
NETWORK ACCESS CODE

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1. OVERVIEW

The Water Act 2003 provides for increased competition within the water industry. This Access Code sets out the principles, policy and procedures for Licensees to gain access to Portsmouth Water's network. These principles apply to potable water supply only as the Company does not have a non-potable supply system.

Further information and detail is contained within this access code. Licensees and other relevant parties should contact our Finance and Regulation Director, Mr N. Sheeran, to discuss access agreement and prices, Tel. No. 023 9249 9888, e-mail m.white@portsmouthwater.co.uk

1.1 Role of the access code

These network access principles are based on Ofwat guidance. Changes in legislation, in particular, may affect these principles.

The Access Code sets out the procedures to be followed in negotiating and concluding access agreements.

The Access Code is a guide, which will be reviewed annually by 15th October each year or when Ofwat revises its guidance.

It is assumed that Licensees will have obtained a Water Supply Licence before they can supply water in competition. This access code is relevant to both Retail and combined Licensees, however many of the clauses are applicable to combined Licensees where water is to be introduced into the network, and governs the principles of operations.

Each application will be dealt with on an individual basis upon its own merits in a professional and timely manner following the principles outlined within the Network Access Code.

1.2 Relevant framework documents

Further principles may apply besides those below, in particular those contained in the 'Access Code Guidance' documentation published by Ofwat in September 2011 and the DWI Information Letter Ref. 13/2004 on 'Common Carriage: Guidance on Drinking Water Quality Aspects':

i) **Primary and secondary legislation**

Water Industry Act 1991

www.opsi.gov.uk/acts/acts2003/20030037.htm

The Water Supply (Exceptions from Supply System Prohibitions) Regulations 2005

<http://www.opsi.gov.uk/si/si2005/20053075.htm>

The Water Supply Licence (New Customer Exception) Regulations 2005

<http://www.opsi.gov.uk/si/si2005/20053076.htm>

The Water Supply Licence (Application) Regulations 2005

www.opsi.gov.uk/si/si2005/20051638.htm

The Water Supply (Water Fittings) Regulations 1999

<http://www.opsi.gov.uk/si/si1999/19991148.htm>

Competition Act 1998

<http://www.opsi.gov.uk/ACTS/acts1998/19980041.htm>

ii) Statutory and non-statutory guidance

Guidance on Access Codes

http://www.ofwat.gov.uk/competition/wsl/gud_pro_accesscodes.pdf

Guidance on Eligibility

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_eligibility310707.pdf/\\$FILE/wsl_eligibility310707.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_eligibility310707.pdf/$FILE/wsl_eligibility310707.pdf)

Guidance on Applying for a Water Supply Licence

[www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_applying_licence310707.pdf/\\$FILE/wsl_applying_licence310707.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_applying_licence310707.pdf/$FILE/wsl_applying_licence310707.pdf)

Customer Transfer Protocol – –

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_customer_transfer_protocol041105.pdf/\\$FILE/wsl_customer_transfer_protocol041105.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_customer_transfer_protocol041105.pdf/$FILE/wsl_customer_transfer_protocol041105.pdf)

Guidance on Strategic Supplies

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_strategic_supplies_guidance.pdf/\\$FILE/wsl_strategic_supplies_guidance.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_strategic_supplies_guidance.pdf/$FILE/wsl_strategic_supplies_guidance.pdf)

Water Supply Licensing Determinations Procedure

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_determinations_procedure171105.pdf/\\$FILE/wsl_determinations_procedure171105.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_determinations_procedure171105.pdf/$FILE/wsl_determinations_procedure171105.pdf)

Office of Fair Trading Competition Act 1998 Application in the water and sewerage sectors

http://www.of.gov.uk/shared_of/business_leaflets/ca98_guidelines/of422.pdf

iii) Conditions of Appointment

Company Instrument of Appointment

iv) Other relevant documents

DWI Information Letter 13/04 Common Carriage: Guidance on the Drinking Water Quality Aspects

www.dwi.gov.uk/regs/infolett/2004/info1304.shtm

DWI Guidance on the Water supply (Water Quality) Regulations 2000

<http://www.dwi.gov.uk/regs/pdf/GuidanceMay05.pdf>

DWI Guidance on the Notification of Events

<http://www.dwi.gov.uk/regs/infolett/2004/info1204guidance.pdf>

DWI Guidance to the Water Undertakers (Information) Direction 2004

<http://www.dwi.gov.uk/regs/infolett/2005/info0705.shtm>

1.3 **Role of key industry players**

1.3.1 **Water undertaker**

Portsmouth Water is the appointed water undertaker covering part of Hampshire and West Sussex. It is responsible for the public water supply network in this area. Chapter 2A WIA91 places duties and obligations on water undertakers subject to certain conditions. Portsmouth Water is obliged to provide the following services subject to the conditions detailed below:

i) **Primary undertaker**

a) **Retail water supply**

Where a Licensee requests Portsmouth Water to provide a supply of water, under section 66A WIA91, and the premises are within Portsmouth Water's area, it has a duty to take steps necessary to enable provision of the supply, and having taken those steps to provide the supply.

The terms and conditions on which Portsmouth Water carries out these duties are agreed with the Licensee in accordance with Ofwat's access code guidance and the costs principle.

b) **Introduction of water into water undertaker's supply system**

Where a Licensee requests Portsmouth Water's permission to introduce water into its supply system, under section 66B WIA91, and in line with the requirements of the retail authorisation aspects of the combined license, Portsmouth Water has a duty to take steps to enable the Licensee to make the introduction of water into the supply system and having taken such steps to permit the introduction of water into its supply system, as requested.

Where a combined Licensee requests Portsmouth Water to permit the introduction of water, as supplied by a neighbouring secondary undertaker, into its supply system for the purposes of supplying its customers within Portsmouth Water's area, it has a duty to take steps to enable the Licensee to make the introduction of the water into its system. This is in accordance with section 66C WIA91. These steps may include connecting Portsmouth Water's supply system to the neighbouring secondary undertaker's supply system.

Having taken such steps, Portsmouth Water has a duty to permit the introduction of water into its supply system, as requested. Where appropriate, the Licensee, primary water undertaker and secondary undertaker may agree trilaterally the terms and conditions of access.

The terms and conditions on which Portsmouth Water carries out these duties are agreed with the Licensee in accordance with Ofwat's access code guidance and the costs principle.

ii) Secondary undertaker

Where a combined Licensee requests Portsmouth Water to provide a supply of water to enable it to supply its customers' premises by using a neighbouring primary water undertaker's supply system, under section 66C and in accordance with its retail authorisation, Portsmouth Water has a duty to take steps to enable the provision of the supply, and having taken those steps to provide that supply.

The terms and conditions on which Portsmouth Water carries out these duties in its capacity as a primary or secondary undertaker are agreed with the Licensee in accordance with Ofwat's access code guidance and the costs principle. The introduction by a Licensee into Portsmouth Water's supply system, of a supply obtained from a secondary undertaker involves two transactions, governed by separate agreements:

1. The secondary undertaker sells water to the Licensee
2. The Licensee introduces that water into the primary water undertaker's water supply system.

Where appropriate, the Licensee, primary water undertaker and secondary undertaker may agree trilaterally the terms and conditions of access.

Licensees shall identify and communicate at the earliest stages if a secondary undertaker is likely to be included within an application. This will enable potential secondary undertakers to consult at the earliest opportunity with relevant parties including the primary undertaker, the EA and the DWI, if necessary.

The secondary undertaker will need to understand the demand requirements of the Licensee and an indication of the point to which connection to the primary undertaker's supply system is required. It will also need to discuss with the primary undertaker details of the transfer, including the design of pipework and any pumping arrangements that may be required, any water quality issues and whether any facilities need to be constructed.

If Portsmouth Water is identified as a secondary undertaker within an access application, Portsmouth Water expects to be involved as necessary in discussions with the Licensee and the primary undertaker. Portsmouth Water expects to receive copies of relevant details during the initial and detailed application stages for comment and to be able to request further details as necessary.

iii) Conditions under which duties do not apply

Section 66A WIA91 documents the circumstances under which the Retail water supply duty by a primary undertaker does not apply.

The duty to provide a supply of water to a Licensee, or to take steps to enable it to provide such a supply do not apply if both the first and second conditions below are satisfied, or if the third condition below is satisfied.

The first condition is that:

- the premises to be supplied by the Licensee consist only of land, they do not include a building or part of a building; or
- the supply to be made by the Licensee to the premises is for purposes other than domestic purposes.

The second condition is that the provision of the supply by Portsmouth Water would:

- require Portsmouth Water to incur unreasonable expenditure in carrying out works, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply water to buildings or parts of buildings for domestic purposes; or
- otherwise put at risk Portsmouth Water ability to meet any of those existing or probable obligations.

The third condition is that there is a contravention, as determined in regulations made under section 74 WIA91 and related to section 66A (6) WIA91, in relation to the water fittings used or to be used in connection with:

the supply of water to the premises to be supplied by the Licensee; or
the use of water in those premises.

Under sections 66B and 66C WIA91, a primary undertaker has no duty to permit the introduction of water by a combined Licensee into its supply system, and under section 66C WIA91 a secondary undertaker has no obligation to provide a Retail supply of water, if either the first or second condition below is satisfied:

The first condition is that providing the supply or allowing the introduction of the water into the primary water undertakers supply system:

- would require Portsmouth Water, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works;
or
- would otherwise put at risk its ability to meet any of those existing or probable future obligations.

The second condition is that there is a contravention of the prescribed requirements of regulations made under section 74 WIA91 in relation to the water fittings used or to be used in connection with:

- the supply of water to the premises to be supplied by the Licensee; or
- the use of water in those premises.

1.3.2 Licensee

Licenses are the entrant suppliers under the WSL regime. Licenses are responsible for obtaining a licence appropriate to the activities to be undertaken and will have undergone an assessment of their financial and technical compliance by the appropriate regulatory bodies (Ofwat/DWI). Licenses must comply with the terms of their licence, relevant legislation and the contractual arrangements as set out in access agreements.

Section 66I WIA91 prohibits unauthorised use of a water undertaker's supply system for the purpose of supplying water to a customer's premises, unless done so by the water undertaker or by a Licensee under the terms of its licence. Under section 66I (3) WIA91, unauthorised use for the purpose of supplying water to a customer's premises is a criminal offence. Licensees have a duty to assure themselves that the terms of their licence allow for the use of Portsmouth Water's supply system.

Section 66J WIA91 prohibits unauthorised introduction of water into a water undertaker's supply system. Introduction of water is only permitted by the primary water undertaker itself, or by a Licensee under the terms of its licence, or by another water undertaker under an agreement for a bulk water supply. Under 66J WIA91, contravention of this prohibition is a criminal offence. Licensees have a duty to assure themselves that the terms of their licence allow for the introduction of water into Portsmouth Water's supply system.

Licensees share responsibility with Portsmouth Water for compliance with the Water Quality Regulations for the water they input in the supply system and for the Retail supply of water to the customer's tap.

Licensees have a duty to comply with the eligibility requirements as specified in section 17A (3) WIA91 relating to non-household premises, the threshold requirement, and supply by only one Licensee.

1.3.3 Ofwat

The Water Services Regulation Authority (Ofwat) is the economic regulator of the water industry in England and Wales.

The Water Industry Act 1991 introduces a new duty to "further the consumer objective". This is "to protect the interests of consumers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the provision of water and sewerage services."

Ofwat is required to publish guidance on the operation of the WSL regime.

Ofwat is responsible for granting water supply licences for Retail and combined services. In doing so, Ofwat will assess whether the applicant has the appropriate skills and competencies required.

Ofwat also has powers to determine disputes about the eligibility of premises, the terms and conditions of proposed access agreements and the conditions for refusing supplies. Further information is available on Ofwat's website under Water Supply Licensing: www.ofwat.gov.uk

1.3.4 Drinking Water Inspectorate (DWI)

DWI will need to be satisfied that the Licensee is aware of, and understands, its regulatory duties and responsibilities in respect of drinking water quality at the initial licence application stage. Where a combined Licensee intends to treat a source of water for potable supply, the treated water cannot be introduced into the public supply system until the DWI is satisfied that the treatment processes meet the relevant regulatory requirements and the works is being operated in a competent manner.

During access negotiations DWI will advise Ofwat *as necessary* on drinking water quality issues relating to the use of common carriage, particularly in respect of dispute resolution.

Overall, Licensees will be subject to the same level of regulation as Undertakers. Further information can be found in the Water Supply Licensing section of the DWI's website at www.dwi.gov.uk.

1.3.5 Environment Agency (EA)

The Environment Agency has a duty to secure the proper use of water resources in England and Wales. They monitor water in the environment and issue 'abstraction licences' to regulate who can take water from the environment and how much they can take.

Water undertakers produce Drought Plans every 3 years, which identify how, during a period of drought, they will continue to meet their duties with as little recourse as possible to drought orders or drought permits. From October 2005 the production and publication of these plans became a legal requirement. The Environment Agency reviews these plans and advises the Government on their adequacy.

Water undertakers also produce Water Resources Management Plans every 5 years; which identify available resources, forecast demand and set out how future deficits may be addressed through either resource development or demand management options. The Environment Agency also reviews these plans and advises the Government on their adequacy. Whilst Water Resources Management Plans are produced at the moment, their production and publication will become a statutory requirement in 2006.

There is a duty on water supply Licensees to provide information to water undertakers for both Drought Plans and Water Resources Management Plans.

In most cases, combined water supply licence applicants will require a water abstraction licence from the Environment Agency to take water from surface water or groundwater. Every new proposal to abstract or impound water undergoes extensive scrutiny and investigation before a decision is made to grant or refuse an abstraction licence application. There is a need to ensure that water resources are safeguarded and that abstractions do not damage the environment.

Secondary supplies (under section 66C of the Water Industry Act 1991) are meant to encourage use of 'spare water', but the undertaker and the Licensee may not be able to agree on how much water the undertaker has 'spare'. In the absence of agreement, Ofwat may be asked to determine whether a supply under 66C should be made, and if so the terms of that supply.

In these instances, the Environment Agency will also play a role in advising Ofwat on whether the criteria for rejecting a proposal for a secondary supply under sections 66C(5) or (6) of the Water Industry Act 1991 are satisfied. Ofwat will then make a determination.

Further information is available on the Environment Agency's website.
http://www.environment-agency.gov.uk/subjects/waterres/564321/?version=1&lang=_e

1.3.6 Department for the Environment, Food and Rural Affairs (DEFRA)

DEFRA is the government department responsible for WSL legislation.

The Secretary of State has issued statutory instruments which govern the competition regime. The Secretary of State may issue further instruments in the future which may affect the regime. Where this is the case, Portsmouth Water should revise this access code to reflect relevant changes.

Further information is available on DEFRA's website:

<http://www.defra.gov.uk/environment/water/index.htm>

1.4 Definition of services

Portsmouth Water will offer services to a Licensee for the purposes of supplying water to the Licensee's eligible customers, subject to terms and conditions agreed with the Licensee in accordance with Ofwat's access code guidance and the costs principle. These services are defined in terms of Portsmouth Water being either the primary undertaker (section 66A and 66B of the WIA91) or a secondary undertaker (section 66C of the WIA91).

1.4.1 Primary water undertaker

i) Retail water supply

Portsmouth Water will take steps to enable the provision of the supply, and having taken those steps, provide the supply of water in accordance with section 66A of the WIA91 to the Licensee for supply to the Licensee's eligible customers.

ii) Introduction of water into the supply system

Portsmouth Water will take steps to enable the Licensee to make the introduction of water into the supply system, and having taken such steps permit the introduction of water into its supply system, in accordance with section 66B of the WIA91 for the purposes of supply to the Licensee's eligible customers.

Portsmouth Water will take steps, and having taken such steps, permit the introduction of water, as supplied by a secondary undertaker, into its supply system, in accordance with section 66C of the WIA91, for the purposes of supply to the Licensee's eligible customers. In some circumstances, steps may include laying such pipes and constructing such other works as are necessary to connect the supply with the pipes in the area of the secondary undertaker.

1.4.2 Secondary water undertaker

Portsmouth Water will make available a supply of water to a Licensee, for supply to the Licensee's eligible customers, within the area of appointment of another water undertaker in accordance with section 66C of the WIA91. Portsmouth Water will lay such pipes and construct such other works as are necessary to connect the supply with the pipes in the area of the primary undertaker.

2. APPLICATION FOR ACCESS TO THE WATER UNDERTAKER'S SUPPLY SYSTEM

2.1 Process requirements

The Company will review each application for common carriage on an individual basis. However, we will adopt a process that will be common to all Licensees as follows:

- **introduction stage** – at which the Licensee may contact the Company with an initial expression of interest to negotiate terms for access;
- **initial application** – at which the Company receives an outline proposal from the Licensee;
- **detailed application** – at which the Licensee makes a formal application to the Company; and
- **detailed contract negotiations** – which may begin at the initial application stage. It is at this stage that terms are discussed and agreed or rejected.

In determining the acceptability of a proposal, a criterion used by the Company will be whether the water to be put into the Network supplies the Licensee's customers either directly or by displacement.

Where the Company provides back-up supplies it will make a charge for this obligation.

2.1.1 *Confidentiality agreements*

The Licensee and the Company will agree a pre-contract confidentiality agreement at the start of negotiations. The purpose of this is to ensure that neither party discloses without consent or misuses information received. We will also agree confidentiality terms in individual access agreements. A draft confidentiality agreement is provided as Appendix 1.

2.1.2 *Information requirements*

The Licensee will be required to provide information that we reasonably require to process a Licensee's application at:

- Introduction Stage
- Initial Application
- Detailed Application
- Contract Negotiations

Introduction Stage

- Contact details for the Licensee.
- Type of licence held.
- Broad indication of the nature of the access sought (Retail or combined).
- Any Specific requirements under the confidentiality agreement.
- Any requirements for further information that the Licensee may require.
- Should a meeting be requested one would be arranged within ten days of the request.

Portsmouth Water will confirm receipt of contact within two working days.

A signed confidentiality agreement is required before the initial application process can begin.

Initial Application (Combined Supply)

- Signed consent forms from the customer(s), showing that the named customers have expressed an interest to switch supplier dated no more than 2 months before the application or verified by the customer as still being in force. The consent forms should waive any restrictions on disclosure of information held by the Company, which it is necessary to reveal to the Licensee for the purposes of the proposed new supply arrangements.
- Information on the location of the eligible premises of the customer, the volume of use required on this site and the initial description of any water to be input by the Licensee under combined supply.
- Information on the nature of water use at the customer premise, in particular the degree to which the water supplied would be use of a domestic nature.
- An outline proposal of what the Licensee will require from the Company in order for the Licensee to provide the level of service required to the customer.
- A list of the information that the Licensee requires from the Company in order to progress the application to the detailed application stage.
- Details of any requirements for a connection between a Licensee's source of water and the Company's network.
- Any other information requirements that have been identified at the initial contact stage.
- Details of any information that the Licensee requires from the Company in order for its application to proceed.

This will allow Portsmouth Water to assess the initial application, to provide an initial estimate of case specific costs, to provide an estimate of the application processing timescales and to highlight any initial difficulties with the application. Licensees should inform secondary undertakers and sewerage undertakers of their application at this stage if applicable.

Portsmouth Water and the Licensee will need to discuss the following at this stage of the process:

- Strategic supply designation
- Water quality and pressure issues
- Drought planning requirements
- Risk of supply restrictions
- Exchange of operational information

The Company will then provide feedback on the initial application and set out further information that is required at this stage or can be left for the detailed application stage. The Company will as far as possible confirm or deny the basic feasibility of the Licensee's proposal, or specify reasons why it is unable to do so at this stage.

The DWI will be consulted on any aspects of the initial application that will require feasibility studies and testing to ensure that water quality issues are identified. The DWI requires 2 to 3 months notice where they may be consulted. Where a Licensee disagrees with the need for this information at the initial or detailed application stage the DWI will act as arbitrator as to whether the information is necessary or not.

Detailed Application (Combined Supply)

To assess the technical feasibility of an application for a combined supply, we may require the following basic information (this is not an exhaustive list), as far as it is available:

- the location of the customer's premises;
- estimates of the customer's demand;
- forecasts of the customer's demand for the duration of the proposed contract or some other agreed duration;
- the location of the points of entry and exit, and hydraulic requirements;
- supply and demand data – which might include average and peak deployable outputs of the Licensee's source, the supply pattern and variations in demand, details of any supply or demand management contingency arrangements for drought periods;
- water resource details – which might include the type of water resource being used, its reliability and any back-up mechanisms which may exist; a thorough risk assessment by the Licensee of any proposed source, i.e. an assessment of exposure to pollution incidents, vandalism and other risks; when available any condition associated with the abstraction licence
- water quality assessments – which might include the predicted quality of water entering the system, history of contamination (where available) of the raw water source; the level of treatment proposed, with particular attention to disinfection practices and any additional treatment requirements such as plumbosolvency control and fluoridation, details of the Licensee's cryptosporidium testing process; the safeguards and procedures in the event of treatment failure; the water quality requirements of the potential customer(s); proposals for monitoring to ensure compliance with water quality regulations; and
- evidence to demonstrate the Licensee's systems for informing customers of emergencies.

Contract Negotiations

Portsmouth Water and the Licensee will need to agree a contract that is compliant with this access code and Ofwat's published access code guidance.

Specific clauses that will need to be negotiated at this stage include:

- Payment Terms.
- Frequency of payments.
- Consumption reconciliation.
- Arrangements for dealing with outstanding debt.
- Service Level agreement for support services provided by either party.
- Specific Quality requirements.
- A transfer date that takes into account the operation of the Customer Transfer Protocol.

Retail Application

The information requirements for Retail applications are simpler than those required above. The following information is likely to be required:

- Customer name.
- Customer site details.

- Unique premises reference. This number will be assigned by Portsmouth Water for transfers within the Customer Transfer Protocol and will consist of three letters, and 5 digits.
- Expected Start Date.
- Supply Duration.
- Estimated annual consumption.
- Details of domestic usage consumption.
- Specific special service requirements.
- Retail access price, expressed as a discount from the published retail tariff.

2.1.3 *Timescales*

The Company will process all applications in a professional and timely manner. The individual nature of applications will dictate what can be considered as 'timely'. On receipt of application we shall assess the complexity and work involved and shall discuss and agree appropriate timescale where target timescales may not be appropriate. Early discussions are encouraged to enable project-specific applications to meet the target timescales.

The target timescales for each stage of a combined licence process are tabulated below:

Stage	Target Timescale
Introduction	20 days
Initial Application	20 days
Detailed Application	50 days
Detailed Contract Negotiations	40 days

The target timescales for a Retail Application are tabulated below:

Stage	Target Timescale
Introduction	
Draft Contract and Confidentiality Agreement	3 days
Negotiation Period	20 days
Final Contract	5 days

2.1.4 *Application fees*

Portsmouth Water will not make a charge for the costs of processing a Retail or combined application for access. These costs include discussing, negotiating and agreeing terms and conditions, confidentiality agreement and any costs related to processing premises-specific applications for both retail and combined supplies, including any costs for feasibility studies.

