deed Poll is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Deed Poll;
  - (ii) it is not necessary for a party to incur expense or to make payment before enforcing a right of indemnity under the Deed Poll; and
  - (iii) a party must pay, as a debt due and payable, on demand any amount it must pay under an indemnity in this Deed Poll.

## 2 Registered Certifier's Obligations

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### 2.1 Acknowledgment

The Registered Certifier acknowledges and agrees that:

- (a) it has received copies of the Accreditation Deed and the Manual and that it has read, and is familiar with, the terms of each of these documents to the extent they relate to the RC Functions;
- (b) its liabilities, obligations, representations, acknowledgements, warranties, guarantees, indemnities and promises (**Obligations**) extend to and include the Obligations of the 'Registered Certifier' under the Accreditation Deed and the Manual (**Other Obligations**); and
- (c) the term of its appointment is as provided for in the Manual, subject to any prior suspension or termination, including where applicable section 8.3 of the Manual, and it must comply with any restrictions placed on the Registered Certifier in the Manual.

### 2.2 Registered Certifier's obligations to also benefit Unitywater

The Registered Certifier:

- (a) must perform the RC Functions and Other Obligations in accordance with Accreditation Deed, the Manual and, where applicable, the contract between the Registered Certifier and the Accredited Entity for the benefit of Unitywater (**RC Contract**);
- (b) acknowledges and agrees that:
  - (i) to the extent of any discrepancy, inconsistency or ambiguity between, on the one hand, the Accreditation Deed and the Manual and, on the other hand, the RC Contract, the Accreditation Deed and the Manual will prevail; and
  - (ii) to the extent sub paragraph (i) cannot resolve the discrepancy, inconsistency or ambiguity, then the Registered Certifier must comply with highest quality or standard or perform the more onerous Obligation under the Accreditation Deed, the Manual or the RC Contract; and
- (c) gives to Unitywater the same Obligations that it has given to the Accredited Entity under the RC Contract.

### 2.3 Further acknowledgements and warranties

The Registered Certifier:

- (a) acknowledges and agrees that:
  - (i) Unitywater is relying upon the skill and expertise of the Registered Certifier in the performance of its Obligations under this Deed Poll (including the performance of the RC Functions); and
  - (ii) Unitywater may suffer loss, damages or Claims if the Registered Certifier does not perform its Obligations in accordance with the requirements of this Deed Poll;
- (b) warrants to Unitywater that, in performing the RC Functions, it must:

- (i) comply with all Legislative Requirements;
  - (ii) perform the RC Functions and Other Obligations in such a way so as to ensure it does not, by any act or omission, put the Accredited Entity in breach of the Accreditation Deed and the Manual; and
  - (iii) act with the degree of professional care, knowledge, experience, skill and diligence which would be reasonably expected of an experienced professional providing functions similar to the RC Functions within the industry generally and otherwise in accordance with Industry Best Practice;
- (c) warrants to Unitywater that, at all times, it will act within the time requirements for the performance of its Obligations under this Deed Poll and the performance of its Obligations under the Accreditation Deed and Manual; and
- (d) without limiting clauses 2.3(a) and 2.3(b), acknowledges and agrees that:
- (i) it will promptly provide to Unitywater a copy of each document (including certificates) signed or given by or on behalf of the Registered Certifier under or pursuant to the Accreditation Deed and the Manual; and
  - (ii) Unitywater is entitled to and will rely on any certificate or other document signed or given by or on behalf of the Registered Certifier under or pursuant to the Accreditation Deed and the Manual.

## **2.4 Rights of Unitywater**

Without prejudice to the Registered Certifier's other Obligations in connection with this Deed Poll, the Registered Certifier acknowledges and agrees that:

- (a) Unitywater has rights under the Accreditation Deed, including:
- (i) to suspend or terminate the Registered Certifier's performance of the whole or any part of the RC Functions or Other Obligations;
  - (ii) to suspend the Accredited Entity's performance of the Functions or otherwise terminate the Accreditation Deed; and
  - (iii) other rights, the exercise of which, might adversely affect the Registered Certifier's rights or Obligations under the RC Contract;
- (b) the Registered Certifier will have no Claim of any kind against Unitywater arising out of the exercise by Unitywater of its rights under the Accreditation Deed; and
- (c) clauses 31 to 34 of the Accreditation Deed apply to this Deed Poll (*mutatis mutandis*).

