



NAKHEEL

Nakheel Malls

CHILLED WATER SUPPLY AGREEMENT AND REGISTRATION FORM
(COMMERCIAL CUSTOMER)

Customer ID :
Property Type :
Shop No. :
Development Name : Nakheel Mall
Billing Agent (as of date of Agreement): Aqua Cool Metering L.L.C (Aqua Cool)

Customer Contact Information

Name		Mobile No	
Nationality		Home/Business Tel No	
PO Box		Email Address 1	
Address		Email Address 2	
		Passport No.	

Owner: ☐ Tenant: ☐ Bill delivery method: Email: ☐ Post: ☐ Both: ☐

Applicable Charges


Charge Description	Rate (AED)	Payment Frequency
Connection Fee	2,000	(one time)
Administration Fee	1,000	(one time)
Refundable Security Deposit	Please Refer to Annex 1	(one time)
Capacity Charges/TR	888per TR Annual	(monthly)
Chilled Water Supply Charges	0.563/RTH	(monthly)
Fuel Surcharge	Variable/RTH	Monthly
Meter Service Fee	50/month	(monthly)
Reconnection Charge	500	(when invoked)
Dishonoured Cheque Fee	2,000	(when invoked)
Tampering Penalty	20,000	(when invoked)

Note: All above charges are subject to 5% VAT, Except the Security Deposit

Documents to be submitted for registration:

- Tenancy/leasing Agreement ☐
- Copy of Passport of Authorised Signatory, Trade License ☐
- Copy of Residence Visa page in Passport ☐

I/We agree to the terms and conditions set forth in this Agreement and the Terms and Conditions attached.

Customer	Nakheel Malls LLC
Date:	Date:
Signed - by Authorized Signatory:	On behalf of Nakheel Malls LLC
	By its Authorized Agent:
	

To be handed to and signed by the Cooling Service Customer for the property.

Nakheel Chilled Water Supply Agreement (Nakheel Mall) Rev.2 1st Aug 2019



Date Page 1 of 4

TERMS AND CONDITIONS

Your property (the "Property" as defined in the Agreement) is air-conditioned by chilled water provided by, Nakheel PJSC and/or its subsidiaries ("Nakheel") through district cooling plants, networks and systems owned and/or operated by Nakheel. Nakheel is the sole provider of the Services to your Property and the Development on which it is located. Nakheel can change these terms and conditions at any time by notifying you of the new terms which will take effect from the date specified in the notification. You, the Customer agree with Nakheel that your continued use of the Services after the date in the notification will be deemed to be acceptance of the new terms and conditions. In order to receive the Services please read the following terms and conditions of this supply agreement and sign in the appropriate place where indicated to confirm your agreement.

Definitions

Administration Fee means a one-time charge which is levied at the time a new Customer registers for the chilled water service to cover the costs of setting up the Customer's cooling account.

Agent means the billing and collection agent (if any) named in the Registration Form on page 1 of this Agreement or any replacement agent that may subsequently be appointed by Nakheel from time to time as notified by Nakheel to the Customer in writing.

Agreement means this agreement between you and Nakheel including these terms and conditions and the Customer registration details which accompany these terms and conditions.

BTU British Thermal Unit means a unit of heat equal to the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit at one atmosphere pressure.

BTU Meter means a device which measures energy usage in BTUs.

Connection Fee means a one-time charge at the time of registration for the service to cover the cost of connecting the Property to the supply of chilled water.

Customer means the natural or legal person set out in the Agreement as such who has registered for the service.

Emergency Event means (without limitation) (a) risk to safety of human life and/or destruction of public or private property including a breach of law or Health Safety and Environment Regulations; (b) interruption to public utilities or pipe networks; (c) compliance with or avoidance of breach of any statutory law or regulation; and/or (d) any other emergency occurrence.

Meter Service Fee means a service charge for BTU Meter reading

Tampering Penalty means the penalty that Nakheel is entitled to levy on a Customer that has tampered with the BTU meter or any of Nakheel's equipment or materials in the ETS Room or elsewhere, or attempted to do so

Point of Delivery means the point where the DC provider's chilled water first enters the Customer's facilities

Point of Return means the point where the returning water from the Customer's facilities first enters the DC provider's facilities

Property means your studio/common area/retail or commercial premises or similar accommodation at the address described in the Agreement.

Services mean the supply and circulation of chilled water and ancillary services for the purposes of air conditioning the Property.