2.1.5 *Credit provisions and credit limits*

Portsmouth Water will establish the credit-worthiness of Licensees in line with those provided for existing customers generally based on past and current payment records. The credit limit will be appropriate to the scale of the proposed customers' monthly account.

2.2 **Confirming eligibility**

Section 17A (3) WIA91 sets out the following three requirements that must be satisfied in relation to each of the premises supplied by a Licensee:

- The customer's premises are not household premises;
- When the Licensee first enters into an undertaking with a customer to give the supply, the total quantity of water estimated to be supplied to the premises annually by the Licensee is not less than 5 megalitres (the 'threshold requirement'); and
- The premises are not being supplied by another Licensee (but may be supplied by a Licensee and one or more water undertakers).

Further information can be found in Ofwat's guidance on eligibility
[http://www.ofwat.gov.uk/aprix/ofwat/publish.nsf/AttachmentsByTitle/wsl_eligibility310707.pdf/\\$FILE/wsl_eligibility310707.pdf](http://www.ofwat.gov.uk/aprix/ofwat/publish.nsf/AttachmentsByTitle/wsl_eligibility310707.pdf/$FILE/wsl_eligibility310707.pdf)

2.2.1 Responsibilities

In all cases and for all aspects of eligibility, it is the Licensee rather than the water undertaker which must ensure that the premises of a potential customer are eligible in accordance with Ofwat's guidance on eligibility.

Unless doing so in pursuance of its licence, it is a criminal offence for a Licensee to use a water undertaker's supply system for the purpose of supplying water to any premises of a customer, or for a Licensee to introduce water into a water undertaker's supply system. It is therefore a criminal offence for a Licensee to breach any of the eligibility requirements set out above.

In addition, any Licensee that contravenes these requirements could face enforcement action by Ofwat under section 18 WIA91 and may incur financial penalties under section 22A WIA91. Alternatively, a Licensee could face revocation of its licence in accordance with the Standard Conditions of Water Supply Licences.

A set of premises may change in such a way as to require the threshold to be satisfied a further time. For example, a customer may sell part of its premises so that the original premises is split and is occupied by different customers.

Regarding the threshold requirement, as long as the requirement is met at the time the Licensee first enters into the undertaking to supply a set of premises, and those premises do not change, those premises can continue to be supplied by the same Licensee for the duration of the undertaking even if consumption falls below the threshold.

A Licensee should seek its own legal advice if it is unsure whether a customer's premises are eligible.

2.2.2 Boundary definition

The WIA91 does not define 'premises' for the purpose of assessing eligibility. Premises can include buildings or land. Licensees can only supply customers at individual eligible premises. Each of the premises supplied must be eligible.

Customers cannot aggregate consumption at more than one set of premises in order to achieve eligibility, although some groups of properties may constitute a single set of premises in certain circumstances.

There will be a single set of premises in the following circumstances:

- i. The premises are located within a single boundary and a single customer occupies the premise and is liable for water bills in respect of those premises (single boundary premises);
- ii. The premises consist of co-located buildings, other similar structures and/or land which have adjoining boundaries or which are separated only by transport infrastructure and a single customer occupies the premises and is liable for water bills in respect of those premises (common occupation collocated premises); or
- iii. The premises consist of a single building or co-located, separately occupied buildings, other similar structures and/or land with all four of the following characteristics:
 - They have a common landlord or managing agent in respect of the totality of the premises;
 - They have adjoining boundaries or are separated only by transport infrastructure;
 - They are served by a self-contained common water supply system that does not belong to a water undertaker; and
 - A single customer is liable for water bills in respect of the totality of the premises (common management co-located premises).

If premises meet the criteria in paragraphs ii and iii, the criterion in paragraph i cannot be applied to any part of the premises as a means of reducing the area in order to bring the reduced premises within the eligibility requirements.

2.2.3 Household / non-household premises

Premises that satisfy the single set of premises eligibility requirement must also satisfy the requirements in section 17A (3) (a) WIA91 that the premises are not household premises.

Section 17C WIA91 defines household premises as those in which, or in any part of which, a person has his home. The fact that a person has his home in, or in part of, any premises does not mean that the premises are household premises unless the principal use of the premises is as a home. In its guidance on eligibility Ofwat sets out what it considers to be household and non-household premises for the purpose of the WSL regime.

2.2.4 Volume threshold

The threshold requirement is that, at the time the Licensee first enters into an undertaking with a customer to supply the premises, the total quantity of water estimated to be supplied annually to the premises by the Licensee pursuant to the undertaking is not less than 5 megalitres. The threshold requirement relates to the amount of water that is supplied by the Licensee using one or more water undertakers' supply systems. The amount of water that a customer receives by means of private supplies does not count towards assessing whether the threshold requirement is satisfied.

2.2.5 Supply arrangements for Licensees

Section 17A WIA91 prohibits the supply of an eligible premises by more than one Licensee. However, a premises may be supplied by a single Licensee and one or more undertakers.

2.2.6 Attachment to the supply system

Customers can only be supplied by Licensees if they are connected to the supply system. The supply system is defined in section 17B (5) WIA91. It can be summarised as any water mains and other pipes used for the purpose of conveying potable water from a water undertaker's treatment works to customer's premises and any water mains and other pipes used to convey non-potable water from any source to premises that are not connected directly or indirectly to any water mains or pipes connected to those treatment works.

Section 17A (5) provides that the supplementary authorisation is an authorisation to the Licensee to introduce water into a water undertaker's supply system, by means of which any particular retail supply of water is to take place. In its access code guidance, Ofwat interpret this to mean that a physical link is required between the combined Licensee's introduction point and its customer's premises.

2.2.7 Customers in debt

Outstanding debt is defined in Condition S and Standard Licence Condition 6 as charges in relation to water supplied to the premises of a customer, which have remained unpaid for 30 days or more after the date that the old supplier has served notice on the customer demanding payment.

If there is outstanding debt and arrangements are not in place for the repayment of any outstanding water debt, an objection to the customer transfer can be raised by the old supplier in accordance with the Customer Transfer Protocol. To allow the transfer to continue, it may be possible to allow the debt to be assigned to the new supplier. Such arrangements would need to be agreed between the new supplier, the customer and the old supplier.

Further information is available in Ofwat's CTP.

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_customer_transfer_protocol041105.pdf/\\$FILE/wsl_customer_transfer_protocol041105.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/wsl_customer_transfer_protocol041105.pdf/$FILE/wsl_customer_transfer_protocol041105.pdf)

2.3 Application process

2.3.1 *Combined supply arrangements*

Initial Contact This stage of the process allows the Licensee to express an interest to Portsmouth Water, giving an indication of the access sought and an exchange of any basic information required outlined by each party. At the completion of this stage a confidentiality agreement will be agreed and signed before proceeding to an initial application.

Initial Application An application, which provides the information outlined in 2.1.2, will allow Portsmouth Water to assess the type and scope of access required and give further guidance on the information required to proceed to a detailed application. It will allow for an initial engineering assessment of the infrastructure works needed to facilitate the supply, with an outline scheme design giving an early indication of the feasibility of the proposal before

committing to detailed studies. This process will provide Portsmouth Water with the information requirements for a detailed application and feasibility studies.

Detailed Application

The Company and the potential Licensee will subsequently agree the full cost, payment details and the programme that the application will follow will also be required.

Upon agreement the Company will complete the feasibility study and testing to determine the proposed charges and terms and conditions for access. Detailed Contract negotiations may commence at this stage.

The results of the studies will be made available to the Licensee.

Negotiation of Contract

The Company will report on the assessment of the application with due diligence in a timely manner after receiving all the information required from the potential Licensee. The report shall indicate whether

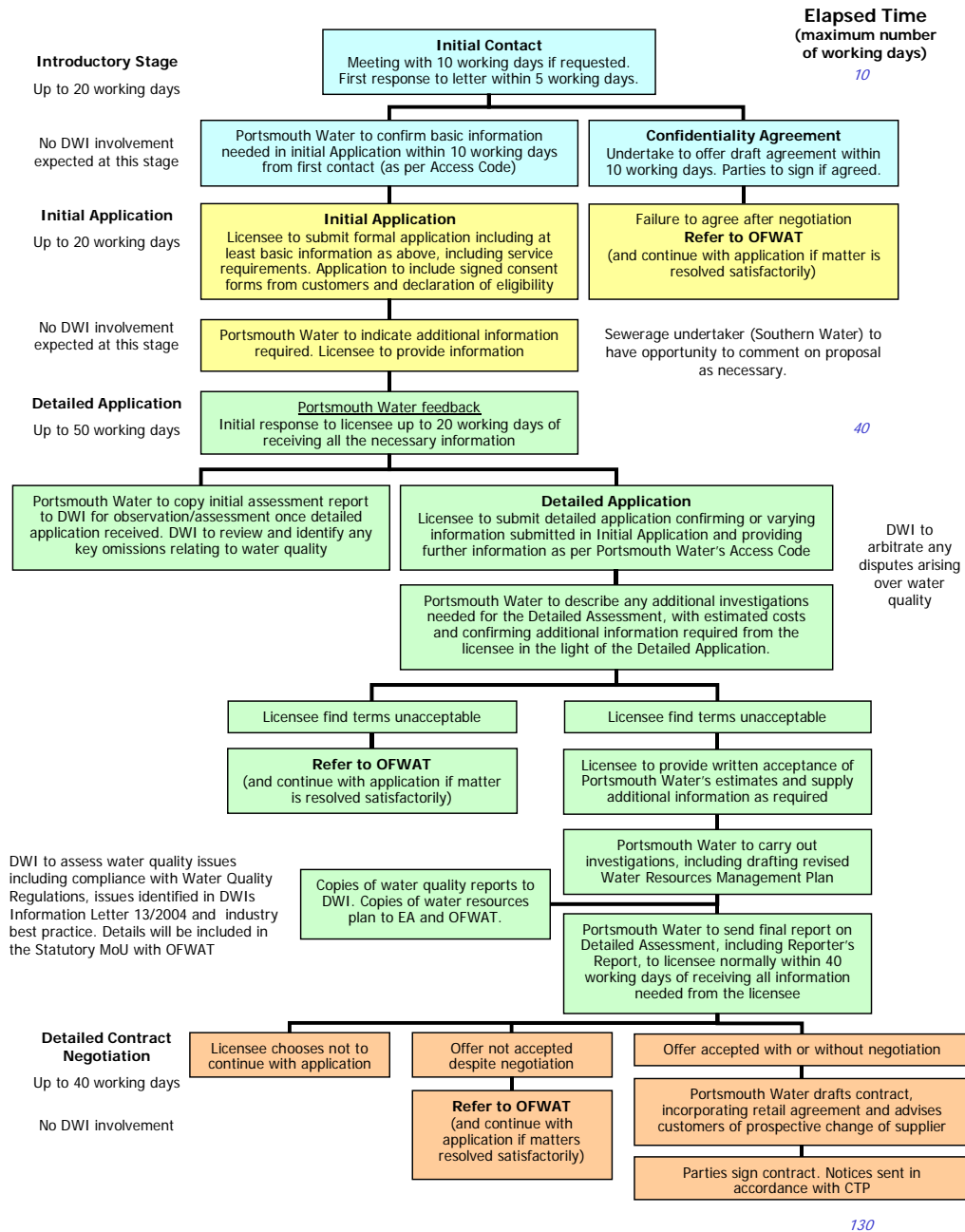
- a) The application has been successful and that the proposal can formally proceed to the Contract Negotiation stage, or
- b) The application is unsatisfactory and the reasons why.

Once the application has been successful, detailed Contract Negotiations may commence. The Company will develop the terms and conditions for access to be granted. A legal and binding Contract will be prepared for the Company and Licensee to enter into.

The Licensee will not be granted access until such time as the Contract is signed.

A process flowchart detailing each stage of the process is provided below.

Combined Supply Application Process



Role of DWI

DWI will need to be satisfied that the Licensee is aware of, and understands, its regulatory duties and responsibilities in respect of drinking water quality at the initial licence application stage. Where a combined Licensee intends to treat a source of water for potable supply, the treated water cannot be introduced into the public supply system until the DWI is satisfied that the treatment processes meet the relevant regulatory requirements and the works is being operated in a competent manner.

During access negotiations DWI will advise Ofwat *as necessary* on drinking water quality issues relating to the use of common carriage, particularly in respect of dispute resolution.

Overall, Licensees will be subject to the same level of regulation as Undertakers. Further information can be found in the Water Supply Licensing section of the DWI's website at www.dwi.gov.uk.

Role of the Environment Agency

The Environment Agency is responsible for water resource planning in England and Wales and has a duty to secure the proper use of water resources. Portsmouth Water's abstraction is regulated by the licensing system operated by the Environment Agency. Portsmouth Water will not relinquish to the Licensee any licence, or part of, that becomes surplus as a consequence of the Licensee's ability to supply from an alternative licensed source.

The Environment Agency will award a licence for any new sources, which will cover abstraction rate for daily, monthly and annual volumes.

Role of the secondary water undertaker (where applicable)

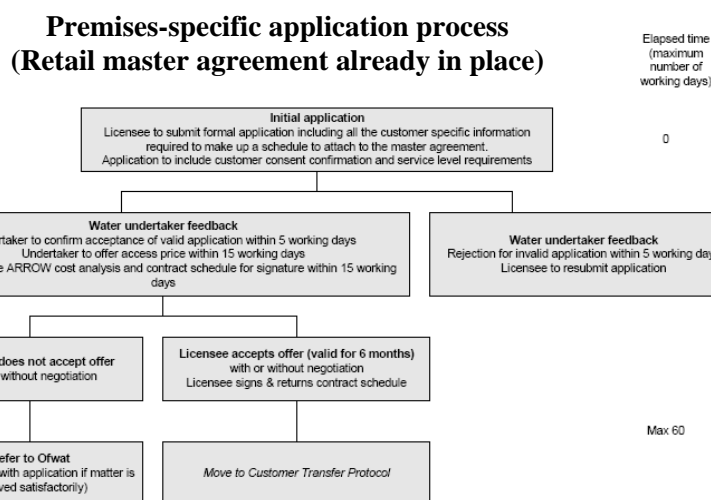
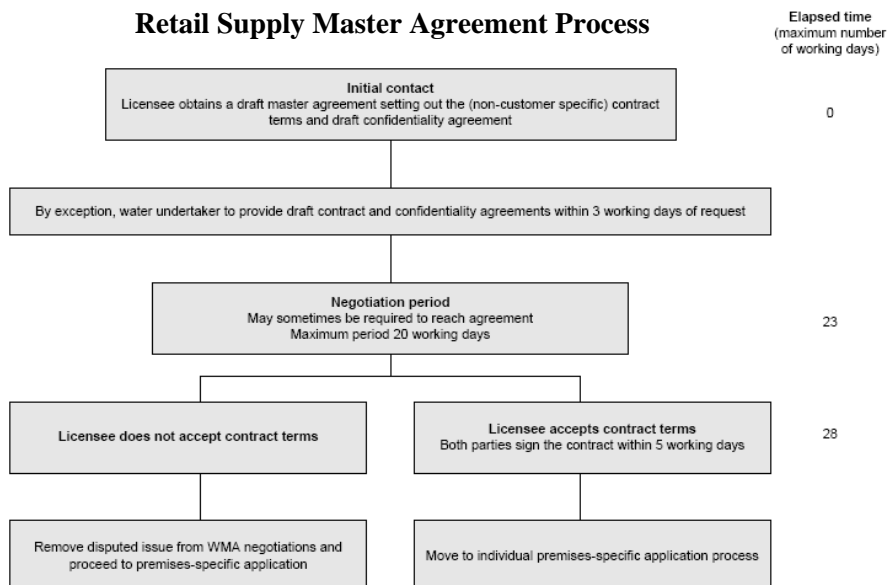
A secondary water undertaker is a water undertaker other than Portsmouth Water to whom the Licensee may seek a supply of water. A secondary undertaker's supply of water will be treated as if it is the Licensee's water for the purposes of this access code. Specific details will be provided in the final access agreement.

Provision of information to the sewerage undertaker

As the access code relates to potable water supplies only information on water volume and sewage discharge will be required to be passed to Southern Water, who are the sewerage undertaker for Portsmouth Water Company's supply area.

2.3.2 **Retail supply arrangements**

A process flowchart detailing each stage of the process is provided below.



Initial Contact

The Company needs to assess that a Licensee's proposal is feasible and the scope of the assets to be used. We will require a broad outline of the proposal to process the preliminary enquiry.

At this stage we would encourage a meeting with the Licensee to clarify the information required to process the application and discuss in outline the feasibility of the proposed application.

If this is not the first case of contact with a Licensee then a master Retail agreement will have already been reached that will cover initial information requirements.

The Company will, if requested, agree a Retail Master Agreement with a Licensee in advance of specific customers being ready to switch. In these cases the flow chart procedure outlined above will temporarily stop after the Retail Master Agreement has been agreed. A draft Master Agreement is included in Appendix 3.

Initial Application

For Retail Licensees with a master agreement this requires confirmation of information required after the initial contact stage.

Detailed Application

The master agreement contains the main contract terms and general conditions that will apply to Retail agreements between the parties. For each customer case the Company and the Licensee exchange data to build up a schedule containing site-specific information to be appended to the master agreement. The following information is likely to be contained in these schedules:

- Customer name, site details and unique premises reference number
- Expected start date
- Supply duration
- Estimated annual consumption
- Details of domestic usage consumption
- Specific special service requirements
- Retail access price, expressed as a discount from the published retail tariff.

Negotiation of Contract

The Company will report on the assessment of the application with due diligence in a timely manner after receiving all the information required from the potential Licensee. The report shall indicate whether

- a) The application has been successful and that the proposal can formally proceed to the Contract Negotiation stage, or
- b) The application is unsatisfactory and the reasons why.

Once the application has been successful, detailed Contract Negotiations may commence. The Company will develop the terms and conditions for access to be granted. A legal and binding Contract will be prepared for the Company and Licensee to enter into.

The Licensee will not be granted access until such time as the Contract is signed.

2.3.3 Provision of information to the sewerage undertaker

As the access code relates to potable water supplies only information on water volume and sewage discharge will be required to be passed to Southern Water, who are the sewerage undertaker for Portsmouth Water Company's supply area.

2.3.4 *Objections and rejection process*

As provided in Ofwat's Access Code Guidance the following list gives examples of the types of objection that might arise during the application process:

- The incoming supplier has provided insufficient or incorrect details to the relevant parties to allow the customer to transfer.
- Refusal by the Licensee to provide necessary information.
- The water undertaker or earlier Licensee considers that the customer's premises are not eligible (the Licensee should declare eligibility at the initial application stage).
- An application by another Licensee to supply the customer has been accepted.
- The Licensee's proposals are impracticable, for example unfeasible hydraulic conditions.
- Unacceptable water quality implications.
- Concerns over source risk assessment.
- National security reasons.

The person making the objection should give the applicant full reasons for the objection in writing, as soon as possible after that person becomes aware of a problem. The Company will comply with any requests for a meeting to discuss the objections and for parties to seek to negotiate solutions to enable the application to progress. If an objection is made to an access application, the Licensee may refer the objection to Ofwat for determination. Details of the procedure can be seen on Ofwat's WSL determinations procedure. Also refer to Section 8.2.

If no agreement can be reached, and the Licensee refers the matter to Ofwat, then the period for which and the terms and conditions on which Portsmouth Water is to perform those duties are determined by Ofwat, if they are acceptable to the Licensee.

2.4 **Access criteria**

Access to the network will normally be permitted unless there is a material effect on, or an unacceptable risk to, the existing customers in terms of water quality, standards of service, continuity and security of supply and other rights. The Company may require a period of evaluation before it allows full access.

The Company retains responsibility for the operations, maintenance and control of the network in its appointed region.

Access to the network will only be permitted when an agreement incorporating legal and financial provisions and a detailed Access Agreement is in force.

Access and use charges will be consistent with the charges levied on existing customers of the Company and will reflect the Company's methods of recovering its costs including overheads and return on capital from its customer base, including the Network-related costs predicted by

Ofwat in Periodic Reviews and the costs of various obligations on the Company such as social, environmental and general quality obligations.

Common carriage is the introduction of water by a Licensee into the Company's network for the purpose of enabling that third party to supply water to end users.

Portsmouth Water has planned and robustly developed their assets in order to operate the Network cost effectively considering risk, cost and customer service. When considering a Licensee's application for common carriage, access to the Network will be refused if the methodology of operation adopted by Portsmouth Water is adversely affected.

Portsmouth Water operates three water resource zones, which represent areas of supply where sources can be shared and all customers experience the same risk of supply failure resulting from a resource failure.

Within the water resource zone several sources of water and points of treatment exist. Treated water is transferred via dedicated trunk mains to service reservoirs whereupon the water is distributed by gravity to points of demand. Water resource zones are interconnected between strategic service reservoirs.

Two possible methodologies of common carriage arrangements may be considered. The scenarios are summarised below.

1. Treated water supply directly into the supply system.
2. Treated water supply direct into service reservoir.

For guidance at this stage the Company's supply network generally operates solely under gravity from dedicated service reservoirs. The access code sets out the actions required by the Licensee to ensure satisfactory operational standards are maintained throughout the process of common carriage.

2.4.1 *Water quality input specification*

There are a number of ways in which the Licensee may utilise Portsmouth Water's Network for the purposes of common carriage. Prior to agreeing to any common carriage, the Licensee and Portsmouth Water will assess the likely impact of the proposals to avoid consequential breaches of the drinking water quality current and future standards and other requirements of the regulations and other adverse impact on the quality of water supplied to customers.

The assessments are outlined in the following sections.

Treated Water Distribution

Portsmouth Water will assess the likely impact of the Licensee's treated water delivered to an existing pipe Network owned by the Company. The assessment will:

- Determine that the Licensee's treatment processes and final treated water quality will meet all regulatory and existing documented Company operational requirements.

-
- Determine the impact of the proposed common carriage transfer on the Network hydraulics, asset condition and management and water quality at the consumers' taps.

Standards and Measures

Standards and measures for assessments will include:

- Water Supply (Water Quality) Regulations 2000 (and all amendments).
- DWI Information letters (such as IL 13/97 incidents involving discoloured or 'dirty' water supplies and IL 10/97 Cryptosporidium in water supplies).
- The Reports of the Group of Experts on Cryptosporidium in Water Supplies (Badenoch and Bouchier reports) (water treatment operation).