## **2.5 Additional Obligations**

The Obligations of the Registered Certifier under this clause 2:

- (a) take effect immediately upon the execution of this Deed Poll; and
- (b) are additional to and do not derogate from or replace the Obligations of the Registered Certifier under the Accreditation Deed and the Manual and, if applicable, the RC Contract.

### **3 Conflicts of interest and confidentiality**

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#### **3.1 Conflicts of interest**

Without limiting its Obligations under this Deed Poll, the Registered Certifier warrants to Unitywater that it must:

- (a) if a Conflict of Interest or any potential, perceived or risk of a Conflict of Interest arises during the Term, must immediately give written notice to the Unitywater Representative (including notification of the details of such Conflict of Interest); and
- (b) comply with the Accreditation Deed Obligations relating to Conflicts of Interest (including clauses 5.2 and 36 of the Accreditation Deed), insofar as they apply to the Registered Certifier or the Accredited Entity's Personnel.

#### **3.2 Confidentiality**

The Registered Certifier must keep confidential details of this Deed Poll, the Accreditation Deed and the Manual, all Unitywater Supplied Information and other Confidential Information provided to, or by, the Registered Certifier and not provide, disclose or use such Confidential Information or documents except:

- (a) to Unitywater or Unitywater Representative;
- (b) to the Accredited Entity in its capacity as a party to the RC Contract;
- (c) for the purposes of performing the RC Functions and Other Obligations under and in accordance with this Deed Poll and the RC Contract;
- (d) where required by law or to obtain legal advice on this Deed Poll;
- (e) with the prior written Approval of Unitywater; or
- (f) to the extent the Confidential Information is in the public domain (other than by reason of breach of this Deed Poll or the RC Contract).

This obligation will survive completion of the RC Functions or the termination of the RC Contract.

### **4 General**

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#### **4.1 Amendments**

This Deed Poll may only be amended by written agreement between all parties.

#### **4.2 Assignment**

The Accredited Entity may only assign this Deed Poll or a right, interest or benefit under this Deed Poll with the prior written Approval of Unitywater.

#### **4.3 Counterparts**

This Deed Poll may be signed in any number of counterparts. All counterparts together make one instrument.

#### **4.4 No merger**

The rights and obligations of the parties under this Deed Poll do not merge on completion of any transaction contemplated by this Deed Poll.

#### **4.5 Entire agreement**

- (a) This Deed Poll supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, has no effect except to the extent expressly set out or incorporated by reference in this Deed Poll.

#### **4.6 Further assurances**

The Registered Certifier must do all things reasonably necessary to give effect to this Deed Poll and the transactions contemplated by it.

#### **4.7 No waiver**

- (a) The failure of a party to require full or partial performance of a provision of this Deed Poll does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this Deed Poll may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

#### **4.8 Governing law and jurisdiction**

- (a) The law of Queensland governs this Deed Poll (**Governing Law**).
- (b) Each party irrevocably submits to the exclusive jurisdiction of the courts of the Governing Law and courts competent to hear appeals from those courts.

#### **4.9 Severability**

A clause or part of a clause of this Deed Poll that is illegal or unenforceable may be severed from this Deed Poll and the remaining clauses or parts of the clause of this Deed Poll continue in force.

If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this Deed Poll in the relevant jurisdiction, but the rest of this Deed Poll will not be affected.

#### **4.10 Notice**

- (a) A notice, consent or communication under this Deed Poll is only effective if it is:
  - (i) in writing, signed by or on behalf of the person giving it;
  - (ii) addressed to the person to whom it is to be given; and
  - (iii) given as follows:

- (A) delivered by hand to that person's address;
  - (B) sent by prepaid mail (and by prepaid airmail if the person is overseas) to that person's address; or
  - (C) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission has been made without error and showing the relevant number of pages and the correct destination fax number or name of recipient.
  - (D) sent by email to that person's email address where the sender receives an email receipt, or other written confirmation from the recipient to the sender which indicates that the email was received at the email address of the recipient.
- (b) A notice, consent or communication delivered under clause 4.10(a) is given and received:
- (i) if it is hand delivered or sent by fax or email:
    - (A) by 5.00pm (local time in the place of receipt) on a Business Day – on that day; or
    - (B) after 5.00pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day; and
  - (ii) if it is sent by post:
    - (A) within Australia – three Business Days after posting; or
    - (B) to or from a place outside Australia – seven Business Days after posting.

A person's address, fax number and email address are those set out in the Particulars, or as the person notifies the sender.

## Execution

EXECUTED as a deed in

Signed sealed and delivered  
by \_\_\_\_\_ on \_\_\_\_\_

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^ Signature