Term means the term of this Agreement as calculated in accordance with Clause 11

TR means tons of refrigeration which is the rate at which heat is removed, equivalent to 12,000 BTUs per hour.

TR-Hr means tons of refrigeration hours which is the energy consumed, measured by recording the flow of

chilled water and the temperature differential between the Point of Delivery and the Point of Return.

1. Cooling Services and Prices

Nakheel will provide the Services to your Property and you will purchase and pay for the Services on the terms and conditions of this Agreement and at the charges, rates and prices as set out in this Agreement as may be amended from time to time.

2. Pre-Connection Conditions

You must ensure at all times that your Property has the necessary power supply and utility infrastructure in good working order necessary to receive the Services. You will be responsible for appointing a consultant to carry out the design, and for the construction and payment of the additional connecting pipework between your property and Nakheel's district cooling plant, if required. Nakheel's approval must be obtained for the materials selection and HVAC design before your procurement and construction can commence, if applicable.

3. Customer's Responsibility Clauses

If a Property is leased without Nakheel being requested to issue a no-objection certificate prior to the same, you as the occupier will remain responsible for all charges up until the date a new tenant or occupier registers with Nakheel and signs a new agreement. Nakheel will not sign a new agreement with a new tenant or occupier until all outstanding charges are settled.

4. Systems Compatibility

The supply of the Services at the charges set out in this Agreement is based on the compatibility of the building air-conditioning equipment serving your Property and Nakheel district cooling system. Design or modification of the system within your building or Property should only be carried out by qualified personnel with Nakheel's prior written approval. Failure to do this may result in additional cost and termination of the Services. You are responsible for maintenance of all cooling equipment within your Property boundary which must be kept in good order and repair and to the standard required for the Services. In particular you will ensure that the BTU meter is accessible by Nakheel personnel at all times and complies with all current Health Safety and Environmental Laws. You will indemnify and hold Nakheel harmless for any loss or damage caused to Nakheel by inefficient non-compliant and/or poorly maintained building equipment.

5. Provision of the Services

Nakheel will use reasonable endeavours to ensure continuous supply of the Services to applicable standards so as to meet your air-conditioning requirements. Nakheel does not guarantee the uninterrupted supply of the Services. The provision of the Services may be restricted or interrupted at certain times particularly if there is an Emergency Event, the carrying out of major overhauls, other maintenance or repairs or the occurrence of any event beyond Nakheel's control. Should such circumstances arise, Nakheel will use reasonable endeavours to fully restore the provision of the Services as soon as practicable. Where Nakheel has grounds to believe that an Emergency Event has occurred or is likely to occur, Nakheel will have the absolute right and discretion to shut down its facilities and interrupt the Services without any notice to you. Nakheel will inform you of any service interruption as soon as possible. Nakheel will take all reasonable steps to remedy the interruption and resume the Services as soon as reasonably practical. Nakheel will not be deemed to be in breach of its obligations under this Agreement if any Emergency Event arises at any time.

6. Access

You will grant Nakheel and its employees, agents and representatives safe and unobstructed access to your Property:

- i. to construct, inspect, repair, operate, maintain, remove, demolish or expand any part of Nakheel's district cooling system and/or related equipment;
- ii. for any purpose in connection with the BTU Meter(s) including reading, inspecting, testing, repairing, exchanging, installing, disconnecting or reconnecting a BTU Meter, metering equipment or associated pipe work;
- iii. to investigate whether there have been any changes or modifications in capacity requirements;
- iv. to shut down all or part of Nakheel's district cooling system and/or connections to such system and/or to suspend the Services due to the occurrence of an Emergency Event, the carrying out of major overhauls or other maintenance or the occurrence of any event outside the control of Nakheel;
- v. to suspend the Services and/or disconnect the Property due to any event listed in Clause 8; and
- vi. on the occurrence of an Emergency Event

With respect to items v. and vi. Above you irrevocably authorise Nakheel to enter the Property without prior consent or notification and you hold Nakheel harmless and indemnify Nakheel against all liability including any indirect, special or consequential damages of any kind including, but not limited to loss of revenue or anticipated profits when Nakheel acts in accordance with this clause.

7. Title to Water

Title to water used to deliver the Services will remain with Nakheel at all times. You are not permitted to take or use Nakheel's chilled water for any purpose other than the transfer of energy in your HVAC equipment.