Distribution of Treated Water from the Licensee's Treatment Works

Portsmouth Water will be responsible for the water quality supplied to consumers, which will or may include that originating from the Licensee's treatment works. Therefore Portsmouth Water will require the Licensee to prove that their water treatment works design and operation are appropriate for the raw water type to meet regulatory and existing minimum water quality and operational standards.

A Licensee's treatment works will require a risk assessment for cryptosporidium and a report of the assessment submitted to the DWI. If the DWI is satisfied that the risk assessment has been satisfactorily carried out and there is a significant risk, the associated monitoring or treatment must be put in place before water is supplied from the Licensee's works.

Supply Systems

There will be an immediate impact on pressure and velocity in the supply system as a result of the Licensee adding a source or supply, which has previously not been used. This may increase pressure in some areas and reduce pressure in others. Similarly, velocity may increase or decrease in a particular main. Low pressures may lead to inadequate supply or, in the extreme, ingress of potentially contaminated water. High pressures will increase leakage and may cause additional leaks or bursts. If peak velocity in a pipe is increased by the new supply arrangement, there is a risk that deposits will be suspended and cause discoloured water and consumer complaints. If the new supply enters into an existing service reservoir there will be no effect on flow and pressure patterns in the supply system. Water quality parameters change with length of time in the supply system, for example, chlorine residual reduces with 'age of water' and trihalomethanes concentrations (THMs) may increase with time. In addition, higher concentrations of substances may leach from pipe materials and linings if the contact time with the water is increased. Changes to flow routes and points of supply may increase the age of water delivered to some consumers. Excessive water age should be avoided.

Altering distribution of supplies may increase the residence time in a service reservoir. Residence time can have a major impact on water quality. Long residence times should be avoided.

Portsmouth Water will evaluate the impact of the Licensee's proposal for common carriage upon existing water quality within the Network.

There is a need to establish the impact that changes to waters conveyed by supply systems might have on water quality. The issues that need to be considered relate to the interactions of the water with the components of the Network and how this may impact on water quality, asset condition and asset life, and to the interactions between two waters when they mix.

There will be situations where different waters are introduced, which could result in water quality problems at the consumers' taps. In general, scenarios that result in mixing of significantly different waters within a supply system will be avoided. Checks will be made on the possible interaction of this blended supply within the supply system.

With adequate preparation of the supply system, there will be circumstances where the water conveyed by a supply system could be replaced with different water without detriment to water quality. This may also be the case where mains are in good condition and where no lead pipes are present in the Network.

In the long terms, changing the water type conveyed by a system may impact on the asset life and condition and on resultant water quality.

Microbiological integrity of the Network must be maintained. The mixing of waters increases the risk of generating taste problems and consequently customer complaints. The Licensee will be bound under Contract to maintain specific standards and blending ratios of water put into Portsmouth Water's Network.

Portsmouth Water conditions water for plumbosolvency control

The Licensee's supply of water into the Network shall not adversely affect the plumbosolvency of the blended waters. Any variances in lead concentrations achieved will impact upon the degree of lead pipe replacement that is required to meet the new lead standards.

The quality issues surrounding water supply are complex. Rigorous quality standards are in place with compliance monitored via the Regulatory Sampling Programme. Thus, in order to ensure the relevant output standards, account must be taken of any potential changes in order to determine the relevant input standard for each Water Supply Zone.

The Water Supply (Water Quality) Regulations 2000 lists 71 parameters. For each parameter listed, a prescribed concentration or value is given. The value relates to the maximum or minimum concentration, which must not be exceeded.

For each Water Supply Zone in the Treated Water Network the following parameters will be specified:-

Aesthetic parameters

There are many potential, but slight, quality changes which may lead to adverse customer reaction, despite the water being fully compliant with regulations. Any agreement should have regard to those parameters which will impact, as well as the mode of operation of the system (moving boundaries, mixing, pre-blending etc.), in order to minimise changes to aesthetic parameters and hence to avoid generating customer complaints.

Aluminium and Manganese

For each Water Supply Zone, the maximum permitted concentration of aluminium will be specified. Additionally, further safeguards may need to be in place to ensure that a supply that is compliant with the standard on entry does not deposit, or have a propensity to deposit, aluminium in the system over time so posing a risk of raised aluminium levels at some point in the future.

For each Water Supply Zone, the maximum permitted concentration of manganese will be specified. Additionally, further safeguards may need to be in place to ensure that a supply that is compliant with the standard on entry does not deposit, or have a propensity to deposit, manganese in the system over time so posing a risk of raised manganese levels at some point in the future.

Biological Parameters – Algae/ bacteria

All Licensees must therefore demonstrate that they have produced biologically stable water by providing records of their monitoring programme. Any remedial work associated with the control or removal of such organisms, which can be demonstrated, to be due to the Licensee's operation of his plant, will be recharged to the Licensee(s).

Biological Parameters - Macro-organisms

The introduction of animal species e.g. Asellus, Nais, Chironomid, Dreissena spp. can lead to customer complaints and are costly to eradicate. All Licensees must ensure that their water quality at the entry point is such that these organisms, at whatever stage in their life cycle, are not allowed to penetrate into the network. Any remedial work associated with the control or removal of such organisms, which can be demonstrated, to be due to the Licensee's operation of his plant, will be recharged to the Licensee(s).

Cryptosporidium

The Licensee will need to show evidence that the water supplied has been risk assessed and treated in relation to all Cryptosporidium regulations and that, where required, adequate treatment and monitoring is in place. This must reflect the position with other Network supplies. In general this must be available for inspection by competent third parties.

Disinfection residuals

Licensees are required to disinfect their supplies close to entering the Supply System to safeguard microbiological quality within taste and related chlorine level requirements. The normal disinfectant used is chlorine. Where waters of a different disinfectant residual are mixed, there can be the potential for reduced disinfection efficiency and significant taste and odour problems. Accordingly, the Entry Criteria will specify the level of chlorination and define the acceptable range of consequential levels regarding taste. At any time in the future a request may be made by the Company to alter the range of the disinfection residual as operational needs dictate and it will be expected that the Licensee comply with such requests and bear any associated costs.

Fluoridation

Where the Company supplies artificially fluoridated drinking water to customers, it is as a result of a request by a Health Authority and funded by them. Where a Licensee proposes to

bring in a source of drinking water to Water Supply Zone which is either already artificially fluoridated or is required to be so, the Licensee will be required to ensure that their source undergoes the relevant fluoridation process, compliant with the relevant Code of Practice, and paid for by the Licensee. This of course limits its use in certain other parts of the system where only unfluoridated water is acceptable.

General Microbiological Quality

The introduction of surface water or river derived water to an area traditionally supplied by groundwater may lead to the Company experiencing 'biofilm' accumulation on pipework. This may in turn lead to "sloughing off" with resultant customer complaints, or regrowth and the potential risk of safety compliance failures.

New surface or river derived sources must either comply with existing microbiological parameters or, alternatively, the connection charge for the new source will include/indemnify the costs of any remedial work that may later be required in the system as a result of changes in microbiological quality.

Hardness and Carbonate Stability

Changes in water hardness have implications for both domestic and commercial water users. Customer complaints can arise from relatively small changes to hardness, particularly temporary hardness. The agreement will need to allow for assessing the impact any change to water hardness will have on local customer reaction and industrial processes. This will place particular limits on water hardness for some Water Supply Zones.

Iron

Discolouration due to iron is the single largest cause of customer complaints for Network Operators. The DWI has prosecuted Undertakers for discolouration at the customer tap. Acceptable iron levels will be specified for each Water Supply Zone. Additionally, Licensees are required to use reasonable endeavours to assist the Company in managing the system to avoid incidents of discolouration.

Lead

A requirement of the Drinking Water Regulations is that the Company will assess the potential to reduce the occurrence of lead at the customer tap, by reducing the propensity of the water to dissolve lead. In many cases this means the introduction of phosphate dosing or pH control at the Treatment stage. All supplies entering a given area must comply with the relevant dosing and control criteria in order to achieve the required quality at the customer's tap.

Nitrate

The maximum permitted concentration of nitrate will be specified for water entering each Water Supply Zone.

pH - Acidity and Alkalinity Stability

Another important consideration occurs when low alkalinity water is put into a Network Operators area of traditionally high alkalinity. The capital investment programme for mains refurbishment may have been targeted to cement mortar relining, and the introduction of a low alkalinity water, or significant change to pH, could lead to a serious quality issue with significant customer impact. Accordingly, pH ranges may be specified for entry to certain areas within an overall stability index, which also reflects other relevant criteria.

Pipework Operating Regime - Stagnation

Water standing in pipework for any length of time can lead to stagnation and a consequent deterioration of quality and risk of non-compliance. Licensees will be required to use best endeavours to co-ordinate operation of any of their associated pipework with the Company to avoid stagnation.

Polyaromatic hydrocarbons (PAHs)

For each Water Supply Zone, the maximum permitted concentration of polyaromatic hydrocarbons (PAHs) will be specified.

Trihalomethanes (THMs) and Chlorine

THMs result from the reaction of organic precursors with chlorine during Water Treatment. Although minimised at the Treatment Works, the presence of a disinfectant residual through the Supply System means that the level of THMs can increase as the water passes through, with the subsequent high potential of failing the standard at the customer's tap.

Accordingly, the maximum acceptable concentration of THMs and the chlorine level will be specified for entry to each Water Supply Zone to ensure compliance at the customer tap.

Sulphate

The introduction by a Licensee of a water with a high level of sulphate to a Water Supply Zone where it has been traditionally at a lower level may lead to taste complaints or in certain cases gastrointestinal irritation. Again, if there is a potential to supply high concentrations of sulphate, the agreement will need to allow for an assessment prior to supply and maximum and or minimum permitted sulphate levels may be specified for water entering certain Water Supply Zones.

“Regulation 31”

There will need to be a requirement for the Licensee to confirm that any materials used in the production or transfer of water into an existing Network meet all the required standards.

The Full 71 Parameters

In addition to the above specific descriptions, the Water Quality Input Specification will also include the full 71 parameters. A full list of the parameters and their current Regulatory Output standards can be found in the water quality regulations. A typical range of mean concentration values within Portsmouth Water Company's network is listed as Appendix 2 for information.

Treatment of Untreated Waters

Once treated at a Treatment Works, the water shall be termed “Treated Water” and whilst presumed potable, other quality issues may limit carriage due to chemical instability within the Network.

2.4.2 *Water flow and pressure*

Water will be drawn into the Network, not pushed. The water shall enter at specified points and shall not exceed the maximum and minimum pressures as specified in the Access Agreement. The rate of change of pressure shall also not exceed the rates specified in the Access Agreement.

For guidance at this stage the Company’s supply network operates solely under gravity from dedicated service reservoirs. Service reservoir zones are kept separate and are not dual supplied. Within a service reservoir zone there may be individual control zones, which are pressure controlled. Any specific access would have to be made in the light of these conditions.

2.4.3 *Water quality sampling and monitoring*

The Licensee will be responsible for regulatory monitoring of their supplies at treatment works, service reservoirs, including reporting to the DWI.

Portsmouth Water will specify additional operational monitoring required at the treatment works, service reservoirs and consumers' taps reflecting the nature of Network utilisation by the Licensee.

For quality monitoring the level, type, frequency and extent of monitoring required will depend on the source characteristics. In general, high-risk sources, for example river abstraction, will require more extensive monitoring than deep chalk boreholes.

It can be mutually agreed that Portsmouth Water will complete the water quality sampling and charge the Licensee as specified in the Access Agreement.

The Company will suspend access to the system if there is a risk that water quality will breach the requirements in the Water Quality Regulations. The communication process for emergencies will be as agreed in the access agreement.

2.4.4 *Volume measurement*

The Licensee will provide annual, monthly, weekly and daily including peak hour, peak day and peak week forecasts for the total volume of water, which it intends to pass through the Network.

Variations will be agreed in advance and shall be within the maximum and minimum rates specified in Access Agreement. Responsibility for resource balancing and system optimisation will remain with Portsmouth Water, which will vary volumes in accordance with the rates specified in the Access Agreement.

Measurement of volume will be a requirement at both the points of entry and exit.

Communication with Regulatory Bodies

Portsmouth Water will be responsible for all aspects of Network management including liaison with third party bodies such as the DWI and Environmental Health Officers for both routine and emergency operational activities.

3. CUSTOMER TRANSFER PROTOCOL (CTP)

For detailed information refer to the Ofwat Customer Transfer Protocol (CTP) available on Ofwat's website <http://www.ofwat.gov.uk>

3.1 Principles

Standard licence condition (SLC) 6 and condition of appointment S require Licensees and water undertakers, respectively, to comply with Ofwat's CTP. Relevant sections of the Water Industry Act 1991 (as amended by the Water Act 2003), condition of appointment R and SLC 4 also place a duty on Licensees and water undertakers to exchange certain information.

Ofwat has developed the CTP with the assistance of customer representatives, potential Licensees and water undertakers. The CTP provides a clear, simple and standardised process for the timely and efficient transfer of customers between:

- (a) any water undertaker and any Licensee; and
- (b) any two Licensees.

3.2 Rules of behaviour

All Licensees and water undertakers are required to comply with the rules of behaviour of the CTP, as specified in the CTP as issued by Ofwat and as amended from time to time.

3.3 Data transfer

The CTP specifies the data flows, the data items required within each data flow and the timescales that apply for transmission of those data flows. All Licensees and water undertakers must comply with those requirements.

All Licensees and water undertakers must give details of the name and contact details (which must include an e-mail address) of the person to whom Licensees and water undertakers should send all CTP data flows in the data format prescribed by the CTP. For example:

Company details:	Portsmouth Water
Contact name	Nick Sheeran, Finance and Regulation Director
E-mail	wsl@portsmouthwater.co.uk
Telephone	023 9249 9888

3.4 Registration and operational processes

All water undertakers and Licensees must follow the operational processes in the CTP for effective customer transfer and the resolution of disputes on transfer.

4. CONTROL AND BALANCING OF SUPPLY SYSTEM

4.1 Supply system management

Portsmouth Water builds, maintains and operates its Network to specific standards. No lesser technical standards will be accepted of the Licensee. The Licensee will be required to achieve the standards as specified within the relevant section of the following Drinking Water Safety Plan documentation which can be made available by the Company when required:

Principles of Water Supply, Hygiene and Technical Guidance Notes.

Operations Manual, Volume A, Main Laying

Operations Manual, Volume B, New Services

Operations Manual, Volume C, Routine Maintenance Mains & Services

Operations Manual, Volume D, Inspectors' Department

Company Emergency Plan, Volumes 1, 2, 3, 4 and 5

Supply, Water Supply Procedures

Site Operations Manuals

4.1.1 *Unbilled water*

Leakage Monitoring

Leakage within Portsmouth Water's networks is part of our base price, and the Licensee is only expected to introduce water to meet the requirements of its customer.

Unauthorised Use of Water

The Licensee will be responsible for any unauthorised use of water on their side of the metered supply to its customer or on the incoming main to our supply system.

Fire Water

The water undertaker is responsible for the provision of water for fire fighting purposes. Water undertakers will not charge Licensees for water used for the purpose of fire fighting (including the testing of appliances).

Additional special requests for fire hydrants should be dealt with under section 58 of the Water Industry Act 1991 (WIA91). The cost of installation will be recoverable in accordance with section 147 of the WIA91.

4.1.2 Security of supply

Drought Contingency Plans

The Environment Agency require a single Drought Contingency Plan for each water resource zone. The Licensee will be required to develop in conjunction with Portsmouth Water a Drought Contingency Plan that is consistent with Portsmouth Water and Environment Agency objectives.

Accordingly, the Licensee is required to provide an initial yield assessment of its sources to give normal, peak and drought output, together with an assessment of any outages for repair or maintenance. The yield assessment will need to be reassessed if the source conditions change. The initial yield assessment should be made available at the application stage or as soon as an abstraction licence is granted by the Environment Agency.

Treatment and Pumping Capacity

Portsmouth Water will not remove or reduce treatment or pumping capacity that may become surplus or redundant as a result of the Licensee's supply of water into the Company's Network.

Any costs incurred from treatment or pumping inefficiencies resulting from the need to facilitate the Licensee's requirement for common carriage will be met by the Licensee.

Pipeline Capacity

The operating regime of the Company's pipeline Network may change as a result of the requirement for the Licensee to transfer quantities of water over specific time periods. Any costs that may be attributed to the changes required in order to facilitate common carriage will be met in full by the Licensee.

Demand Balancing

The Licensee must be capable of achieving sufficiency of raw and/or treated water to meet the same hydrogeological standards as those operated by Portsmouth Water. The Licensee must be capable of supplying sufficient water for both average and peak conditions throughout the contracted period. Portsmouth Water will control all inputs into the supply systems and may require the Licensee to cease input into the Network.

4.1.3 Telemetry requirements for supply system control

Portsmouth Water operates a SERCK Controls Telemetry System, which monitors the state of its boreholes and reservoirs and raises alarms against set parameters. The outstations detect and transmit the alarms to an Operations Centre, manned 24 hours a day. The sources and Treatment Works are also self-contained to shut down automatically on failure.

A Licensee's source works must be capable of meeting similar standards in order to prevent contamination of the Company's network. The minimum requirements shall be detailed in the Access Agreement.

Where technically feasible, Portsmouth Water will make available its telemetry system function upon request, at the Licensee's cost.

4.1.4 Secondary connections

No connections shall be made to the Undertaker's network without the prior consent of the Company.

4.1.5 Supply system maps and plans

The Company maintains a record of all its mains within the area of supply used for potable water. Any mains laid by, or for, the new Licensee, will need to be recorded within the mains records. The Licensee will be responsible for providing the records of any mains and plant to the Company for record purposes. The Licensee may inspect the Company's mains records free of charge, but will be expected to pay for the production of any plans or maps.

4.1.6 Point of entry controls and failure modes

The Licensee's plant and treatment process shall be designed to automatically shut down in the event of failure of treatment processes, disinfection or water quality standard before it enters the potable system. Routine sampling shall be as required by the water quality regulations and results made available to the Company.

The point at which the Licensee's water enters the Company's supply system will require separate controls which will need to be determined on a case-by-case basis. The minimum requirements would consist of a controlling valve, meter and non-return valve and telemetry outstation linked to the Company's systems. More complex systems may require automatic shutdown systems and water quality monitoring systems.

4.2 Metering services

Meters will be installed and maintained by the Licensee at all points of bulk entry to the network. Meters on the points of supply within the Company's network will be provided by the Company. Should it be more practical, arrangements may be made for the Company to install and maintain, at the Licensee's cost, the bulk entry meter.

Consumption by the Licensee's non-household customers will be measured using individual meters.

The number of meters and location shall be such that an accurate water balance may be calculated at a strategic metering level and be provided by the Licensee with fully operational telemetry links compatible with those operated by Portsmouth Water.

The installation of meters shall conform to the specification set out within the relevant Operational Procedures Manual.

4.2.1 Meter asset management

Common carriage bulk meters and non-household consumption meters including ancillary equipment can be maintained by Portsmouth Water with costs met by the Licensee as specified in the Access Agreement.

All meters installed or changed for the purpose of measuring the Licensee's imports and exports will be administered by the Company in accordance with the Access Agreement. Typically the Company uses helix and electro-magnetic flow meters.

4.2.2 *Meter calibration and verification*

All electro-magnetic and helix meters are delivered with a calibration certificate, which is verified upon installation. Any further checks would involve removing the meter and sending back to the manufacturer.

4.2.3 *Meter reading and meter reading verification*

Currently all customers using 50 Ml/annum or more have their meters read monthly and are billed monthly. Some of the meters can be fitted with a logged output to a telephone system. The Licensee will be responsible for meter reading and billing his customer and payment to the Undertaker. The access agreement will specify the relevant payment terms, which will dictate the access price.

The indicative access price assumes that the Licensee bears the cost of customer credit. The Licensee is also responsible for providing meter readings to the Sewerage Undertaker, in this case, Southern Water.

The reading on the meter should be evidence of the volume of water supplied unless the meter is proved to register incorrectly. In general, meter reading, testing and arbitration 'in the event of dispute' will be in accordance with the Water (Meter) Regulations 1988.

Maintenance of Shared Assets

The responsibility for routine maintenance of assets used by the Licensee for common carriage purposes will be undertaken by Portsmouth Water with costs apportioned as specified in the Access Agreement.

Capital Investment

Capital investment required to facilitate common carriage will be agreed with the Licensee and charged as specified in the Access Agreement.

4.3 Supply system balancing

4.3.1 *Strategic balancing*

Portsmouth Water supplies its customers from treated storage reservoirs using a gravity supply system. In general there is provision for at least 24 hours storage. Supplies from sources are pumped on a daily basis at rates which ensure a continued balance between supply and demand. To manage the supply demand balance there is a requirement for flow rates and volumes to be recorded at regular intervals throughout the day. Currently there is a surplus of supply on annual average, peak week and peak day demand volumes. Any supplies introduced by a Licensee will be incorporated into the overall supply balance.

- i) **Annual supply planning:** The Licensee will be required to provide information on his sources for resource planning to provide information on the reliability and any seasonal variation in supply volume and quantity. It is expected as a minimum that average and peak drought output yields of sources will be provided, together with the likelihood of any outages which may occur, e.g. planned maintenance. The Licensee will also need to provide details of the expected demand profile of the customer in order that supply demand profiles can be assessed.
- ii) **Use of strategic supplies:** A supply can be designated as strategic if without the introduction of the supply there is a substantial risk that Portsmouth Water would be unable to maintain supplies to its own customers as well as supplying the Licensee's customers with water for domestic purposes. Further details on strategic supplies can be found in the Strategic Supplies Guidance issued by Ofwat in December 2005. As Portsmouth Water has a supply surplus for the next 25 years, it is unlikely that the Company will apply to make any supply strategic for existing customers. However, new customers and sources of the Licensee may alter the overall supply demand balance.

During the water resources planning process there will be a review of the supply demand balance and the outcome will determine whether supplies should be designated or de-designated as strategic.

- iii) **Back-up supplies:** Arrangements can be made to provide for back-up supplies for the Licensee to use alternative water supplies in the event of source failure or outage due to maintenance. The amount of supply available will be dependent on the availability and location of the supplies required. In general, providing additional resources, e.g. new mains, zonal changes, additional pumping, supplies will normally be available at the rates published in the Company's Charges Scheme.
- iv) **Interim duty to supply:** The Licensee's customers are provided with a fall-back supply for domestic purposes, should the Licensee's supply be terminated for any reason. The interim duty to supply is covered under Section 63AC of the Water Industry Act 1991 to provide a supply for three months, subject to Portsmouth Water being able to meet its existing obligations. After three months Portsmouth Water reserves the right to serve notice to discontinue the supply.
- v) **Interruption to customers and interruption to supply:** Portsmouth Water does not have any interruptible tariff options available.

4.3.2 *Flow balancing and reconciliation processes*

Portsmouth Water Supply and Resource System has no long-term storage. Water for customers' needs is pumped into potable water storage reservoirs which can accommodate a minimum of one days supply. It is expected that Licensees' supplies will match its customers' demands on a daily basis. Over time, however, there may be a reconciliation which is required to meet any supply imbalance which Portsmouth Water may have supplied.

- i) **Supply system usage forecast for Retail supplies:** The Licensee will be required to provide a forecast of the expected consumption by his customers to give expected annual, monthly and weekly consumption patterns. If changes in daily flow are expected, these should also be identified. Where the customer is already supplied by Portsmouth Water and metered, actual usage figures can be used to provide this information. Thereafter any expected changes in consumption should be notified to enable water supply forecasts to be made.
- ii) **Supply system usage for combined supplies:** The Licensee will be required to supply similar customer forecasts of consumption for a combined supply, as for a Retail supply. It will be expected that the Licensee's source will be able to meet any demand changes from his customers. Where supply and demand deficiencies occur, the Licensee will be expected to show where additional water required will be sourced, either from Portsmouth Water or some other external source. It will be necessary for the profile of supply of the Licensee's source and any customers to be discussed with Portsmouth Water at an early stage in contract negotiation.
- iii) **Imbalance accounting and reconciliation:** An imbalance will occur when the measured input and output are outside the volumes in the Access Agreement. There may be a need for financial adjustment due to timing of the imbalance or a volume adjustment.

In general fluctuations over the agreed accounting period will be accepted provided they remain within a balance of plus or minus 5%. The accounting period will generally be dependent on the size of the input relative to the particular zone size. For most zones the aim will be to use an accounting period of one month to coincide with the routine billing process. Where volumes are within 5% then any imbalance can be carried forward to the next accounting period.

- Where input exceeds the customer(s) demand by greater than 5%, the full access charge will be levied on the excess volume.
 - Where the input is less than the customer(s) demand by greater than 5% the additional water required will be billed at Portsmouth Water's normal tariff rates.
- iv) **Peak season and off peak reconciliation:** Portsmouth Water does not have any seasonal system operation or tariffs.

5. SUPPLY SYSTEM MAINTENANCE AND EMERGENCY PROCEDURES

5.1 Diagnosis of system issues

5.1.1 *Obligations with respect to diagnosis of supply system problems*

Systems required to support diagnosis of Network problems

The Licensee will have to provide information in a format consistent with the Company's complaints system, where details of Network problems are currently captured. Each problem category will have a unique reference, and these will be universally agreed between the Licensee and the Company from the outset of any access agreement.

Procedure

Each Licensee will be responsible for issuing their respective customers with a point of contact for emergencies and problem resolution.

Each Licensee will have a dedicated point of contact within Portsmouth Water to raise concerns or to report emergency situations.

The Company operates a telemetry system for monitoring status and availability of supplies. At each monitoring point there will be a set of warning values. Procedures for dealing with breaches of these warning values will be in place when the Access Agreement is issued. The Licensee is expected to have automatic shutdown for any plant failures, which are then recorded on the telemetry system.

When the system alarms, at the Portsmouth Water site, the Company will inform the Licensee of the nature of the problem and the corrective action to be undertaken. We will also provide to the best of our ability the extent of the problem, the number of properties affected, the estimated duration of the problem, and the estimated time for the restoration of normal supply.

When a situation has arisen whereby the Company has to take corrective action to restore normal supplies, it will be the responsibility of the Company to inform the Licensee of any priority customers.

When the situation has been resolved it is the responsibility of the Company to inform the Licensee of the restoration of normal supplies. It is the responsibility of the Licensee to inform their respective customers. A post incident review will take place and any learning points will be actioned as agreed at the review by the relevant parties.

In the case that the problem / situation was as the result of a Licensee or third party working for the Licensee, the Company will look to recover the costs from the Licensee, if it occurred on their network. It will be the responsibility of the Licensee to either absorb the cost or recharge the emergency work back to the appropriate customer or third party as appropriate.

The Company will retain ultimate responsibility for controlling all leakage, including emergency repairs within its supply system. The Company currently has the powers 'to prevent undue waste, misuse or risk of contamination' to the water used on the customer's system and these will continue to be used where necessary. In the event of emergency repair work being carried out on

private pipework by the Company, the cost of repair will be recharged back to the Licensee who may or may not recharge this back to the customer.

Obligations on Portsmouth Water in respect of diagnosis of Network problems

1. Portsmouth Water will maintain the IT operating system.
2. Portsmouth Water will regularly interrogate the system against a number of criteria, cross-referencing one criteria against another in order to anticipate Network problems. i.e. discoloration of supply and burst water mains.
3. Respond to system alarms and provoke the appropriate emergency response.
4. To control emergency situations as set out in the Network Access Code and Portsmouth Water's emergency plan.
5. To liaise with Licensees with respect to information provision. To inform them of problems, actions to be taken and an estimate of timescales involved.
6. To co-ordinate all emergency information originating from inside Portsmouth Water and from external agencies.
7. To keep Licensees informed of progress.
8. To inform Licensees of the restoration of normal supplies.

Obligations on a Licensee in respect of diagnosis of Network problems

To notify the Company immediately if there is any suspected problem, which may affect the Network, especially with regards to Water Quality and availability from the Licensee's source(s), for example:

- volume of supply problems
- quality problems
- interruption of supply.

5.1.2 *Quality Issues*

Portsmouth Water is ultimately responsible for the quality of the water in the supply system. The Licensee is responsible for maintaining the standard of their water quality introduced into the supply system.

The Licensee is required to report to the Company any situation likely to cause material impact upon water quality within the receiving distribution system. The Licensee shall:

- meet the entry specification at the entry point
- advise the Company as soon as reasonably practicable of any breach or likely breach of the Entry Specification

-
- install and maintain automatic failsafe devices on the disinfection equipment to the standard specified in combined Access Agreement Schedule to ensure that water cannot be input at the entry point without disinfection.
 - install and maintain 'on-line quality measurement equipment' to measure continuously the following components or characteristics of the water to be input at the entry point:
 - chlorine and turbidity; and
 - any other component or characteristic specified in the combined Access Agreement Schedule, which is required to be monitored to ensure wholesome water is supplied to consumers and which would require to be monitored if water input at the entry point originated from a source owned or controlled by Portsmouth Water.
 - ensure that the on-line quality measurement equipment is maintained at appropriate intervals such that it continues to perform to the recognised industry standards.
 - transmit reading from the on-line quality measurement equipment to Portsmouth Water at the frequency and in the manner specified in combined Access Agreement Schedule.
 - report to Portsmouth Water as soon as reasonably practicable any readings which breach the component or characteristic levels specified in combined Access Agreement Schedule.
 - conduct sampling of water to be input into the supply system in accordance with the requirements of the Water Supply (Water Quality) Regulations 2000 and the sampling requirements detailed in the combined Access Agreement Schedule.

If a material change in the quality of the water to be input at the entry point is expected or has occurred (for any reason including but not limited to changes arising from any variation in raw water quality, any failure to maintain the dosing regime of treatment chemicals or any change or by-pass of treatment processes) the Licensee shall provide Portsmouth Water as soon as reasonably practicable with details of:

- the change;
- the cause of such change; and
- any work conducted or to be conducted to address such change.

Where water at the entry point does not comply with the entry specification and the input of such water would prejudice the supply of wholesome water to consumers then Portsmouth Water may:

- continue to take some or all of the water tendered for input; or
- refuse to take the water tendered for input.

Where the entry specification has been breached, Portsmouth Water may require the Licensee to conduct additional sampling as is reasonably required to monitor the quality of water input and provide the sampling data to Portsmouth Water as soon as reasonably practicable.

Each party shall provide the other with such information regarding water quality as is reasonably required for the purposes of developing Water Safety Plans in accordance with the requirements of the DWI, and shall provide the other with a copy of its finalised Water Safety Plan.

5.1.3 *Hydraulic issues*

This includes details of the processes required for the timely exchange of information relating to hydraulic issues in order to complete level of service returns.

Portsmouth Water shall investigate any actual or potential hydraulic issue within the water supply system and will promote solutions to resolve problems and to prevent the occurrence of potential problems.

The Licensee shall be kept informed of the progress and outcome of the investigation. The Licensee shall be provided with all applicable data as an assurance that water supplies can, and will, be managed to within normal accepted and agreed standards.

The Licensee shall immediately notify us of any hydraulic issue within its own water system that has, or may have, an impact on the Company's water system. The Licensee shall provide us with any data requested by us in relation to the event and any follow up reporting requirements.

Where a quality issue is, on investigation, found to be the result of any action, inaction, failing, breach of agreement, breach of regulatory requirements, etc, by the Licensee or the Licensee's customer(s), the Company will take all steps to recover our reasonable costs in respect of rectifying the situation.

5.1.4 *Reporting procedures*

The Company operates a 24-hour emergency operational centre, which monitor the telemetry systems for supply and treatment problems, and provide a 24 hour telephone response to customer emergencies. Any emergencies either on the Licensee's source and treatment works or pipe network or at the Customer's point of supply should initially be notified to the Portsmouth Water operational centre.

5.2 Planned system maintenance

It will be necessary from time to time for the Company and Licensee to complete planned maintenance activities upon the Network, which may necessitate interruption of supply. Wherever possible maximum notice shall be given to either party but in any case no lesser notice than that specified in the Access Agreement.

5.2.1 *Obligations with respect to planned maintenance*

Obligations on Company in respect of Planned Maintenance

When planned Maintenance is carried out, it is envisaged that this will happen as follows:

- The Company will identify any affected customers, and the Licensees that supply those customers.

- The Company will then give as much notice as possible to the Licensee of the affected properties. The type of maintenance required will determine the period of notice given.
- Notification periods:

Short term planned maintenance

As the requirement for this work is driven by changes in water quality that alert the company to a problem that is unexpected, but not urgent, it is envisaged that a minimum notification period of 1 week would be provided to the affected Licensee.

Long term planned maintenance

This type of maintenance is planned yearly and includes for example; mains rehabilitation, upgrades, new mains, diversions, valve reconfigurations, new meters and new supplies.

Notice would be not less than 2 months, with confirmation of work 2 weeks prior to start.

Start dates of planned work where possible will be set to cause minimum disruption and also have to take into account the legislation laid out in the New Roads and Street Works Act.

In either case, the Company will provide the following items of information to the Licensee:

- timing of maintenance work, start and finish targets
- the location of the work
- supply points and customers that will be affected by the work
- the reason for the work
- the details of the work to be carried out
- estimated duration
- any arrangements that are made for alternative supplies to those affected

The Company can arrange alternative supplies, such as bowsers and/or bottled water if required.

The Company will do and, manage the work within the stated duration or, if this is not achievable to keep Licensees informed of progress.

Obligations on a Licensee in respect of Planned Maintenance

In general, the Code allows Licensees to manage their relationship with their customers. Accordingly, for planned maintenance, Licensees will be responsible for liaison with their own customers. The Licensees will therefore be responsible for ensuring that their customers are made aware of any planned maintenance that may affect them. In general it is anticipated that this customer contact will relay the information provided by the Company in respect of maintenance work.

This principle extends to Special Consumers, hospitals etc., where the Licensee is expected to act to ensure that such customers are prepared sufficiently in advance for planned maintenance, and have the relevant water management plans in place.

In certain cases, planned maintenance may require a specific source to be off line or run at lower capacity during the maintenance period. Licensees will be required to cease or reduce supply if requested by the Company.

Provided that the Company has given 2 months notice of the work, and confirmed the start of the work 2 weeks in advance, imbalance charges will be levied if a Licensee is out of balance, as it is deemed that ample time is provided for Licensees to organise alternative sources and/or make use of storage.

5.2.2 *Specification of assets*

The Assets that will require planned maintenance include the whole Network from abstraction through to supply and will include the customers supply point meter.

The Company will undertake maintenance of the system.

At the point of entrance to the system the Licensee will need to provide:

- An additional meter to monitor the flow and the volumes that are to be delivered to the Licensee's area. Any meter installed must be suitable for the purpose it is intended and must meet the requirements detailed in Regulation 4 of the Water Supply (Water Fittings) Regulations 1999.
- Water Quality monitor/s must also be fit for the purpose it is intended and must meet the requirements detailed in Regulation 4 of the Water Supply (Water Fittings) Regulations 1999.
- Telemetry and alarm limits from the new meters and monitors must be compatible with and linked in to the Company SERCK system.

The associated rechargeable costs for this service will be on a case-by-case basis.

The Company will supply any additional meters required at the point of supply to customers who will in turn charge the Licensee for this additional work. The Company will then take on the maintenance of these additional meters at the standard tariff.

5.2.3 *Maintenance standards*

The levels of service required during supply interruptions are detailed under DG Standards and the minimum acceptable standard of performance is detailed in the Ofwat Guaranteed Standards Scheme (GSS).

Portsmouth Water operates an enhanced Guaranteed Standards Scheme for domestic and business customers above the level of the DG Standards and the GSS. These enhanced standards are available on request.

5.2.4 *Risk assessment processes*

Portsmouth Water has procedures to carry out risk assessments for maintenance work that might result in deterioration of water quality or incur a risk of significant interruptions of supply that would be DG3 reportable. If planned maintenance by the Licensee is assessed as being likely to

incur such risks to Portsmouth Water, then the Company will initiate its risk assessment procedure and will require the Licensee to co-operate in the provision of information to enable a thorough assessment to be carried out. Subsequently, an action plan for execution of the maintenance works and a contingency plan may be required to mitigate any adverse service to customers if the planned maintenance does not proceed as planned.

If Portsmouth Water assesses that its own maintenance works will require the Licensee to be party to an action plan and/or a contingency plan, the Licensee will be expected to co-operate with those plans.

5.3 Unplanned system maintenance

Portsmouth Water can normally provide back-up supplies and will provide water should the Licensee's supply fail. Charges for the provision of this service as set out in the Access Agreement.

Portsmouth Water operates an Emergency Plan in accordance with the Security & Emergency Measures Direction 1998. Portsmouth Water will manage any event resulting from a failure of its Network. The Licensee will be required to provide resources as specified in the Access Agreement. Failure of the Licensee's Network upstream of the bulk input meter shall be managed by them in accordance with the Security & Emergency Measures Direction 1998. Portsmouth Water shall be indemnified against any third party claim resulting from damage arising from the outage of the Network owned and managed by the Licensee.

The Licensee shall operate an auditable emergency plan to no lesser standard than Portsmouth Water's.

Water for firefighting will be provided for by the Company. Adjustments in the demand balancing may be required, assistance may be sought from the Licensee.

5.3.1 *Obligations with respect to unplanned maintenance*

In general it is not possible for much notice to be given, and it may prove difficult to obtain a detailed and accurate list of those properties affected.

In order to ensure that Emergency Repairs and other unplanned maintenance work is carried out in an orderly a safe manner, with minimal disruption to service, this Code places specific obligations on:

- The Company
- Licensees

This code also reserves specific powers for the Company for use in such emergencies.

Specifically, although it is intended that Licensees will manage the relationship with end use customers, there are emergency situations, which can arise when it will be necessary for the Company to contact end users directly. It is likely that such contacts will be of a "general broadcast" nature and not specific customer contacts.

Obligations on Company in respect of Unplanned Maintenance / Emergency Work

The Company will inform Licensees as soon as reasonably practical of affected properties, and will endeavour to identify which properties are affected. As early as possible, on a best endeavours basis, the Company will endeavour to provide best estimates of the following items of information to the Licensees:-

- timing of maintenance work, start and finish targets
- the reason for the work
- a broad description of the work to be carried out as well as estimated duration
- any arrangements that are made for alternative supplies to those affected

The Company can arrange alternative supplies, such as bowsers and/or bottled water if required.

The Company will arrange for the work to be carried out and managed. In addition the Company may need to undertake customer liaison work, of a general nature, and media liaison through broadcast media. In extremis, this could for instance involve radio broadcasts to warn customers to boil water before drinking.

The Company would also expect to undertake liaison with Regulators, such as the HSE, DWI, Ofwat and DEFRA, although the Regulators may also wish to gather information about the actions of Licensees, for instance relating to what was said to the customers by Suppliers.

The Company will undertake liaison with Local Health Authorities and with Police and Fire Services if required. This is not intended to prevent Licensees from being contacted by, or contacting, such authorities.

The Company will be responsible for Sampling/Monitoring supplies throughout incident.

The Company will also endeavour to advise Licensees of ongoing progress, and to refine any estimates of timings and completion deadlines.

The Company can make a back-up supply available under circumstances where it is apparent that the Licensees supply is not available, or would present a risk to Public Health.

The procedures and charges for this will be detailed in the Access Agreement. The Company will ensure that enough capacity is reserved within its own facilities to supply domestic customers under these circumstances.

Obligations on Licensees in respect of Unplanned Maintenance / Emergency Work

In respect of emergency and unplanned maintenance work, Licensees will be responsible for notifying their specific customers (notwithstanding that the Company may need to issue emergency advice via broadcast media).

Licensees will be responsible for following and passing on advice where relevant (e.g. estimated restoration of lost supplies) issued by the Company. The Company will retain responsibility for notification of customers in cases where public health is or may be at risk. This includes the large-scale issues of written information such as Boil Notices, and notification to customers via the media. The cost of large-scale warnings will be recharged to the party that caused the 'emergency' wherever possible.

Licensees will be required to ensure access to their customers' properties for sampling purposes by the Company. Licensees will have the right to accompany the Company on such visits. Although no notice period can be guaranteed in an emergency, it is envisaged that the Company will give notice to Licensees of such visits, where possible.

Obligations on Combined Licensees in respect of Unplanned Maintenance / Emergency Work

The Licensee will notify the Company immediately of any failure of plant or pollution event likely to cause quality or quantity issues. Access to such plant will be made available immediately to the Company. A contamination of the water being supplied must result in an immediate cessation of supply.

Licensees are required to comply with any notice from the Company to cease or reduce or increase supply in an emergency.

5.3.2 Risk assessment processes

This section details procedures relating to very specific emergency situations. Details of the procedures are available on request.

Risk to Groundwater

There are a number of incidents that constitute emergencies in the context of risk to groundwater supplies, spillages of chemicals, fuel etc., leakage from tanks, fires (specifically industrial), and contamination of surface waters.

The occurrence of any such incident will require immediate notification to the Company and Environment Agency for assessment of the risk to groundwaters.

Contamination from Cryptosporidium

Cryptosporidium occurs in many raw waters and can pose a significant challenge to the water treatment works.

All sources are subject to a cryptosporidium risk assessment. For sources deemed to be of 'significant risk' there are defined regulations governing the extent of the monitoring programmes, this includes groundwater sites. It may be necessary to instruct a Licensee to undertake certain measures, in order to safeguard a Water Treatment Works and/ or a Supply.

In general, safeguards surrounding Cryptosporidium are targeted at the operation of the Water Treatment Works.

Emergency Analytical Services

In the event of an emergency, analyses of samples are required speedily and accurately. The Company laboratories can operate an Emergency Analytical Service or provide contact details of contracted laboratories. These will be given when the Access Agreement is awarded.

Contamination from Radiation

Notification of an emergency involving radiation will normally be made to the Company by fax from DEFRA. The Company will then notify the Licensee straightaway.

Other Quality Incidents affecting Potable Water

The response procedures to be adopted in the event of biological and chemical quality changes, which affect the potability of drinking water, are contained in the Emergency Plan. The Plan identifies the actions to be taken by Operational and Quality staff to investigate an incident and effect appropriate remedial action including the notification to Health and Regulatory Bodies.

Damage to Oil Pipelines

There are major oil pipeline systems, which cross the Company's Region. It is important that the Licensee takes appropriate steps to make themselves aware of the routes taken by these pipelines in order to avoid damage to them during any digging operations.

Alternative Supplies

In the event of managing a water shortage situation, the Company may use any appropriate means e.g. tankers, bowsers, bottled water, to provide the customer with a legal minimum supply (10 litres per head per day - Reference: Security and Emergency Measures Directive, 1998). The cost of alternative supplies will be recharged to the party that caused the water shortage wherever possible.

Disinfection

In the event of problems within the supply network, disinfection levels may need to be boosted, and/ or residuals raised.

5.3.3 *Emergency notices*

Portsmouth Water as the primary network operator will be responsible for applying for emergency notices for customers and the Licensee. Emergency notices will be issued generally by hand to customers affected, as soon as possible after an incident is identified. The type of incident that can give rise to an emergency notice could be a broken main, contamination and a failure of the source works.

5.4 Safety aspects of unplanned and emergency work

5.4.1 *Status classification*

There are no 'hard and fast' rules as to what may or may not constitute an emergency. In general terms all of the Company's procedures for handling an 'emergency' are no more onerous than normal operational actions albeit that such actions usually need to be implemented in an urgent fashion, possibly in the public domain and probably liable to public scrutiny after resolution of the 'emergency'.

It is likely that a major emergency will fit into one of the eight categories below:

Category	Description
Distribution	<ul style="list-style-type: none"> • Failure or breakdown in the system so as to affect a loss of supply <ul style="list-style-type: none"> - for above 10,000 customers for more than 12 hours - for above 1,000 customers for longer than 24 hours • Repairs that are likely to take longer than 24 hours to fix. • Failure of supply to a hospital or major commercial customers. • Pipe burst causing severe flooding to houses, roads or commercial premises.
Treatment works and reservoirs	<ul style="list-style-type: none"> • Any event or circumstance affecting the water quality, which could endanger the health or life of the customer. • Pollution or potential pollution to a source, abstraction works; <ul style="list-style-type: none"> - in the catchment of the River Itchen - within 400 metres of any borehole source - within 100 metres of any of the Company's springs - in the drainage area of any shallow hole known to affect a source
Chlorine leak	<ul style="list-style-type: none"> • Uncontrolled Chlorine gas omissions that may affect personnel and the general public.
Microbiological	<ul style="list-style-type: none"> • Microbiological contamination to the water supply such that it fails to meet the standards set by the Water Quality Regulations, making it a health risk.
Physio-chemical	<ul style="list-style-type: none"> • Spillage of oil or chemicals that could or has affected the supply.
Cryptosporidium	<ul style="list-style-type: none"> • Evidence of a positive test for cryptosporidium in the water supply or a Cryptosporidiosis outbreak identified by the local Health Authority.
Severe weather conditions	<ul style="list-style-type: none"> • Severe conditions causing an abundance of burst mains or frozen services • Severe disruption to transport, roads and communications, loss of Telemetry control and power supplies resulting from storms.
Security breach	<ul style="list-style-type: none"> • Significant threat if vandalism, confirmed bomb or terrorist threat.