8. Sanctions

In addition to Nakheel's other rights under this Agreement, if you at any time:

- a. fail to pay in full any amount owing to Nakheel;
 - b. fail to comply with this Agreement;
 - c. tamper with the BTU meter or any of Nakheel's equipment or materials in the ETS Room or elsewhere, or attempt to do so;
 - d. fail to grant access to the Property and the BTU meter; or
 - e. otherwise fail to comply with any obligations under the terms of any agreement relating to the Property;
- Nakheel will have the right in its absolute discretion upon giving written notice to you to suspend provision of the Services immediately and/or disconnect the Services to the Property and/or charge penalty, cost of damaged equipment and recover loss of consumption based on Nakheel estimation policy and/or terminate this Agreement forthwith.

9. Liability

You will indemnify and hold Nakheel harmless from any claims, damages and losses arising out of or in connection with your failure to comply with the terms of this Agreement. In no event will Nakheel be liable to you for any loss or damage including direct, indirect, special or consequential losses of any kind including, but not limited to loss of revenue or loss of anticipated profits. Nakheel will not in any way be liable for any consequential loss resulting from interruption of the Services. Nakheel is only responsible for its system and network up to and including the Point of Delivery and the Point of Return of chilled water which points are usually located in a chamber outside the main building.

10. Assignment

Nakheel has the right at any time and from time to time to assign this Agreement or any part thereof to any person without your consent. You will not be entitled to transfer or assign this Agreement without the prior written consent of Nakheel.

11. Term

The Term of this Agreement will commence on the date you sign this Agreement or, if earlier, the date you take ownership or possession of the Property and enjoy beneficial use of the Services, and this Agreement will continue in force until such date as may be set out in a new agreement between Nakheel and any new owner/occupier of the Property unless earlier terminated by Nakheel in accordance with clause 8 above. Nakheel may terminate this Agreement for any reason and at any time upon giving written notice to you.

12. Charges

a. District Cooling Capacity and Supply Charges

You will pay the District Cooling Capacity and Supply Charges as set out in the Agreement based on the Cooling load and per TR-Hr of actual usage of the Services respectively. Any increase in Nakheel's cost base for water, electricity and/or other utility services including fuel surcharge after the date of this Agreement will result in an increase to the District Cooling Charge rate with effect from the date on which the increase occurs. Nakheel will be entitled to pass on to you all costs and expenses incurred by Nakheel in complying with a change in law. Nakheel will also be entitled to increase the District Cooling Supply Charge rate annually in line with the UAE Consumer Price Index or such other price or inflation index for the Emirate of Dubai as may be available from time to time from the Consumer Price Index Division of the UAE Ministry of Economy and Commerce.

b. Other Charges

After the registration for the chilled water supply and signature on this Agreement for your Property, you will pay a Connection Fee, an Administration Fee together with the refundable Security Deposit at the same time. Nakheel will levy a monthly Meter Service Fee for BTU Meter reading in the amount set out in the Registration Form on page 1 of this Agreement. The Meter Service Fee may be revised from time to time by written notice from Nakheel. In the event you tamper with the BTU meter or any of Nakheel's equipment or materials in the ETS Room or elsewhere, or attempt to do so, Nakheel shall be entitled to levy the Tampering Penalty, without prejudice to its other rights under Clause 8. If the Services have been suspended and/or disconnected in accordance with clauses 8 or 15, you will pay a Reconnection Charge in the amount set out in this Agreement for each event or occurrence and your liability to pay such reconnection charges is without prejudice to any other rights and remedies which Nakheel may be entitled to exercise. In the event a cheque is dishonoured, Dishonoured Cheque Fee will be charged as set out in the Registration Form on page 1 of this agreement.

13. Measurement during Maintenance

If the BTU meter is removed by Nakheel for maintenance, repair or inspection, measurement of the Services will be in accordance with clause 14.

14. Failure of Metering Equipment

If a BTU Meter fails to accurately register the actual TR-Hrs used, or is removed in accordance with clause 13, Nakheel will exchange or repair the meter and render an invoice for the period of meter failure based upon an estimate of the TR-Hrs consumed (i) in a similar previous period; or (ii) during a similar subsequent period or (iii) measured using data for that Property or a property with

similar characteristics all in accordance with Nakheel's estimation. In the event you believe the BTU Meter is not operating properly you may request Nakheel in writing to test such meter whereupon Nakheel will conduct such a test. If the test shows that the BTU meter has overstated the correct amount of TR-Hrs by more than 5%, Nakheel will bear the cost of the test and Nakheel will repair or replace the defective BTU Meter at Nakheel's own expense. In all other cases you will bear the cost of such test. It is agreed that any retroactive adjustment to an amount paid by you due to the defective BTU Meter will be negotiated in good faith.

15. Invoicing

You will be invoiced for the Services on a monthly basis in accordance with the Applicable Charges. The payment date for each monthly invoice will be the date identified on the relevant monthly invoice ("Due Date"). Nakheel will have the right, from time-to-time, to send invoices to you based on estimated consumption. You will settle in full the amount invoiced on or before the Due Date even if an invoiced amount is in dispute or the accuracy of the metering equipment is in dispute. On resolution of any dispute any amounts due or owing either way will be adjusted in the immediately following bill that is based on a meter reading.

To avoid interruption of Services you must make payment by the Due Date. Failure to make payment by the Due Date will lead to a Disconnection Notice being issued. Your Property will be disconnected if payment is not made within 15 days of the Due Date. The Services to the Property will remain disconnected until all amounts owing to Nakheel are paid in full. In the event of disconnection of services, Nakheel will be entitled to charge a Reconnection Charge.

16. Deposit

You will pay to Nakheel an initial Refundable Security Deposit as set out in the Applicable Charges section of this Agreement. If there is an increase in rates as set out in Clause 12 above, Nakheel may require you to pay an additional deposit. Nakheel has the right to apply the deposit against any amounts owing or outstanding from you at any time. If there are no amounts owing or outstanding from you at the completion of the Term, the deposit will be refunded to you within 30 days of the submission of refund request with the necessary back-up papers.

17. Billing and Collection Agent

Nakheel may appoint an Agent who is authorised to act on behalf of Nakheel for the purposes of this Agreement, including without limitation entering into this Agreement on behalf of Nakheel, invoicing and collection of Applicable Charges, undertaking meter readings, connections, disconnections, re-connections, management of deposits, account management, customer interface, and termination of this Agreement. The Agent shall be authorised to give valid receipt on behalf of Nakheel for any monies received from Customer in accordance with this Agreement.

18. Law and Jurisdiction

This Agreement is subject to the Laws of the Emirate of Dubai and the applicable laws of the United Arab Emirates. Dubai Courts shall have exclusive jurisdiction to hear and determine any dispute or difference arising hereunder.

19. VAT

All amounts payable in accordance with this Agreement are exclusive of any value added tax ("VAT"). To the extent that the VAT at standard rate as prescribed in the VAT laws and regulations ("VAT Amount") is applicable at the time that the amount payable is chargeable, it shall be added to the amounts payable. If other taxes become applicable to any amounts payable, as a result of a change in legislation applicable in Dubai, this shall be added to the amounts payable at the applicable rates.

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Nakheel Mall Palm Jumeirah



Annex 1 – Security Deposit Details

The Customer (whether Tenant or Owner) acknowledges and agrees to pay an initial refundable security deposit to Nakheel Malls upon signing the chilled water Service End User Agreement.

The security deposit for each unit will depend on its size, as detailed in the below table:

Unit Type	Amount In AED
COMMERCIAL CUSTOMER Less than 15 TR	3,000
COMMERCIAL CUSTOMER 15 to 50 TR	5,000
COMMERCIAL CUSTOMER 50 to 100 TR	15,000
COMMERCIAL CUSTOMER More than 100 TR	30,000



Annex 2 – Payment Methods

IMPORTANT NOTE:

For cash deposits and bank transfers, please ensure to provide a proof of payment to us via email to allow us to allocate the payment to your account. The proof of payment should clearly show the Customer's full name, building name, and unit number. Failure to send a copy of the payment will cause delays in processing of payment into your account and may result in late fees and/or disconnection of your cooling services.

Payment Options:

Listed below are the available payment methods for the project:

1. Cash deposit in branch – cash shall be deposited into the below mentioned bank account
2. Check deposit in branch – the check shall be in the beneficiary's name mentioned below
3. Bank transfer – the transfer shall be made to the below mentioned bank account

Bank account Details:

Bank name:	Mashreq Bank
Beneficiary Name:	NAKHEEL MALL LLC – DISTRICT COOLING COLLECTION
Account number:	019000052 257
IBAN:	AE55 0330 0000 1900 0052 257
Branch Name:	Dubai Internet City Branch

VAT Details:

<u>Entity Name:</u>	Nakheel Malls L.L.C
<u>Tax Registration Number (TRN):</u>	100035474400003