5.5 Emergency procedures for dealing with specific events, issues and incidents

In general terms any event or circumstance affecting operational water supply, water quality or water distribution, which could endanger the health of the consumer should be dealt with by reference to the Company's Emergency Plan which can be obtained from the Company. Contact Managing Director, Mr N. Roadnight on Tel. No. 023 9249 9888, or e-mail n.roadnight@portsmouthwater.co.uk

5.6 Customer protection

5.6.1 *Special Consumers and Customers with Special Needs*

Special consumers and customers with special needs are those:

- Who regularly require water urgently on medical or other grounds
- Who require special communication arrangements whether under normal operating circumstances or in the event of an incident, whether an emergency or not;
- Who need continuity of supply or urgent/alternative sources of supply in the event of incidents;
- Who require a water supply to be maintained within specific operational parameters, for example, pressure or quality;
- Who need specific services from Portsmouth Water

Portsmouth Water will notify the Licensee of any customers with the above needs who might be affected by the operations of the Licensee. This will be identified during the detailed application, but the Licensee may be required to respond to a change in need from the customer.

The Licensee shall inform Portsmouth Water of any customer(s) with special needs or special consumers at the time of the application.

5.6.2 *Large scale customer warning procedures*

In the event that a large number of properties are affected Portsmouth Water will assume the responsibility of undertaking Large Scale Customers Warnings on behalf of all Licensees. This is to ensure that no single customer is over-looked, and the level of information is consistent and regular.

The plan involves a mixture of verbal and written communications. The warning is concluded with written confirmation that the situation has returned to normal.

In the case of the Soft Drinks Industry, the British Soft Drinks Association (BEDA) can also perform a very crucial role and need to be separately notified.

Portsmouth Water has a procedure that has been tried and tested for Large Scale Letter Drops and Large Scale Boil Notices.

5.6.3 *Emergency compensation payments*

Any payment to customers for compensation as a result of Portsmouth Water's inability to supply or for performance not meeting agreed standards will be negotiated at the time the agreement is made and allowed within the access price. Any compensation may be payable to the Licensee and/or the customer(s) as set out in the agreement.

5.6.4 *Emergency operational planning exercises*

Portsmouth Water regularly tests its ability to respond to emergency situations through a series of simulated operational exercises. This allows the performance and procedures to be critically analysed reviewed and modified. It is expected that all Licensees actively take part in any exercise.

5.7 Support processes

5.7.1 *Arrangements for press liaisons*

Under certain circumstances it may be necessary for the Company to speak to the media. Arrangements and contact numbers for contacting the press and media are outlined in the Company's Emergency Plan.

5.7.2 *Arrangements for the dissemination of severe weather warnings*

Severe fluctuations in weather patterns can cause significant problems for the Company in terms of its ability to maintain supplies. Possible trigger events could include:

1. Storm force winds, which may disrupt power lines, for example, or telecommunications, and widespread thunderstorms, which can disrupt telemetry systems at all installations.
2. Frost at -2°C or below, which may increase the incidence of burst mains and customer pipe freezing problems.
3. Snow, which can cause transportation problems or other disruptions in addition to those above.

Severe weather warnings will be passed to the Licensee if required.

5.7.3 *Emergency contacts*

The Company will provide points of contact for dealing with operational activities on a day to day basis and in the event of the Company's emergency plan being invoked details of the emergency team will be provided.

The Licensee will also be required to give a day-to-day contact. In the event of the emergency plan being invoked the Licensee will be responsible for providing details of their nominated contact and dealing with their customers.

5.8 Reportable situations

In general any event that would trigger the emergency plan, as listed in 5.4.1, would require notification to external bodies. A guidance table for contacting external bodies is included in the emergency plan (volume 4).

6. CUSTOMER CONTACT ARRANGEMENTS

All classes of customers are eligible to be considered as potential beneficiaries from competition. No access to the Network will be permitted if there will be an adverse effect on, or unacceptable risk to Portsmouth Water's existing domestic and non-domestic customers in terms of quality, standards of service, continuity and security of supply and the rights they currently receive.

In an area to be defined, both Portsmouth Water's and the Licensee's customers will receive the same operational standards.

Hosepipe bans and other similar water use restrictions will be applied equally to Portsmouth Water's and the Licensee's customers as necessary.

Portsmouth Water will include in the Access Agreement operational standards to be met by the Licensee to ensure that all customers receive legally acceptable standards. In some cases, particularly water quality, the Company will expect tighter input standards than those required by the appropriate regulations to match the existing water quality being supplied to customers. The Company reserves the right to set non-statutory water quality parameters to match existing water quality parameters in supply.

The rights of domestic customers, as set out in the Water Act 1999, to remain on an unmeasured basis remains. The requirements of the Water Act 1999 apply to both Portsmouth Water and the Licensee.

The Licensee will be responsible for supplying Portsmouth Water with such details as they require to ensure that vulnerable and other customers are protected. Portsmouth Water will also notify the licence at the outset of a transfer of any special customers the Company is aware of.

6.1 Customer contact arrangements for operational queries and complaints

The Licensee has full responsibility for managing the interface with all its customers.

The Licensee is responsible for handling all enquiries whether general or emergencies, or complaints relating to billing and water supply activities for its customers. The Licensee is the first point of contact for these types of queries. Any queries relating to operational issues received by the Licensee shall be forwarded promptly to the Company.

Should the Licensee's customers contact the Company regarding a billing or water supply query, they will be referred to the Licensee.

The Licensee should comply with any requests for information made by the Company, which arises as a result of its duty to comply with the requirements of regulatory bodies. Any disclosure of customer data will be done so in accordance with the Data Protection Act. If the Licensee requests data from the Company to comply with regulatory bodies, we will provide such information as requested.

The Company's role in emergencies is covered in its Emergency Plan, referred to in section 5.5, which can be obtained from the Company by contacting the Engineering Director, Mr R C Porteous on Tel. No. 023 9249 9888, or e-mail r.porteous@portsmouthwater.co.uk

6.1.1 Customer meter reading

The Licensee will be responsible for meter reading unless it requests the Company to maintain this function. The indicative price given in section 9 assumes no Company involvement.

6.1.2 Billing and debt collection

Responsibility for billing, collection and debt associated with the Licensee's customers for water services rests solely with the Licensee.

If a Licensee has authority to disconnect a non-household customer for non-payment of bills or other reasons, involving work on the Company's network, it must request the Company to carry out the disconnection in writing including details of the reason for the disconnection. The Licensee will indemnify the Company against any claims that may arise as a result of the disconnection.

6.1.3 Operational Issues

6.1.3.1 Water supply queries

The Licensee is to inform the customer of communication arrangements between the Licensee and the customer. Except in an emergency, the Licensee will be responsible for communication with its customer(s). Portsmouth Water will provide a response to the Licensee on receipt of any enquiry and will provide routine information to the Licensee. Arrangements for emergency contact are set out in the Company's Emergency Plan.

6.1.3.2 Sewerage issues

There should be direct contact between the Licensee and Southern Water (the sewerage undertaker) on matters concerning sewerage and trade effluent services.

6.1.4 Complaint Handling Process

A complaint from a customer should, in the first instance, be made to the Licensee. It is expected the Licensee will refer to Portsmouth Water any complaint that arises from the services provided by Portsmouth Water. A response to the complaint or any request for further information to enable the investigation of the complaint will normally be made direct to the Licensee only.

The Licensee should make the customer aware that if there is a complaint that might be indicative of a major incident affecting the supply system, particularly if water quality is affected, then Portsmouth Water should be informed directly at the same time as the complaint is notified to the Licensee. Portsmouth Water will advise both the customer and the Licensee of the process they propose to follow to identify the cause of the complaint.

The Licensee may register a dispute if he is not satisfied that Portsmouth Water has dealt with a complaint in a satisfactory manner. In the first instance the details of the dispute should be made in writing in accordance with Portsmouth Water's publicised complaint procedure. If the Licensee is not satisfied, he can refer the matter to the Consumer Council for Water Southern, Fourth Floor (South), High Holborn House, 52/54 High Holborn, London. WC1V 6RL and/or Ofwat, or in the case of a complaint concerning water quality, to the DWI.

6.1.5 Obligations on water undertaker

The Company will investigate complaints at the request of the Licensee on network problems, and the results of any investigation will be communicated to the Licensee in writing.

6.1.6 Obligations on Licensees

The Licensee will be the point of contact for any water supply queries from its customer and would for example need to arrange for any samples to be taken and analysed or carry out pressure tests etc...

Initially any complaints made by the Licensee's customer will need to be handled by the Licensee. The Licensee will have to provide information in a format consistent with the Company's complaints system, where details of network problems are currently captured.

6.1.7 Disconnection

There are three situations regarding non-payment where supplies may be terminated:

- First, where the Licensee pays Portsmouth Water but the customer does not pay the Licensee.
- Second, where the Licensee does not pay Portsmouth Water, but the customer has paid the Licensee.
- Third, where neither the Licensee or the customer has paid for water.

Additionally, under powers to prevent mis-use, contamination and waste, Portsmouth Water may disconnect the Licensee and/or its customer. In these circumstances, the specific procedure under the Water Industry Act will be followed.

In the cases of non-payment by the customer to the Licensee, arrangements may be made as under 6.1.2 above. In the case of non-payment by the Licensee as in cases 2. and 3. the supply maybe liable to disconnection. The particular circumstances will be covered in the customer-specific access agreement.

6.2 Customer contact arrangements for emergencies and events

Customer protection issues are documented under section 5, Maintenance and Emergency Procedures and in the Company's Emergency Plan.

6.2.1 Special Consumers and Customers with particular needs

Customers with particular needs and special consumers are defined in paragraph 5.6.1. The Licensee shall inform Portsmouth Water of particular needs at the time of detailed application and shall keep the Company informed of any change in requirements. Portsmouth Water will communicate with the customer as provided for in the agreement, according to the customer's particular need.

6.2.2 Large scale customer warning procedures

Portsmouth Water will be responsible for large-scale customer warning procedures as set out in paragraph 5.6.2 and will include notification to the Licensee.

6.2.3 Obligations on Portsmouth Water

Portsmouth Water has a register of customers with special or particular needs and will identify to the Licensee any customers who might be affected by the Licensee's supply. Customers with particular needs will be taken into consideration during the detailed application for access to the supply system.

Portsmouth Water will communicate with a Licensee's customer with particular needs according to the information provided by the Licensee. Generally this will be limited to emergency communications only.

Portsmouth Water will periodically revalidate information on special customers or customers with particular needs and will seek confirmation from the Licensee of any change in information relating to the Licensee's customer(s).

Portsmouth Water will inform the Licensee if it intends to initiate large scale warning procedures.

6.2.4 Obligations on Licensee

The Licensee shall keep Portsmouth Water informed on changes in information concerning customer(s), including particular needs and contact details for contact in emergency situations or if special arrangements are required for Portsmouth Water to have access to the meter or water quality sampling point.

The Licensee must assist in providing information on both its own supply and of the customer's installation and water use to enable emergency planning and development of action plans and contingency plans.

During any exercise to test emergency planning arrangements the Licensee should co-operate by communicating with the customer as appropriate during the preparation and execution of the exercise.

7. SUPPLY SYSTEM CONNECTIONS

7.1 Connection of Licensee's source to supply system

The point of connection of the Licensee's supply to Portsmouth Water's supply system will need to be determined during the application process. The Licensee will be responsible for the provision of any mains necessary from the source to the connection point. The mainlaying can either be undertaken on a 'self lay' by the Licensee or Portsmouth Water can provide a mainlaying cost. Any 'self lay' should be carried out in accordance with Portsmouth Water's Self Lay Specification.

Connection to the existing supply system will be undertaken by Portsmouth Water to an agreed specification consistent with the requirements of the access code and agreement, and the costs will be borne by the Licensee on an actual cost basis.

7.2 Connection of qualifying premises to the supply system

It is expected that most qualifying premises will already be connected to the Portsmouth Water supply system and changes to the connections would not be expected. In the event that new connections are required either to rationalise the premises network or to provide for additional capacity, these would be chargeable under the Portsmouth Water New Connection process which is estimated on a rechargeable basis based on actual costs.

Where a new premises is required to be connected to the Portsmouth Water supply system, the Licensee will need to provide the following information:

- The maximum quantity [in Ml/day] that is required.
- The size of the connection.
- Meter type and size.
- Arrangements for meter readings including transmission to the sewerage undertaker.
- Compliance with the water fittings regulations and arrangements to prevent backflow.

The actual connections will be carried out on a rechargeable basis at cost.

The provision of pipework on the new premises will be the responsibility of the new customer to lay to the boundary of the premises at the proposed connection point. Any pipework on the new premises will be subject to inspection under the Water Supply (Water Fittings Regulations) 1999, prior to connection.

Should a new premises require a mainlaying scheme, the customer can either requisition the mains under the Water Industry Act either from Portsmouth Water or in accordance with Portsmouth Water's Self Lay Specification.

The Licensee will be required to notify the sewerage undertaker, if applicable, to seek their requirements in respect of the sewerage network.

7.3 Connection of secondary water undertaker's supply system to the primary water undertaker's supply system

Where Portsmouth Water is the primary undertaker and the Licensee proposes to introduce water from a secondary water undertaker, the same procedure will apply as for a Licensee's source. The provision of any mains required to connect the supply systems can be carried out as provided under 7.1. The connection to Portsmouth Water's supply system will be carried out by Portsmouth Water as provided under 7.1.

8. LEGAL CONTRACT, ARBITRATION AND DISPUTES RESOLUTION

8.1 Contract terms

Contract negotiations for a Retail Access Agreement or a Combined Access Agreement may begin at any stage during the application procedure but the final contract terms will only be agreed after the successful completion by the Licensee of the detailed application stage.

The final terms and conditions of each Agreement will be specific to the facts and circumstances of each application taking into account Portsmouth Water's Supply System, the needs of its customers and its statutory obligations. The terms and conditions of each Agreement will be negotiated by the Company with due regard to the costs principles set out in this Access Code and to its duty not to show undue preference to, or undue discrimination against, any actual or potential Licensee or customer.

By signing an Agreement both parties agree to be bound by the terms of this Access Code.

The format of the Agreement that will be used for a Combined Access Agreement will be different from the form used for a Retail Access Agreement. For each Combined Access Agreement a new Agreement will be negotiated for each application. The Retail Access Agreement will take the form of one master Agreement with separate Customer Schedules for each customer participating in the initial application to which further Customer Schedules can be added, or from which existing Customer Schedules can be withdrawn, from time to time by agreement of both parties. A current example of a Retail Master Agreement is given in Appendix Two.

Though the format of the two types of Agreement will differ and each Agreement will be individually negotiated, the following list of contract terms in section 8.1.1 below indicates the types of clauses that may appear in each Agreement but not necessarily in the listed order. Some of the clauses are more relevant to Retail Access Agreements, others more relevant to Combined Access Agreements. Some will be relevant to both.

The list in section 8.1.1 below is not exhaustive and the Company reserves the right to include additional clauses or alternative clauses or to omit some of the listed clauses if the circumstances of any application by a Licensee require it.

8.1.1 *Contents*

It is envisaged that the contract will contain the following headings:

(i) **Recitals**

The preamble to the Contract, stating what the Agreement is about, who the parties are, why they are entering into the Agreement, etc.

(ii) **Definitions**

A list of defined terms used in the Contract, and the meaning (for the purpose of the Contract) of those terms.

(iii) Conditions Precedent

This clause will set out those conditions that must be fulfilled by each party to the Agreement before performance under the Agreement can become due.

(iv) Permission To Access The Supply System In Relation To The Contract In Question

This clause will set out the formal requirements with regard to the following:

- Access will only be granted to Licensees holding a relevant WSL license in accordance with the amended WIA.
- Entrants will not acquire ownership or control of any of Portsmouth Water's assets.
- Physical details of access will be in accordance with this Access Code, Ofwat's Guidance on Access Codes, and DWI requirements.
- Duration.
- Links with the Access Code. The Contract will incorporate the appropriate parts of the Access Code, by reference.

(v) Acceptance of Access Code

This clause provides, that the parties to the Contract agree and are bound by the terms of the Network Access Code, notwithstanding that the Code itself has not been signed by both parties.

(vi) Modifications

If any amendments, deletions, substitutions etc. to the Access Code are required for the specific case, this clause will give details of how this is to be achieved.

(vii) Ownership of Supply System and Vesting

A statement to make clear that ownership of the Supply System remains with Portsmouth Water and that the Agreement does not confer any responsibilities for ownership, maintenance or other use of the supply system to the Licensee or to the Licensee's customer(s).

(viii) Material Change

The circumstances that will require amendment to the terms of the Contract e.g. change in legislation, new water quality regulations, or the adoption of a National Access Code.

(ix) Liability

This clause will seek to apportion responsibility for certain events, to exclude liability for certain categories of damages, and to place reasonable limits on overall liability. It will seek to address, *inter alia*, liability, including, where appropriate, indemnities relating to:

- liability for damage and/or injury caused by each party to the other's property and/or personnel;
- liability for damage and/or injury caused to third party property or to the public;
- liability for environmental impairment;

- liquidated damages for breach by the Licensee of measurable requirements.

(x) Force Majeure

A definition of the events (being generally those events over which the parties or one of them does not have direct control) in relation to which the liability position changes, and the way in which and extent to which the position changes.

(xi) Exclusions

This clause will seek to exclude liability for certain categories of damages, and to place reasonable limits on overall liability.

(xii) Indemnity

Those areas in which a contractual indemnity is to be given by one party to the other in the event of a breach of (specified provisions of) the Contract.

(xiii) Duration

The period for which the Contract operates. This can be fixed, or subject to termination on the giving of a specified period of notice, or a combination of the two.

(xiv) Termination

The circumstances, if any, which entitle a party to terminate the Contract, the period of notice required to effect such termination and the consequences of termination.

(xv) Emergency Suspension

The circumstances which entitle a party to suspend the operation of the Contract, the period of notice required to effect such suspension, the period of suspension and the consequences of suspension.

(xvi) Interim Supply Duty

This clause will provide for Portsmouth Water to replace the Licensee and become the Interim Supplier to the Licensee's customer[s] where;

- the contract between the Licensee and the its customer is terminated or suspended; or
- this Agreement is terminated or suspended; and
- the Licensee's customer does not have an agreement with another Licensee.

(xvii) Payment

Payment will be via a monthly invoice based on booked, actual or estimated usage. This will be generated by Portsmouth Water.

(xviii) Dispute Resolution

The procedure to be followed in the event that any dispute or difference concerning this Agreement arises between the Licensee and Portsmouth Water, in order to determine how such dispute or difference shall be resolved.

(xix) Notices

A clause to specify the mechanics of serving notice pursuant to the Contract upon the other party.

(xx) Assignment and Alienation

Specifies whether the rights and obligations of the Contract are assignable or capable of sub-letting, and if so, upon what terms.

(xxi) Variations

Not effective unless written and signed by both parties.

(xxii) Waiver

A failure to exercise a right or remedy will not constitute a waiver.

(xxiii) Severability

If any clause or provision is found to be invalid, the other provisions shall remain in effect.

(xxiv) Entire Agreement

The Contract will constitute the entire agreement between the parties.

(xxv) Jurisdiction

The Contract will be governed by the law of England.

(xxvi) Confidentiality

This clause will make provision for a confidentiality agreement to be signed by both Portsmouth Water and the Licensee during the Initial Application stage to the Agreement. It will also provide that the confidentiality agreement shall remain in force in respect of all existing and new Licensee's customers that become subject to the Agreement. Where under the provisions of the Agreement either Party is required to disclose information to the other the requirement shall be to only disclose information as is reasonably necessary to enable each Party to undertake their respective obligations under the Agreement.

(xxvii) Insurance

Specifies the risks in respect of which a party is required to carry insurance cover, and the extent of cover required.

(xxviii) Third Party Rights

The Contract will confer no rights or benefits upon any person not party to the Contract.

(xxix) Compensation

This clause will specify the contractual penalties that will be applied under a combined supply Access Agreement in the event of a significant or repeated failure by the Applicant to achieve the contracted and/or actual water inputs specified in the Agreement.

(xxx) Provision of Bonds and Guarantees

This clause will provide for the provision of a Parent Company guarantee by the Applicant's Parent Company whereby the Parent Company guarantees to Portsmouth Water the due and punctual payment of all sums payable, and the observance and performance of all obligations of the Applicant arising, under or in relation to this Agreement.

8.2 Arbitration and disputes resolution processes

Portsmouth Water has taken note of the Ofwat guidance in preparing its Access Code, and during the assessment of a Licensee's application for access and in the preparation of the formal access agreement, will continue to act in full compliance with published guidance. However, it is recognised that there may be situations where the Licensee and Portsmouth Water do not agree on the interpretation of the guidance or a particular detail of the application is outside the scope of the guidance.

Portsmouth Water will work with the Licensee to reach a common understanding and early resolution of potential areas for disagreement. Ofwat and DWI may determine certain disputes. The DWI will be the arbiter in respect of water quality disputes as set out in their information letters. Ofwat has published guidance on its 'Proposed procedure for handling water supply licensing determinations' which defines their powers to determine queries and disputes. Ultimately the courts can finally determine other disputes but this access code sets out procedure to assist to resolve disputes without such recourse.

Ofwat's power to determine disputes, as set out in their guidance, cover:

- **Eligibility** – after all published guidance has been tested. A referral to Ofwat is expected to be limited to circumstances outside the bounds of published guidance or where Portsmouth Water and the Licensee are unable to agree how to apply specific eligibility guidance.
- **Terms and conditions of proposed access agreements** – after Portsmouth Water and the Licensee have exhausted efforts to reach agreement by other means.
- **Conditions for refusing supplies** – after Portsmouth Water and the Licensee have exhausted efforts to reach agreement by other means.

Ofwat can also investigate complaints under the Competition Act 1998.

The proposed procedures to resolve disputes are summarised below.

8.2.1 *Negotiation*

The negotiation process will be between appointed representatives of both parties within set timescales with a view to reaching an amicable resolution of any dispute arising during the Agreement term. To be utilised as an initial informal resolution process.

8.2.2 *Conciliation*

This is a form of alternative dispute resolution process in which the parties use a neutral third party to improve communication and explore possible solutions to disputes. It is similar to mediation but can be less formal. It is a non-binding resolution process.

8.2.3 *Mediation*

This is a form of alternative dispute resolution process utilising a trained mediator who is a neutral third party. Its aim is to reach a solution that both parties agree on. It is more formal than conciliation but is also non-binding.

8.2.4 *Arbitration*

This is a formal method of alternative dispute resolution that allows the parties to settle any dispute without court action. A neutral third party arbitrator is appointed by agreement or on application to a recognised organisation of arbitrators. Decisions should be seen as final as there is very limited scope for appeals.

9. ACCESS PRICING

9.1 Indicative access prices

The indicative prices tabulated below have been produced in line with Ofwat's latest guidance (see letter from Andrew Beaver dated 18 August 2014 – ‘The Costs Principal and Access Pricing’). The prices given are indicative only and based on assumptions, which may not all apply to a site-specific case. The Wholesale prices used are those submitted to Ofwat on 3 October 2014, and based on the Draft Determination published on 29 August 2014.

Indicative wholesale price information

	Year	2014-15	2015-16	2016-17	2017-18	2018-19
Company specific K	%					
For 5 MI per annum						
Retail price	£/m ³ *	0.7069	0.7111	0.7111	0.7111	0.7111
Wholesale price - 1st customer	£/m ³ *	0.6932	0.6932	0.6932	0.6932	0.6932
Wholesale discount - 1st customer	£/m ³ *	0.0137	0.0178	0.0178	0.0178	0.0178
Wholesale discount - 2nd customer with same licensee	£/m ³ *	0.0144	0.0185	0.0185	0.0185	0.0185
For 25 MI per annum						
Retail price	£/m ³ *	0.6978	0.6866	0.6866	0.6866	0.6866
Wholesale price - 1st customer	£/m ³ *	0.6681	0.6681	0.6681	0.6681	0.6681
Wholesale discount - 1st customer	£/m ³ *	0.0296	0.0185	0.0185	0.0185	0.0185
Wholesale discount - 2nd customer with same licensee	£/m ³ *	0.0303	0.0191	0.0191	0.0191	0.0191
For 50 MI per annum						
Retail price	£/m ³ *	0.6929	0.6810	0.6810	0.6810	0.6810
Wholesale price - 1st customer	£/m ³ *	0.6621	0.6621	0.6621	0.6621	0.6621
Wholesale discount - 1st customer	£/m ³ *	0.0308	0.0189	0.0189	0.0189	0.0189
Wholesale discount - 2nd customer with same licensee	£/m ³ *	0.0314	0.0195	0.0195	0.0195	0.0195
For 500 MI per annum						
Retail price	£/m ³ *	0.5873	0.5982	0.5982	0.5982	0.5982
Wholesale price - 1st customer	£/m ³ *	0.5797	0.5797	0.5797	0.5797	0.5797
Wholesale discount - 1st customer	£/m ³ *	0.0075	0.0185	0.0185	0.0185	0.0185
Wholesale discount - 2nd customer with same licensee	£/m ³ *	0.0081	0.0191	0.0191	0.0191	0.0191
Discounts for higher levels of market share						
Average wholesale discount per customer for a licensee serving 50% of eligible customers by volume	£/m ³ *	0.0022	0.0022	0.0022	0.0022	0.0022
Average wholesale discount per customer for a licensee serving 100% of eligible customers by volume	£/m ³ *	0.0022	0.0022	0.0022	0.0022	0.0022
* 2015/16 prices						

The Indicative prices calculated above assume no payments shall be made in advance.

Indicative combined supply prices

Access start date (2014-15), price based (2015-16)		2014-15	2015-16	2016-17	2017-18	2018-19
Forecast supply surplus without licensee's water or water undertaker's investment (-ve is deficit)	MI/d		23.70	23.81	13.86	14.23
5 MI per year						
Retail price	£/m3	0.7069	0.7111	0.7111	0.7111	0.7111
Combined supply discount	£/m3	0.0328	0.0328	0.0328	0.0328	0.0328
Supply surplus with licensee's water and water undertaker's revised investment plan	MI/d		23.71	23.82	13.87	14.24
25 MI per year						
Retail price	£/m3	0.6978	0.6866	0.6866	0.6866	0.6866
Combined supply discount	£/m3	0.0487	0.0487	0.0487	0.0487	0.0487
Supply surplus with licensee's water and water undertaker's revised investment plan	MI/d		23.77	23.88	13.93	14.30
50 MI per year						
Retail price	£/m3	0.6929	0.6810	0.6810	0.6810	0.6810
Combined supply discount	£/m3	0.0499	0.0499	0.0499	0.0499	0.0499
Supply surplus with licensee's water and water undertaker's revised investment plan	MI/d		23.84	23.95	14.00	14.37
500 MI per year						
Retail price	£/m3	0.5873	0.5982	0.5982	0.5982	0.5982
Combined supply discount	£/m3	0.0266	0.0266	0.0266	0.0266	0.0266
Supply surplus with licensee's water and water undertaker's revised investment plan	MI/d		25.07	25.18	15.23	15.60

Forecast supply surplus without Licensee's water or Portsmouth Water investment (MI/d)

2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
	23.70	23.81	13.86	14.23	14.19	15.26	15.50

2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30
15.68	15.65	10.49	11.39	11.04	10.86	10.74	10.38

2030-31	2031-32	2032-33	2033-34	2034-35
10.71	10.64	10.60	10.36	9.99

Indicative Access Price Assumptions

Retail Price

- Retail charges have been calculated using 2015-16 prices. All costs have therefore been uplifted to this price base in order to maintain consistency.
- The Retail price for 2014/15 is calculated using the current charging year prices, uplifted to 2015/16 prices by RPI. However, the Wholesale price for 2014/15 is the same as for 2015/16.
- Standing charges have been calculated assuming a 5MI customer would use a 1 inch meter, a 25MI customer would use a 2 inch meter, a 50MI customer would use a 3 inch meter and a 500MI customer would use a 12 inch meter.

- Retail charges consist of Wholesale and Retail elements, consistent with the Draft Determination for AMP6. The Retail element includes a margin of 2.5% on total revenues, for all non-household customers.

Wholesale Price

- These consist of a standing charge which is dependent of the meter size, a volumetric charge which is dependent on the volume band of the customer and a site fee for all customers using > 10MI per annum.
- Charges are in 2015/16 prices and are the draft customer charges that apply to the charging year 2015/16, starting from 1 April 2015.

Retail Expenses

Where Portsmouth Water provides Retail services, the following expenses will apply. These are included in the Wholesale prices in Table 3 and are in addition to the Draft Determination Wholesale prices in Table 2. These will however be subject to the individual Wholesale agreement.

TABLE 1

Retail expenses 2013/14 prices	Expenses (£) for serving licensee with 1 customer using:				Expenses (£) for serving Two customers of a single licensee each using:			
	5MI/yr	25MI/yr	50MI/yr	500MI/yr	5MI/yr	25MI/yr	50MI/yr	500MI/yr
R1 Billing	8	8	8	8	8	8	8	8
R3 Payment handling	1	1	1	1	1	1	1	1
R4 Handling and resolving licensee's calls, correspondence and complaints	0	0	0	0	0	0	0	0
R5 Debt Management	1	1	1	1	1	1	1	1
R6 Doubtful debts	2	2	2	2	2	2	2	2
R10 Cost of licensee credit	3	15	29	257	6	29	58	514
Total costs allocated	15	26	41	269	18	41	70	525
<i>Total Costs in 2015/16 prices</i>	<i>16</i>	<i>28</i>	<i>43</i>	<i>285</i>	<i>19</i>	<i>44</i>	<i>74</i>	<i>557</i>
<i>Total Costs £/m³</i>	<i>0.003</i>	<i>0.001</i>	<i>0.001</i>	<i>0.001</i>	<i>0.004</i>	<i>0.002</i>	<i>0.001</i>	<i>0.001</i>
Number of customers served by single licensee	1	1	1	1	2	2	2	2

- Licensees will undertake customer billing, meter reading, maintenance of customer account information, payment handling, debt collection, advice on water efficiency and account management activities.
- Licensee billing; only monthly billing to the Licensee has been included.
- Payment Handling; costs per payment will be reduced overall as the number of payments received will fall. Each will be for a higher value.
- Handling and resolving customers' calls, correspondence and complaints; these costs will be half. Although the licensee will be responsible for handling customers' complaints directly, the Company may still have to provide information to the licensee.
- Debt collection; costs relate to outstanding licensee payments
- Licensee costs of credit are based on the debtor's day calculation of 14.12 days.

Combined Supply

- No water supply deficits are anticipated during the next 5 years.
- As average demands are only being considered there are no capital schemes schedules to take place that can be deferred during the next five years as a result of a licensee supplying water.

9.2 Case specific access prices

Case specific access prices will be assessed on the circumstances of each individual case.

10. GLOSSARY OF DEFINED TERMS

Access: The Retail supply of water by a water undertaker to a Licensee for the purpose of making a retail supply of water to the premises of the Licensee's customer; and the introduction of water by the Licensee into a water undertaker's supply system for that purpose (common carriage).

Access agreement: An agreement between a water undertaker and a Licensee for access by a Licensee to a water undertaker's supply system pursuant to the Retail Authorisation and/or Supplementary Authorisation.

Access code: A water undertaker's document that sets out all principal aspects of access to its supply system and the terms and conditions on which it will grant access to its supply system by a Licensee. The access code comprises the standard terms and conditions common to all water undertakers and the terms and conditions specific to that water undertaker.

Access terms: The terms under which a water undertaker and a Licensee agree access to a water undertaker's supply system.

Adjoining supply system: Supply systems of other water undertakers with direct physical connections to the water undertaker's own supply system.

ARROW costs: Expenses that can be Avoided or Reduced, or any amount that is Recoverable in some Other Way (other than from other customers of the water undertaker) (see section 66E(3) WIA91).

Back-syphonage: Unwanted syphoning of water into the supply system.

Boil notices: A notice issued by the undertaker as a warning that water should be boiled before drinking as a precautionary measure.

Borehole: A hole for abstracting groundwater constructed by boring.

Chemical parameters: Limits for the level of chemicals found in water. Examples are iron, chlorine, sulphates, pesticides and ammonium compounds.

Chlorination: The use of chlorine to disinfect water.

Coliform bacteria: A group of bacteria found in the intestine and faeces of most animals. Coliforms can sometimes be found in untreated water. The treatment process removes them and disinfection prevents their reappearance in the supply system.

Combined Licence: A Retail Licence with the Supplementary Authorisation, authorising the holder to introduce water into a water undertaker's supply system and to retail that water to a customer's eligible premises (section 17A(6) WIA91).

Combined supply: A supply made pursuant to a combined licence.

Company/Portsmouth Water: The undertaker licensed under the Water Industry Act 1991 to operate as a water undertaker in a geographically defined area.

Compensation water: Water released to the environment to offset impacts of abstraction or to comply with Appointment Conditions (or both).

Costs principle: As defined in section 66E of the WIA91.

Cryptosporidium: A waterborne micro-organism, single celled protozoan parasite, which causes disease and illness.

Deployable output: The output of a commissioned water supply source, group of sources or bulk supply as constrained by: abstraction license, if applicable; environment; treatment; raw water mains and/or aquifers; pumping plant and/or well/aquifer properties; transfer and/or output main; water quality.

Disinfection: The process of treating water with, for example, small amounts of chlorine in order to kill harmful organisms.

Diurnal variations: Variations occurring within a daily (24 hrs) cycle.

Drought: A prolonged period of dry weather; said to exist if, for at least fifteen days, on each day rainfall has been less than 0.25mm.

E.Coli: A bacterium taken as an indicator of faecal contamination.

Eligible premises: Premises that satisfy the eligibility requirements in section 17A(3) WIA91. Each of the following three requirements must be satisfied in relation to each of the premises in order for a customer's premises to be eligible:

- The customer's premises must not be "household premises" (as defined in section 17C WIA91).
- When the Licensee first enters into an undertaking with a customer to give the supply, the total quantity of water estimated to be supplied to the premises annually by the Licensee must be not less than 50 megalitres (the "threshold requirement", section 17D WIA91).
- The premises may only be supplied by one Licensee (but may also be supplied by one or more water undertakers).

Fit and proper person: For the purpose of making an access agreement, a person or party will not be deemed fit and proper if there are any relevant convictions, concerns over technical ability, insufficient financial resources available.

Fluoridation: Application of fluoride to drinking water at the request of regional health authorities as a preventative measure against dental decay.

Groundwater: For the purposes of an access agreement groundwater is defined as water abstracted directly from an aquifer by means of a well, borehole or spring.

Guaranteed Standards Scheme (GSS): A scheme that lays down the minimum guaranteed standards of service that water companies have to deliver. Water companies have to pay compensation to customers if they fail to meet these standards.

Hardness: Characteristics of waters containing dissolved calcium and magnesium salts.

HSE: Health and Safety Executive a government agency responsible for administering all regulations pertaining to health and safety and public security.

Instrument of Appointment: The water (and sewerage) companies operate under Instruments of Appointment, granted by the then Secretaries of State for the Environment and for Wales, or by the Director, to provide water and sewerage services in England and Wales. The Instrument of Appointment imposes conditions on the companies, which the Director is required to enforce.

Interruptible supply points: These are supply points where a continuous water supply is not necessary.

Licensee: A company holding either a retail licence or a combined licence.

Major Emergency Procedures: The Major Emergency Procedures are evoked when the situation or the number of people affected is in excess of those that can be dealt with by the Standard Emergency Procedures.

Mandatory parameters: Levels of chemical or biological indicators that must be measured by law. Examples for drinking water are E coli, nitrates, chlorides.

Microbiological parameters: Levels of bacteria for example E coli, coliforms, faecal streptococci, whose presence indicate that the water may be polluted and therefore should not be used as drinking water.

Network: The physical assets, which are essential for the supply of water to customers. By nature, the Network is the monopolistic element of the Incumbent's water supply business. Access to the Network is required in order to compete in a related market, and duplication of the Network is impossible or extremely difficult owing to physical, geographical or legal constraints. The Network will, in most cases, extend to the border of the accepted Licensee's customers' properties. The Network will be clearly defined in the Licensee's Contract.

Non-potable water: Water that is not intended for domestic or food production purposes.

Outage: A temporary loss of unusable water output due to planned or unplanned events.

Pathogen: An organism that is capable of producing disease.

Point of entry: The point at which treated water enters the supply system as defined by the isolation valve provided by the primary undertaker.

Point of exit: The point at which treated water leaves the supply system. In general this will be either to specific premises or to the supply system of an adjoining water company.

Potable: Water for domestic and food production purposes that is wholesome at the time of supply. This is defined in section 68 of the WIA91 and section 4 of the Water Supply (Water Quality) Regulations.

Primary water undertaker: For the purposes of section 66A WIA91 (Retail water supply by primary water undertaker) and section 66C WIA91 (Retail water supply by secondary water undertaker), a water undertaker is the primary water undertaker of a Licensee if the undertaker's supply system is to be used for the purposes of making the supply to the premises of the Licensee's customer.

Priority supply points: Supply points as specified by Defra.

Rechlorination: Usually applied to injection of chlorine to drinking water in the supply system after it has left the treatment works. Often used to boost chlorine levels at a service reservoir.

Reconciliation process: The balancing of actual demand against actual water supplied into the supply system and the associated financial implications.

Regulatory Compliance Sampling Programme: This is the annual programme of drinking water sampling which the Water Companies must undertake to comply with the requirements of the Water Supply (Water Quality) Regulations 2000 (for England) and 2001 (for Wales) and subsequent amendments.

Retail authorisation: An authorisation to a company to use a water undertaker's supply system for the purpose of supplying water to the eligible premises of customers of the company (section 17A(2) of the WIA91).

Retail Licence: A Water Supply Licence giving the holder the Retail Authorisation, entitling the holder to purchase Retail a supply of water from the water undertaker and to supply it retail to a customer's eligible premises (section 17A(4) of the WIA91).

Secondary water undertaker: A water undertaker other than a Licensee's primary water undertaker (section 66C(1)(a)(I) WIA91).

Security of supply: The extent to which water supplies to customers are reliable and not subject to possible restrictions because of a lack of rainfall over a period of time.

Service reservoirs: Any reservoir, statutory or otherwise, which is used to store, treated drinking water.

Sewerage undertaker: A company appointed under the WIA91 to provide sewerage services in respect of a geographical area of England and Wales.

Standard Emergency Procedure: These are a set of procedures for dealing with an emergency. The full or partial implementation of the procedures is dependant on the degree of seriousness of the emergency.

Standby supplies: These are supplies that can be called into operation in the event of failure of the 'duty' supply.

Supplementary Authorisation: An authorisation to a company to introduce water into a water undertaker's supply system for the purpose of making a retail supply of water to a customer.

Supply point: The point at which treated water leaves the supply system. In general this will be either to specific premises or to the supply system of an adjoining water company.

Supply system: Any water mains and other pipes used for the purposes of conveying potable water from a water undertaker's treatment works to its customer's premises and any water mains and other pipes used to convey non-domestic water from any source to premises that are not connected directly or indirectly to any water mains or pipes connected to those treatment works. This term is defined in section 17B(5) of the WIA91.

Supply system balancing: The process of matching the 'water in' against the 'water out' from the supply system.

Telemetry: The technology for automatically measuring and transmitting data by radio or other means from remote sources to receiving stations.

Treated water: Water of a suitable quality for input to the treated water supply system and that which results in satisfactory DWI compliance at the customer's tap.

Treated water quality monitoring: Regular sampling and analysis of untreated and treated water. Examples include daily measurement of free chlorine at treatment works or annual sampling for mercury at customers' taps.

Treatment works: Works where raw water from rivers or reservoirs is treated to produce drinking water. Treatment typically includes coagulation, filtration and disinfection.

Trihalomethanes: A group of chemicals produced by the reaction of chlorine with natural organic chemicals present in the raw water. Current limit is 100 ug/l averaged over three months.

Turbidity: A measure of the optical clarity of water.

UKWIR: UK Water Industry Research Limited.

Ultra-violet disinfection: Inactivation of microbiological organisms by ultra-violet radiation.

Untreated water: Raw water not of a suitable quality to put into a Control Group.

Water Fittings Regulations: The Water Supply (Water Fittings) Regulations 1999. These Regulations replaced the Water Bylaws in England and Wales and are largely enforced by the water undertakers.

Water resources management plan: A water undertaker's long term strategic plan for water resource development in its area (see section 37A WIA91).

Water Supply Licence: A licence granted to a company giving it the Retail Authorisation, or both the Retail Authorisation and the Supplementary Authorisation.

Water Supply (Water Quality) Regulations: The Water Supply (Water Quality) Regulations, SI 2000 No 3184, amended by SI 2001 No 2885, which apply to water undertakers whose area

of supply is wholly or mainly in England; The Water Supply (Water Quality) Regulations 2001, SI 2001 No 3911, which apply to water undertakers whose area of supply is wholly or mainly in Wales. These Regulations specify the standards used to define wholesomeness of drinking water, the level of monitoring required, treatment requirements, reporting requirements and also specify the requirements for using approved substances and products. The DWI enforces these Regulations.

Water undertaker: A company appointed under the WIA91 to provide water services to a defined geographic area and which owns the supply system and other infrastructure.

Retail supplies: Supply of water to a Licensee by a water undertaker for the purposes of retail by the Licensee to its customer's premises.

A1. APPENDIX ONE - MUTUAL CONFIDENTIALITY AGREEMENT

MUTUAL CONFIDENTIALITY AGREEMENT

Dated

PORTSMOUTH WATER LIMITED

CONFIDENTIALITY AGREEMENT

AND

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made this day of

BETWEEN PORTSMOUTH WATER LIMITED whose Registered Office is at PO Box 8 West Street Havant Hampshire PO9 1LG and of

WHEREAS Portsmouth Water Limited and ("the parties") for their mutual benefit may have exchanged and wish further to exchange certain information of a confidential nature and wish to protect such information in the manner set out in this Agreement

IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions

1.1 For the purposes of the Agreement the following expressions shall have the following meanings:

(a) "Authorised Representative" shall mean any employee, director, officer or professional and financial advisor of the receiving party;

(b) "Confidential Information" shall mean any and all confidential, commercial, financial, marketing, technical or other information or data of whatever nature relating to the disclosing party or to the disclosing party's business or affairs (including but not limited to [this Agreement, data, records, reports, agreements, software, programs, specifications, know-how, trade secrets and other information concerning the Project]) in any form or medium whether disclosed in writing, orally or by any other means to one party by the disclosing party or by a third party on behalf of the disclosing party whether before or after the date of this Agreement together with any reproductions of such information in any form or medium or any part(s) of such information);

(c) "Project" shall mean any discussions and negotiations between or within the parties concerning or in connection [with the establishment or possible establishment of a business relationship between the parties] [insert details of the Project]

2. Confidentiality Obligations

2.1 Subject to clause 2.2 in consideration of the mutual exchange and disclosure of Confidential Information each party undertakes in relation to the Confidential Information disclosed to it by the other party either during the continuance of the Project or within [] years after the Project has terminated or resulted in the parties establishing a business relationship in respect of the Project:

(a) to treat all and any of such Confidential Information as confidential and secret and not use any of such Confidential Information for any purpose other than the purpose of evaluating such Confidential Information in connection with the Project;

(b) to take all reasonable steps to protect the confidentiality of such Confidential Information and to prevent disclosure of same to unauthorised persons;

(c) not disclose any of such Confidential Information in whole or in part to any third party without the prior written consent of the other party save to its Authorised Representatives who need to know the same for the purpose of evaluating such Confidential Information in connection with the Project;

(d) to ensure each Authorised Representative to whom it discloses such Confidential Information is made aware of the provisions of this Agreement before such Authorised Representative receives any such Confidential Information and agrees in writing to be bound by obligations of confidentiality and non-disclosure to third parties in respect of such Confidential Information and to return or destroy such Confidential Information in accordance with the provisions of clause 4

2.2 The obligations of confidentiality and the prohibitions against use undertaken in this Agreement by the receiving party shall not apply to any Confidential Information which the receiving party can show:

(a) is or subsequently comes into the public domain otherwise than as a result of any breach of this Agreement by the receiving party or any of its Authorised Representatives;

(b) is already known to the receiving party prior to disclosure which prior knowledge the receiving party can clearly demonstrate with written material;

(c) becomes known to the receiving party by disclosure from a third party who has a lawful right to receive and disclose the Confidential Information; or

(d) is required to be disclosed by law or by any regulatory authority provided that the receiving party informs the disclosing party in advance of the circumstances of the disclosure and exactly what is to be disclosed and uses all reasonable endeavours to obtain confidentiality undertakings from the recipients in respect of the Confidential Information disclosed

3. Intellectual Property

3.1 Nothing in this Agreement shall be construed to grant either party any right or licence any patent, know-how, trademark, copyright or other intellectual property right of the other party

4. Return of Information

4.1 Each party shall within one week of a request from the other party in writing give to the other party or (at the other party's discretion) itself destroy all the Confidential Information of the other party and all copies thereof in its possession, custody or control including for the avoidance of doubt Confidential Information contained within computers, word processors or other devices (including computer discs or other information storage equipment)

4.2 The return of Confidential Information shall not release either party from its other obligations under this Agreement

5. No Representation or Warranty

5.1 No representation or warranty is made or given by either party to the other as to the accuracy or completeness of the Confidential Information disclosed by it to the other or as to the reasonableness of any assumptions on which the same is based and each of the parties agrees that neither the disclosing party nor its Authorised Representatives shall have any liability to it (or its Authorised Representatives) resulting from the use of such Confidential Information save as expressly agreed in writing

6. References to the Parties

6.1 Save as required by law or any regulatory body, neither of the parties shall make any announcement, public statements or press releases of any kind in relation to the Confidential Information disclosed to it by the other or the Project nor shall they mention the name of the other party in connection with the Project or disclose the existence of the Project or the existence of this Agreement without the prior written consent of the other party

7. Duration

7.1 This Agreement shall continue in force from the date hereof until terminated by mutual consent or by one party giving to the other party not less than one month's prior written notice. The provisions of clauses 2, 4, 6 and 7 shall survive the termination of this Agreement

8. No Contract

8.1 No documents or information made available to the one party or its Authorised Representatives by the other will constitute an offer or invitation or form the basis of any contract. Either party shall be entitled at any time to decline to provide or to continue to provide any Confidential Information to the other or to the other's Authorised Representatives or to decline to deal with the other without incurring any liability to the other whatsoever

9. Notices

9.1 All notices under this Agreement shall be in writing, sent by facsimile or first class registered or recorded delivery post to the party being served to its facsimile number mentioned below or at its address specified above or at such other facsimile number or address of which such party shall have given notice as aforesaid, and marked for the attention of the person holding the position of that party's signatory to this Agreement. The date of service shall be deemed to be the next business day following the day on which the notice was posted or immediately upon receipt of the fax confirmation if sent by facsimile The facsimile number for each of the parties shall be:

Party

Facsimile Number

Portsmouth Water Limited 023 9245 3632

10. Consequences of Breach

10.1 Without prejudice to any other rights or remedies that either party may have

[.....] acknowledges and agrees that:

(a) Portsmouth Water Limited and its parent company South Downs Limited and other subsidiary companies of South Downs Limited would be irreparably harmed by a breach of any of the provisions of this Agreement;

(b) Damages would not be an adequate remedy for any such breach;

(c) Portsmouth Water Limited, South Downs and any other relevant subsidiary company of South Downs Limited shall be entitled to the remedies of injunction, specific performance and any other equitable relief for any threatened or actual breach of the provisions of this Agreement by [] or its Authorised Representatives;

(d) No proof of special damages shall be necessary for the enforcement of this Agreement

11. No Waiver

11.1 No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any right, power or privilege hereunder or otherwise

12. Non-assignment

12.1 This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other party

13. Entire Agreement

13.1 This Agreement sets out the entire agreement between the parties in respect of the Confidential Information disclosed by either party to the other and supersedes all previous understandings and undertakings in such respect

14. Costs

14.1 Each party shall bear its own legal and other costs incurred in relation to the preparation and completion of this Agreement

15. Severance

15.1 Each provision of this Agreement is severable and distinct from the others. The parties intend that every such provision shall be and remain valid and enforceable to the fullest extent permitted by law. If any such provision is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment or rule of law it shall to that extent be deemed not to form part of this Agreement but it and all the other provisions of this Agreement shall continue in full force and effect and their validity, legality and enforceability shall not therefore be affected or impaired

16. Governing Law

16.1 The construction, validity and performance of this Agreement shall be governed at all times by English Law and the English Courts shall have non-exclusive jurisdiction in respect thereof.

NETWORK ACCESS CODE



SIGNED on behalf of)

Signature

Position

Date

SIGNED on behalf of PORTSMOUTH WATER LIMITED

Signature

Position

Date

A2. APPENDIX TWO - TYPICAL RANGE OF MEAN CONCENTRATION VALUES WITHIN THE COMPANY
Typical range of mean concentration values within a typical zone

Parameter (Units)	Concentration or Value (all samples)	
	PCV	Mean
Colony Count 72h at 22(No/ml)	N/A	0.6
Colony Count 48h at 37(No/ml)	N/A	0.5
Total Coliforms (Indicator)(No/100ml)	0	0
Faecal Coliforms (E-Coli)(No/100ml)	0	0
Clostridium perfringens (No/100ml)	0	0
Faecal Streptococci (No/100ml)	0	0
Residual Disinfectant (mg/l)	N/A	0.33
Ammonium (mg NH ₄ /l)	0.5	<0.041
Bromate (ug BrO ₃ /l)	10	<0.5
Chloride (mg Cl/l)	400	19.9
Colour (mg/l Pt/Co)	20	<1.02
Cyanide (ug CN/l)	50	<4
Conductivity (uS/cm)	1500	489.9
Fluoride (mg F/l)	1.5	<0.054
Hydrogen Ion (pH)(pH Value)	6.5 - 10	7.24
Nitrate (mg NO ₃ /l)	50	28.21
Nitrite (Consumers Taps)(mg NO ₂ /l)	0.5	<0.01
Nitrate/Nitrite Formula	1	0.57
Odour (Quantitative)(Dil Num)	3	0
Taste (Quantitative)(Dil Num)	3	0
Sulphate (mg SO ₄ /l)	250	14.9
Bentazone (ug/l)	0.1	<0.009
Benzene (ug/l)	1	<0.04
Total Organic Carbon (mg C/l)	N/A	1.6
Turbidity (NTU)	4	0.125
Gross Alpha (Bq/l)	N/A	<0.02
Gross Beta (Bq/l)	N/A	<0.08
Aluminium (ug Al/l)	200	<7.4
Antimony (ug Sb/l)	10	<0.14
Arsenic (ug As/l)	50	<0.4
Boron (mg B/l)	1	0.02
Cadmium (ug Cd/l)	5	<0.07
Chromium (ug Cr/l)	50	<0.4
Copper (mg Cu/l)	2	0.046
Iron (ug Fe/l)	200	<2.7
Lead (ug Pb/l)	25	<1.9

Parameter (Units)	PCV	Concentration or
		Value (all samples)
		Mean
Manganese (ug Mn/l)	50	<0.14
Mercury (ug Hg/l)	1	<0.04
Nickel (ug Ni/l)	50	<0.2
Selenium (ug Se/l)	10	0.55
Sodium (mg Na/l)	200	8.9
Benzo 3,4 pyrene (a)(ug/l)	0.01	<0.003
PAH Sum of 4(ug/l)	0.1	<0.02
Tetrachloromethane (ug/l)	3	<0.03
Tetra+Trich (ug/l)	10	<0.4
Trihalomethanes (ug/l)	100	11.01
2,4 - D (ug/l)	0.1	<0.009
Atrazine (ug/l)	0.1	0.02
Bromoxynil (ug/l)	0.1	<0.008
Carbetamide (ug/l)	0.1	<0.009
Chlormequat (ug/l)	0.1	<0.01
Chlorothalonil (ug/l)	0.1	<0.009
Chlortoluron (ug/l)	0.1	<0.009
Cyproconazole (ug/l)	0.1	<0.077
Dicamba (ug/l)	0.1	<0.009
Dichlorprop (ug/l)	0.1	<0.009
Diuron (ug/l)	0.1	<0.009
Epoxyconazole (ug/l)	0.1	<0.077
Fenpropimorph (ug/l)	0.1	<0.009
Fluroxypyr (ug/l)	0.1	<0.009
Flusialzole (ug/l)	0.1	<0.066
Ioxynil (ug/l)	0.1	<0.009
Isoproturon (ug/l)	0.1	<0.009
Kresoxym-methyl (ug/l)	0.1	<0.077
Linuron (ug/l)	0.1	<0.009
MCPA (ug/l)	0.1	<0.009
MCPB (ug/l)	0.1	<0.009
Mecoprop (MCP)(ug/l)	0.1	<0.009
Metalaxyl (ug/l)	0.1	<0.1
Metaldehyde (ug/l)	0.1	<0.07
Metsulfuron-methyl (ug/l)	0.1	<0.18
Prometryne (ug/l)	0.1	<0.009
Propazine (ug/l)	0.1	<0.009
Propazyamide (ug/l)	0.1	<0.009
Simazine (ug/l)	0.1	<0.007
Tebuconazole (ug/l)	0.1	<0.01

Parameter (Units)	PCV	Concentration or
		Value (all samples)
Terbutyrn (ug/l)	0.1	Mean <0.01
Triclopyr (ug/l)	0.1	<0.01
Total Pesticides (ug/l)	0.5	0.019

A3 APPENDIX 3 MASTER ACCESS AGREEMENT RETAIL SUPPLIES**COMMON CONTRACT****CONTENTS**

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**Appendix
Data Sheet**

This Contract is made on 20[]

Between

- (1) [], a company incorporated in England and Wales (No. []) whose registered office is at [] (the **Undertaker**); and
- (2) [], a company incorporated in England and Wales (No. []) whose registered office is at [] (the **Licensee**).

Whereas

- (A) The Undertaker holds an Instrument of Appointment under the Act and the Licensee holds a Water Supply Licence under the Act.
- (B) Where the Licensee requests a supply of water under section 66A of the Act and the Undertaker is required by the Act to make such supply, the Undertaker shall, unless the Licensee wishes to negotiate a supply on different terms, offer the supply to the Licensee on the terms set out in this Contract and in accordance with the Operational Code.
- (C) The Undertaker and the Licensee shall enter into a separate Contract for each Customer. Where a Customer has multiple Premises in the Undertaker's Area of Appointment, one Contract may govern all of those Premises.

It is agreed

1 Definitions and Interpretation

1.1 In this Contract the definitions in schedule 1 (**Definitions**) shall apply.

1.2 In this Contract:

- (a) the recitals, schedules and appendix form part of this Contract and references to this Contract include the recitals, schedules and appendix;
- (b) references to 'recitals', 'clauses', 'schedules' and 'appendix' are to recitals and clauses of and schedules and the appendix to this Contract; references in a schedule or

appendix to paragraphs are to the paragraphs of that schedule or appendix; and a reference to a clause or paragraph number is, unless otherwise specified, a reference to all its sub-clauses or sub-paragraphs;

- (c) words imparting a gender include every gender and references to the singular include the plural and vice versa;
- (d) words denoting persons include individuals and bodies corporate, partnerships, unincorporated associations and other bodies (in each case, wherever resident and for whatever purpose) and vice versa;
- (e) references to this Contract or any other document are to this Contract or that document as in force for the time being and as amended, supplemented, varied, modified, renewed, replaced or extended from time to time in accordance with the requirements of this Contract or that document (as the case may be) including by way of the operation of clause 14.2;
- (f) a reference to any body is:
 - (i) if that body is replaced by another organisation, deemed to refer to that replacement organisation; and
 - (ii) if that body ceases to exist, deemed to refer to that organisation which most substantially serves the same purposes as the original body;
- (g) a reference to a statute or statutory provision shall, unless otherwise stated, be construed as including a reference to any subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made from time to time under the statute or statutory provision whether before or after the Commencement Date;
- (h) a reference to a statute, statutory provision or any subordinate legislation shall, unless otherwise stated, be construed as including a reference to that statute, statutory provision or subordinate legislation as in force at the Commencement Date and as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification) after the Commencement Date;

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- (i) references to ‘the Parties’ shall, unless otherwise expressly stated, be construed as references to the Licensee and the Undertaker, and the term ‘Party’ shall be construed accordingly;
 - (j) references to a party shall, except where the context requires otherwise, include its successors in title and permitted assignees; and
 - (k) references to words that are defined in the Act shall have the same meaning as in the Act except where the context requires otherwise.
- 1.3 The headings and contents table in this Contract are for convenience only and do not affect its interpretation.
- 1.4 In this Contract, the word ‘Premises’ shall be construed in the singular unless the context requires otherwise.
- 1.5 In this Contract, the words ‘other’, ‘includes’, ‘including’ and ‘for example’ do not limit the generality of any preceding words, and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.6 In this Contract, the words ‘for the time being’ mean at the relevant time now or in the future unless the context requires otherwise.

2 Water Supply

- 2.1 The Undertaker agrees to supply water to the Licensee at the Premises specified by the Licensee in the Data Sheet(s) appended to this Contract or otherwise agreed in writing by the Parties in accordance with the terms of this Contract provided that the Undertaker is obliged by the Act (or other Relevant Law) to supply such Premises. If the Undertaker is not obliged by the Act (or other Relevant Law) to supply one (1) or more of the Premises specified by the Licensee, this shall not relieve the Undertaker of the obligation to supply the remainder of the Premises.
- 2.2 Subject to clause 8, the Undertaker shall supply water to the Licensee at the Premises that:

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- (a) is wholesome in accordance with any regulations made pursuant to section 67 of the Act (unless the requirement of the Premises is specified in the Data Sheet to be for non-potable water);
 - (b) is at a level of constancy and pressure that complies with:
 - (i) regulation 10 of the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008 (SI 2008/594); and
 - (ii) section 65 of the Act in respect of water for domestic purposes or water for fire hydrants that have been notified to the Undertaker by the Licensee or the Customer (either pursuant to this Contract or otherwise).
- 2.3 The Undertaker shall perform the Transfer of any Premises in accordance with the Customer Transfer Protocol.
- 2.4 The Water Supply shall be made available to the Customer at the Exit Point(s). Title to the Water Supply shall pass to the Licensee at the Exit Point(s).
- 3 **Term**
- 3.1 This Contract shall commence on the Commencement Date and continue with full force and effect unless and until terminated in accordance with its terms.
- 3.2 The Water Supply to any Premises shall commence on the relevant Transfer Date.
- 4 **Warranties**
- 4.1 The Undertaker warrants and undertakes on the Commencement Date and for the Term that it holds a valid Instrument of Appointment.
- 4.2 The Licensee warrants and undertakes on the Commencement Date and for the Term that it holds a valid Water Supply Licence.
- 4.3 The Licensee warrants that it will only use the water supplied by the Undertaker under the terms of this Contract for the purpose of supplying the Premises.
-

5 Compliance with Relevant Laws

- 5.1 The Undertaker warrants for the Term that it will comply with all Relevant Laws.
- 5.2 The Licensee warrants for the Term that it will comply with all Relevant Laws.
- 5.3 Nothing in this Contract shall be construed to prevent a Party from discharging any duty or obligation which is required by any Relevant Law.

6 Supply System

- 6.1 Nothing in this Contract alters the Undertaker's ownership of the Supply System or its responsibility to manage and operate the Supply System and this Contract does not confer any responsibilities for ownership, maintenance or other use of the Supply System to the Licensee or the Customer.
- 6.2 Subject to clauses 8 and 9, nothing in this Contract shall prevent or restrict the Undertaker from altering, amending, expanding, replacing, developing and/or redeveloping its Supply System.

7 Meters

- 7.1 In respect of any Meter which the Undertaker has installed at the Premises, the Undertaker shall:
 - (a) maintain or replace the Meter (as appropriate);
 - (b) perform tests on the operation and accuracy of the Meter if requested by the Licensee;
 - (c) upsize or downsize the Meter (as appropriate) if requested by the Licensee; and
 - (d) if the Undertaker is implementing a replacement scheme for meters that includes the type, location or any other feature of the Meter, replace the Meter as part of such scheme.
- 7.2 In respect of the Undertaker's obligations under clauses 7.1(b) and 7.1(c), the Undertaker may charge the Licensee provided that such charges are consistent with the Undertaker's charges to its other customers in comparable circumstances.

7.3 The Undertaker shall perform its obligations under this clause 7 to a standard consistent with that which the Undertaker provides to its own customers of comparable size to the Licensee's Customer.

8 Supply Interruptions

8.1 Without prejudice to its powers under the Act, the Undertaker may Interrupt the Water Supply to the Premises if:

- (a) it is an Interruptible Supply and the Supply Interruption is performed in accordance with any terms set out in the relevant Data Sheet;
- (b) the Water Supply is affected by an Emergency Event or any actions to prevent the occurrence or limit the effects of an Emergency Event;
- (c) the Water Supply is affected by a Force Majeure Event;
- (d) a Drought Order is made which overrides the terms of this Contract;
- (e) the Water Supply is affected by a Network Event; or
- (f) the Undertaker is performing Planned Maintenance, Unplanned Maintenance or Emergency Works.

9 Information and Notification of Supply Interruptions and Supply Changes

9.1 Unless the Undertaker has notified the Licensee of a Supply Interruption or a Supply Change under clauses 9.2 to 9.4, the Undertaker shall promptly notify the Licensee and the Customer of the nature or scale of a Supply Interruption or a Supply Change and its estimated duration (provided that such Supply Interruption or Supply Change is material or could reasonably be construed as material).

9.2 Subject to clause 10, if any Planned Maintenance by the Undertaker will or is reasonably likely to cause a Supply Interruption, the Undertaker shall provide the Licensee and the Customer with not less than 48 hours' prior written notice of such Supply Interruption.

9.3 In respect of any Planned Maintenance, the Undertaker shall, to the extent reasonably practicable, liaise with the Licensee and its Customer (if requested by the Licensee) to assess the impact of the Planned Maintenance on the Customer and the Undertaker shall use reasonable endeavours to minimise or eliminate the Planned Maintenance (or impact thereof) affecting the Customer.

9.4 The Undertaker shall provide the Licensee with information on the Supply System (to the extent that it is applicable to the Licensee's Customer) that is equivalent in terms of content and timeliness as the Undertaker provides to its Large Users.

10 Special Consumers

10.1 In respect of any Customer (or any person that may be affected by the Water Supply to the Customer) which is designated a Special Consumer:

- (a) the Licensee shall notify the Undertaker in the Data Sheet or otherwise of the extent of a Supply Interruption or a Supply Change that can be tolerated without materially increasing the risk of harm to a person or property ([Safety Requirements](#)); and
- (b) the Undertaker shall take into account the Safety Requirements of the Special Consumer and use its best endeavours to maintain the Water Supply consistent with the Safety Requirements or provide a reasonable alternative Water Supply to the Special Consumer.

11 Unmeasured Takes

11.1 The Parties agree that where an illegal connection is made to the Supply System which results in a third party taking water from the Supply System (an [Unmeasured Take](#)):

- (a) up to the Meter, such Unmeasured Take shall be for the Undertaker's account;
- (b) at any point from and including the Meter, such Unmeasured Take shall be for the Licensee's account.

11.2 Each Party agrees to provide the other with all reasonable assistance in respect of any steps, actions or proceedings against a third party relating to an Unmeasured Take, including disconnecting the illegal connection and seeking compensation.

12 Licensee Equipment

12.1 The Licensee may install Licensee Equipment on or after the Exit Point(s) (including on the Meter, notwithstanding that such Meter may be owned or controlled by the Undertaker).

12.2 In respect of any proposed installation of Licensee Equipment on a Meter or other equipment owned or controlled by the Undertaker, the Licensee shall give the Undertaker not less than five (5) Working Days' written notice of its proposed installation. Such notice shall specify the nature of the Licensee Equipment to be installed and the proposed installation date.

12.3 In respect of any Licensee Equipment installed on a Meter or other equipment owned or controlled by the Undertaker, the Licensee shall ensure that such Licensee Equipment is properly maintained and the Undertaker grants the Licensee such rights of access as are necessary to perform such maintenance or replacement.

12.4 Any Licensee Equipment installed on or after the Exit Point(s) shall not form part of the Supply System.

12.5 Subject to clause 21.2, in the event that the Licensee suffers or incurs any Losses in relation to the Licensee Equipment which is caused by the Undertaker's act or omission, the Undertaker shall indemnify the Licensee in respect of such Losses provided that such Losses were directly caused by the Undertaker's act or omission, such Losses were reasonably foreseeable when the Licensee Equipment was installed and the Licensee made reasonable endeavours to mitigate such Losses.

12.6 Subject to clause 21.2, in the event that the Undertaker suffers or incurs any Losses in relation to the Supply System which is caused by the Licensee Equipment, the Licensee shall indemnify the Undertaker in respect of such Losses provided that such Losses were directly caused by the Licensee Equipment, such Losses were reasonably foreseeable when the Licensee Equipment was installed and the Undertaker made reasonable endeavours to mitigate such Losses.

13 Charges and Payment

13.1 In consideration of the provision of the Water Supply under this Contract, the Licensee shall pay the Undertaker the Charges in accordance with the provisions of schedule 2.

14 Change Control Process

14.1 Subject to clause 14.2, no variation of this Contract shall have effect unless it is made in accordance with schedule 3.

14.2 If Ofwat varies the Guidance then, insofar as such variation relates to the terms of the Common Contract, either Party may request that the terms of this Contract be varied in the same manner (consent to which shall not be unreasonably withheld or delayed). If the Undertaker and the Licensee are unable to agree the variation, either Party may treat the failure to reach agreement as a Dispute and invoke the Dispute Resolution procedure set out at clause 20.

15 Adding Premises

15.1 If the Licensee requires any Additional Premises to be supplied by the Undertaker, the Licensee shall notify the Undertaker of such requirement in writing. On receipt of such notice, the Undertaker and the Licensee shall comply with the requirements of the Operational Code and the Customer Transfer Protocol (as applicable) in respect of transferring Additional Premises to the Licensee.

15.2 Any Additional Premises shall, on the relevant Transfer Date, become Premises for the purposes of this Contract.

15.3 The Undertaker shall supply the Additional Premises unless it is not required to do so under section 66A of the Act.

16 Switching Premises

16.1 Subject to clause 17.1, if the Licensee requires the Undertaker to cease supply to any Premises supplied under this Contract it shall notify the Undertaker in writing (a **Switch Notice**) of:

- (a) the relevant Premises; and

- (b) the planned Switch Date.
- 16.2 The Undertaker and the Licensee shall perform the Switch of any Premises in accordance with the Customer Transfer Protocol.
- 16.3 Subject to clause 28, in respect of any Switch this Contract shall terminate in part in relation to those Premises specified in the Switch Notice on the Switch Date save in respect of clause 13 (and any related provisions or schedules) which shall survive termination until all Charges owed by the Licensee in respect of such Premises have been paid.
- 16.4 In respect of any Switch, the Licensee shall perform and promptly notify the Undertaker of the Switch Read. If the Licensee fails to provide the Undertaker with the Switch Read within five (5) Working Days of the Switch Date, the Undertaker may use an Estimated Read in lieu of the Switch Read for the purposes of the Licensee's final bill in respect of the Premises.
- 16.5 Subject to clause 28, to the extent that a Switch relates to all Premises specified in this Contract, this Contract shall terminate in its entirety on the Switch Date of the last Premises to Switch save in respect of clause 13 (and any related provisions or schedules) which shall survive termination until all Charges owed by the Licensee in respect of the Premises have been paid.

17 Termination

- 17.1 The Licensee may terminate this Contract in whole or in part (for example terminating one (1) or more but not all of the Premises) on not less than 30 days' prior notice in writing subject to its compliance with clause 18.3.
- 17.2 Without prejudice to any other rights or remedies, either Party may terminate this Contract in whole or in part (for example terminating one (1) or more but not all of the Premises) with immediate effect if the other Party commits a material breach of its terms and fails to either remedy such material breach (where capable of remedy) or present reasonable proposals to the other Party for rectification within 30 days of having been notified of the material breach.
- 17.3 For the purposes of clause 17.2, 'material breach' shall be construed as including without limitation:

(a) a failure by the Licensee to pay an undisputed amount within 14 days of the date of receipt of the relevant invoice; or

(b) any breach of the warranties set out at clause 4.

17.4 Without prejudice to any other rights or remedies, the Undertaker may terminate this Contract with immediate effect if the Licensee makes any arrangement or composition with its creditors or is the subject of a winding-up or administration order or passes a resolution for voluntary liquidation (other than a voluntary winding-up or solvent liquidation for the purposes of a scheme of reconstruction or amalgamation) or if a receiver or administrative receiver is appointed over all or any of its assets or a distress, attachment, execution or other legal process is levied, enforced or issued on or against the Licensee or any of its assets or the Licensee enters into or suffers any similar process in any jurisdiction.

18 Exit Arrangements

18.1 In the event of any termination of this Contract by the Undertaker pursuant to clause 17, the Undertaker agrees that it shall notify the Customer in writing or procure the notification of the Customer in writing by the Licensee's administrators or similar (if appropriate). Such notice shall specify that:

(a) the Undertaker has assumed or will assume supply of the Premises pursuant to its statutory duties under section 63AC of the Act; and

(b) the Customer must promptly either enter into an agreement with a licensed water supplier to supply the Premises or request that the Undertaker make a supply to the Premises under section 52 or section 55 of the Act (as applicable).

18.2 In the event of any termination by the Undertaker or the Licensee of this Contract, the Undertaker shall perform the Termination Read as soon as reasonably practicable after service or receipt of the notice of termination.

18.3 If the Licensee terminates this Contract (in whole or in part) for any reason and has not entered into alternative arrangements for the supply of water to the Customer (including supply pursuant to section 66C of the Act or a Switch to another party holding a valid Water Supply Licence), the Licensee shall promptly notify the Customer in writing that:

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- (a) the Licensee will cease supplying water to the Premises and the date thereof;
 - (b) the Customer may either enter into an agreement with a licensed water supplier to supply the Premises or request that the Undertaker make a supply to the Premises under section 52 or section 55 of the Act (as applicable); and
 - (c) if the Customer fails to make provision for its water supply as set out in (b) above, the Undertaker shall assume supply of the Premises pursuant to its statutory duties under section 63AC of the Act.

18.4 The Licensee shall promptly notify the Undertaker that it has complied with its obligations under clause 18.3. If the Undertaker has not received notice under this clause 18.4 within five (5) Working Days of the Licensee's termination of this Contract (in whole or in part), the Undertaker may notify the Customer directly of the Licensee's termination.

19 Force Majeure Event

19.1 Subject to the remainder of this clause 19, neither Party shall be liable to the other where it is unable to perform its obligations under this Contract by reason of a Force Majeure Event provided that the Party claiming to be prevented or delayed in the performance of its obligations by reason of a Force Majeure Event (the **Affected Party**) shall use all reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which the obligations contained in this Contract may be performed.

19.2 The Affected Party shall:

- (a) notify the other Party of the Force Majeure Event as soon as reasonably practicable and in any event within 10 Working Days of the Force Majeure Event occurring; and
- (b) upon request, within 15 Working Days of the Force Majeure Event occurring, provide a report containing all relevant available information relating to the Force Majeure Event and details of the measures the Affected Party is taking to overcome or circumvent such Force Majeure Event.

19.3 The Parties shall not be relieved by reason of the Force Majeure Event from any obligation to indemnify or make payment.

19.4 If the Force Majeure Event does not affect the Water Supply to all of the Premises of the Customer, the Affected Party shall only be relieved of its obligations in respect of those Premises which are affected.

19.5 If the Force Majeure Event continues materially to affect the Customer for more than six (6) months, the Licensee may terminate this Contract in whole or in part (as it relates to Premises affected by the Force Majeure Event).

20 Dispute Resolution

20.1 All disputes and differences arising out of or in connection with this Contract (each a Dispute) shall be resolved in accordance with this clause 20.

20.2 Subject to clause 20.4, the Parties shall attempt to resolve any Dispute using the Internal Escalation Procedure set out below and this shall be a pre-condition to the commencement of any alternative dispute resolution process or referral to a Competent Authority under clause 20.3:

(a) Either Party may initiate the Internal Escalation Procedure by serving a notice on the other Party which refers expressly to this clause 20 and provides sufficient information to enable the other Party to understand the nature of the Dispute. Following service of such a notice, the Parties shall each use reasonable endeavours to resolve the Dispute by prompt discussion in good faith at a level appropriate to the Dispute in question.

(b) If the Dispute remains unresolved after 10 Working Days (or such other period as agreed by the Parties) of the notice being served, an appropriate representative of each Party's senior management shall attempt to resolve the Dispute by prompt discussion in good faith.

(c) If the Dispute remains unresolved after 10 Working Days (or such other period as agreed by the Parties) of such referral to senior management then, unless the Parties agree otherwise, the Internal Escalation Procedure shall be treated as having been exhausted.

20.3 Subject to clause 20.4, in respect of any Dispute which has not been resolved through the Internal Escalation Procedure, either Party may:

- (a) refer the Dispute to such alternative dispute resolution process as agreed by the Parties;
- (b) refer the Dispute to a Competent Authority where appropriate; or
- (c) commence legal proceedings in the Courts.

20.4 Nothing in this Contract precludes legal proceedings by either Party in the Courts at any time:

- (a) for an order (whether interim or final) to restrain the other Party from doing any act or compelling the other Party to do any act; or
- (b) for a judgment for a liquidated sum to which there is no arguable defence; or
- (c) the purpose of which is to prevent a claim from becoming time-barred under any statute of limitations.

However, clause 20.4(a) does not apply to any proceedings from the point at which the Court orders, or the Parties agree, that the defendant should have permission to defend and clause 20.4(c) does not apply to any proceedings after they have been commenced and served.

21 Limitation of Liability

21.1 Save in respect of clauses 12.5 and 12.6, a Party shall only be liable to the other Party in contract, tort (including negligence and breach of statutory duty) or otherwise howsoever arising in connection with this Contract for direct losses. All other losses are expressly excluded (subject always to clauses 21.4 and 21.5).

21.2 Each Party's liability resulting from negligence or any breach or non-performance of this Contract (except for a breach by the Licensee of its obligation under clause 13 to make payment to the Undertaker, or any other breach or non-performance of this Contract arising from a failure by the Licensee to pay for the supply) or any misrepresentation or other tort on the part of that Party or its servants or agents shall be limited in any one (1) calendar year for any one (1) or more incidents or series of incidents whether related or unrelated in that calendar year to the aggregate of the Charges under this Contract in the preceding calendar year (or if in respect of the first calendar year of this Contract then the amount of charges

incurred by the Licensee's customer with the Undertaker in the preceding calendar year). All conditions, warranties or other terms, whether express or implied, statutory or otherwise, inconsistent with the provisions of this clause 21.2 are hereby expressly excluded (subject always to clauses 21.4 and 21.5).

- 21.3 Where either Party becomes aware of any claim, difference, dispute or proceedings (actual or threatened) which it reasonably expects may lead to a liability to the other Party under this Contract, it shall notify the other Party as soon as reasonably practicable and shall provide such information as the other Party may reasonably require and shall consult with the other Party as to the conduct of such claim, difference, dispute or proceedings (whether actual or threatened).
- 21.4 Nothing in this Contract shall operate so as to exclude or limit either Party's liability for fraud, or death or personal injury caused by its negligence or the negligence of any of its officers, or any other liability that may not be excluded or limited as a matter of law in England and Wales.
- 21.5 Save as otherwise expressly provided in this Contract, this clause 21 (insofar as it excludes or limits liability) shall override any other provision in this Contract provided that nothing in this clause 21 shall exclude or restrict or otherwise prejudice or affect any of the rights, powers, duties and obligations of either Party hereto which are conferred or created by the Act, any Instrument of Appointment or Water Supply Licence granted under the Act or any other Relevant Law.
- 21.6 Subject to the rest of this clause 21, any liability under this Contract or otherwise on the part of either Party shall be reduced to the extent that the other Party has itself caused or contributed to the same and, in the event of liability to any third party, the Party who has caused or contributed to that liability shall indemnify the other Party in respect of the same.
- 21.7 The Parties agree to use all reasonable endeavours to mitigate any loss, damage or injury to which they might be subject as a result of a breach of this Contract or any Relevant Law by the other Party.

22 Intellectual Property Rights

- 22.1 Any Intellectual Property owned or duly licensed by either Party, or developed by either Party during the Term, in relation to the subject matter of this Contract howsoever arising shall

remain vested in that Party and the other Party shall acquire no proprietary rights in or licence to use such Intellectual Property without the express written agreement of the Party in which it is vested.

22.2 Any disclosure or provision of Intellectual Property by either Party to the other Party shall be solely for the purposes of the performance of its obligations under this Contract.

23 Assignment

23.1 Neither Party may assign any rights or obligations under this Contract without the prior written consent of the other Party (not to be unreasonably withheld or delayed) save that:

- (a) The Licensee may assign its rights and/or obligations under this Contract in whole or in part at any time and on more than one (1) occasion provided that such assignee holds a Water Supply Licence.
- (b) The Undertaker may assign its rights and/or obligations under this Contract in whole or in part at any time and on more than one (1) occasion provided that such assignee holds an Instrument of Appointment.

24 Notices

24.1 All notices to be given to a Party under this Contract shall be in writing in English and shall be marked for the attention of the person, and delivered by hand or sent by first class pre-paid post, facsimile transmission or e-mail to the address, detailed for the Party below:

(a) in the case of the Undertaker:

Address: •

E-mail: •

Facsimile No: •

Attention: •

(b) in the case of the Licensee:

Address: •

E-mail: •

Facsimile No: •

Attention: •

A Party may change the details recorded for it in this clause by notice to the other Party in accordance with this clause 24.1.

24.2 A notice shall be treated as having been received:

- (a) if delivered by hand between 9.00 am and 5.00 pm on a Working Day (which time period is referred to in this clause as **Working Hours**), when so delivered; and if delivered by hand outside Working Hours, at the next start of Working Hours;
- (b) if sent by first class pre-paid post, at 9.00 am on the Working Day after posting if posted on a Working Day, and at 9.00 am on the second Working Day after posting if not posted on a Working Day;
- (c) if sent by facsimile transmission, upon receipt by the sender of the facsimile transmission report that the facsimile has been transmitted to the addressee; and
- (d) if sent by e-mail, upon receipt by the recipient's receiving equipment.

In proving that a notice has been given it shall be conclusive evidence to demonstrate that delivery was made, or that the envelope containing the notice was properly addressed and posted (as the case may be).

24.3 In the case of a notice purporting to terminate this Contract, the Parties agree that notwithstanding such notice may have been sent by facsimile or e-mail, the terminating Party shall also, on the same day as the facsimile or e-mail notice is sent, send a copy of the notice by first class pre-paid post to the other Party.

25 Relationship of the Parties

25.1 Nothing contained in this Contract shall be construed as giving rise to the relationship of principal and agent (save as otherwise expressly provided in this Contract) or partnership or joint venture between the Parties.

26 Third Party Rights

26.1 Unless a right of enforcement is expressly provided for in this Contract, it is not intended that a third party shall have the right to enforce any term of this Contract under the Contracts (Rights of Third Parties) Act 1999.

26.2 If a person who is not a Party to this Contract is stated to have the right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999, the Parties may rescind or vary this Contract without the consent of that person.

27 Entire Agreement

27.1 This Contract, together with the confidentiality agreement entered into by the Parties in connection with this Contract, sets out the entire agreement between the Parties and supersedes all prior representations, arrangements, understandings and agreements between the Parties relating to the subject matter hereof.

27.2 Each Party acknowledges that in entering into this Contract it does not rely on any representation, warranty, collateral agreement or other assurance of any person (whether a Party to this Contract or not) that is not set out in this Contract or the documents referred to in it. Each Party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral agreement or other assurance. The only remedy available to any Party in respect of any representation, warranty, collateral agreement or other assurance that is set out in this Contract (or any document referred to in it) is for breach of contract under the terms of this Contract (or the relevant document). Nothing in this Contract shall, however, limit or exclude any liability for fraud or fraudulent misrepresentation.

28 Survival of Rights

28.1 Termination of this Contract for any reason shall not affect any rights or liabilities that have accrued prior to termination or the coming into force of any term that is expressly or by implication intended to come into force or continue in force on or after termination. Without limitation, the Parties intend that the following provisions shall survive termination:

- (a) Exit Arrangements (clause 18);
- (b) Dispute Resolution (clause 20);
- (c) Limitation of Liability (clause 21); and
- (d) Governing Law (clause 33).

29 Waiver

29.1 Delay in exercising, or failure to exercise, any right or remedy in connection with this Contract shall not operate as a waiver of that right or remedy. The waiver of a right to require compliance with any provision of this Contract in any instance shall not operate as a waiver of any further exercise or enforcement of that right and the waiver of any breach shall not operate as a waiver of any subsequent breach. No waiver in connection with this Contract shall, in any event, be effective unless it is in writing, refers expressly to this clause, is duly signed by or on behalf of the Party granting it, and is communicated to the other Party in accordance with clause 24 (Notices).

30 Rights Cumulative

30.1 The rights and remedies of the Parties in connection with this Contract are cumulative and, except as expressly stated in this Contract, are not exclusive of and may be exercised without prejudice to any other rights or remedies provided in this Contract by law or equity or otherwise. Except as expressly stated in this Contract (or in law or equity in the case of rights and remedies provided by law or equity) any right or remedy may be exercised wholly or partially from time to time.

31 Severance

31.1 If any term or provision of this Contract is held to be illegal or unenforceable in whole or in part under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of this Contract but the validity and enforceability of the remainder of this Contract shall not be affected.

32 Counterparts

32.1 Each Party shall do and execute, or arrange and procure for the doing and executing of, any act and/or document reasonably requested of it by the other Party to implement and give full effect to the terms of this Contract.

32.2 This Contract may be entered into in any number of counterparts and by the Parties on separate counterparts, all of which taken together shall constitute one and the same instrument.

33 Governing Law

33.1 This Contract and any non-contractual obligations arising out of or in relation to this Contract shall be governed by and interpreted in accordance with the laws of England and Wales and, subject to clause 20 (Dispute Resolution), each Party agrees to submit to the exclusive jurisdiction of the English and Welsh Courts as regards any claim or matter arising under this Contract.

Signed by the Parties or their duly authorised representatives on the date of this Contract.

Signed by

duly authorised for and on behalf of

Signed by

duly authorised for and on behalf of

Schedule 1

Definitions

Act means the Water Industry Act 1991.

Additional Premises means premises which are owned or controlled by the Customer other than Premises.

Advance Payment Discount means the percentage discount published by the Undertaker on its website and notified to Ofwat from time to time.

Affected Party has the meaning given to it in clause 19.1.

Area of Appointment means the area of England and Wales for which an Instrument of Appointment is granted.

Billing Period means, subject to the provisions of paragraph 2.1 and 2.2 of schedule 2, the billing period specified by the Licensee in the Data Sheet.

Change Proposal has the meaning given to it in paragraph 1 of schedule 3.

Charges means the charges calculated in accordance with schedule 2.

Charges Adjustment means any adjustment to charges pursuant to paragraph 3 of schedule 2.

Charges Terms means the charges terms set out in the Data Sheet.

Commencement Date means the date of this Contract or such other date as agreed by the Parties.

Competent Authority means any body that has a relevant regulatory or supervisory role including the Secretary of State for Environment, Food and Rural Affairs, Ofwat, the Drinking Water Inspectorate, the Environment Agency and the Health and Safety Executive.

Customer means the customer specified in the Data Sheet(s).

Customer Transfer Protocol means Ofwat's customer transfer protocol from time to time in effect.

Data Sheet means the data sheet(s) set out in the Appendix to this Contract.

Dispute has the meaning given to it in clause 20.1.

Drought Order has the same meaning as in section 221 of the Water Resources Act 1991.

Due Date has the meaning given to it in paragraph 2.4 of schedule 2.

Emergency Event means any event which is causing or is likely to cause danger to persons or property and, in respect of the latter, the Undertaker believes on reasonable grounds such danger to be existing or imminent.

Emergency Works has the meaning given to it in section 52 of the New Roads and Street Works Act 1991. For information purposes only, the current version on the date of issue of the Common Contract is set out below:

- (1) In this Part 'emergency works' means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.
- (2) Where works comprise items some of which fall within the preceding definition, the expression 'emergency works' shall be taken to include such of the items as do not fall within that definition as cannot reasonably be severed from those that do.
- (3) Where in any civil or criminal proceedings brought by virtue of any provision of this Part the question arises whether works were emergency works, it is for the person alleging that they were to prove it.

Estimated Read means an estimation of the Meter Read by the Undertaker in accordance with good industry practice (meaning all relevant practices and professional standards that would be expected of an Undertaker in these circumstances).

Exit Point means the point on the Supply System where the Licensee is permitted to draw off an agreed supply to service Premises (for example the stop valve).

Fire-Fighting Offtake has the meaning given to it in paragraph 3.3 of schedule 2.

Force Majeure Event means any act of God, adverse weather conditions (excluding any serious deficiency in supplies caused by an exceptional shortage of rain), strike, lockout or other industrial disturbance or dispute (other than one affecting only the Party in question or its parent company or other companies in its group or otherwise associated with it), war, threat of war, act of terrorism, blockade, revolution, riot, civil commotion, public demonstration, sabotage, earthquake, or other event or circumstance which is beyond the reasonable control of the Party in question to the extent that it causes or results in an inability to perform obligations under this Contract.

Guidance means the Access Codes Guidance issued by Ofwat from time to time under section 66D of the Act which includes the Common Contract and the Operational Code.

Instrument of Appointment means an appointment granted to a company under Chapter 1 of the Act or such other legislation from time to time in effect which grants an appointment that is analogous to that granted by Chapter 1 of the Act and any conditions which are imposed, agreed or determined pursuant to the Relevant Laws.

Intellectual Property means:

- (a) patents (including rights in and/or to inventions);
- (b) trade marks, service marks, trade names and business names (in each case including rights in goodwill attached thereto);
- (c) design rights;
- (d) rights in and/or to internet domain names and website addresses;
- (e) semi-conductor topography rights;
- (f) copyright (including future copyright);
- (g) database rights;
- (h) rights in and to confidential information (including know how and trade secrets); and
- (i) all other intellectual property rights,

in each case subsisting at any time in any part of the world (whether registered or unregistered) and (i) any pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction and (ii) any similar or analogous rights to any of these rights, whether arising or granted under the laws of England and Wales or in any other jurisdiction.

Internal Escalation Procedure means the procedure set out in clause 20.2.

Interruptible Supply means a supply of water which may be interrupted by the Undertaker in accordance with the interruptible supply terms set out in the Data Sheet.

Large User means a customer of the Undertaker or the Licensee (as the context requires) that has an annual consumption greater than the threshold level specified in section 17D of the Act.

Leakage Adjustment means the amount that the Undertaker allowed for leakage allowances to its non-household customers in the preceding charging year (if any) divided by the aggregate of the charges for water supplied to its non-household customers multiplied by 100.

Licensee Equipment means any equipment attached to the Supply System by the Licensee including, for example, data logging equipment.

Losses means damage, losses, expenses or costs.

Meter has the same meaning as in section 219(1) of the Act and, in the context of this Contract, means the meter installed at the Premises.

Meter Read means a read of the Meter by physical or electronic inspection.

Network Event means an unforeseen and reasonably unforeseeable event which prevents or materially restricts the ability of the Supply System to provide the Water Supply to Premises.

Ofwat means the Water Services Regulation Authority or such other body as is created by statute with the purpose of carrying out the functions conferred on or transferred to it by the Act or under or by virtue of any other enactment.

Operational Code means the operational code published by Ofwat in the Guidance from time to time in effect.

Planned Maintenance means any maintenance requirement which:

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- (a) is identified in the Undertaker's maintenance plans as notified to the Licensee in accordance with clause 9; or
 - (b) was a reasonably foreseeable maintenance requirement.

Premises means any eligible premises specified in a Data Sheet or otherwise agreed by the Parties in writing to be supplied under this Contract (with eligibility determined in accordance with the requirements of section 17A(3) of the Act).

Provisional Monthly Charge means the charge calculated pursuant to paragraph 4.2 of schedule 2 in accordance with the Guidance from time to time in effect.

Reconciliation Period has the meaning given to it in paragraph 5.1 of schedule 2.

Reconciliation Report has the meaning given to it in paragraph 5.1 of schedule 2.

Relevant Law means:

- (a) any statute, regulation, by law, ordinance or subordinate legislation which is in force for the time being or which may be introduced from time to time to which a Party is subject;
- (b) the common law as applicable to the Parties (or any one of them);
- (c) any binding Court order, judgment or decree applicable to the Parties (or any one of them);
- (d) any binding order, decision, determination or direction of a Competent Authority which applies generally or applies to the Parties in respect of their rights or obligations concerning this Contract;
- (e) any and all relevant licences, consents or permissions, including the Undertaker's Instrument of Appointment and the Licensee's Water Supply Licence; and
- (f) any applicable industry code, policy, guidance, standard or accreditation terms enforceable by law.

Safety Requirements has the meaning given to it in the Data Sheet or as otherwise notified to the Undertaker by the Licensee pursuant to clause 10.

Special Consumer means any Customer that:

- (i) the Undertaker and the Licensee agree; or
- (ii) a Competent Authority specifically or generally determines by relevant notice,

regularly requires water urgently on medical or other grounds.

Supply Change means a change to the Water Supply (for example changes to the source, colour or specific identified qualities of the Water Supply) other than a Supply Interruption.

Supply Interruption means any failure in whole or in part to provide a Water Supply other than a Supply Change for a period of four (4) or more hours where such failure relates to a reduction in the constancy or pressure of the water supplied to the Premises and then only to the extent that such reduction is material (and **Interrupt** and **Interruption** shall be construed accordingly).

Supply System means the supply system of the Undertaker by reference to the meaning given to the supply system of a water undertaker in section 17B(5) of the Act.

Supply System Change Proposal has the meaning given to it paragraph 2 of schedule 3.

Switch means the switch of responsibility for the supply of water to Premises from the Licensee to the Undertaker or a third party.

Switch Date means the date a Switch occurs pursuant to clause 16.

Switch Notice has the meaning given to it in clause 16.1.

Switch Read means the Meter Read performed on the Switch Date.

Term means the period commencing on the Commencement Date and expiring on the date on which this Contract terminates pursuant to any provision of this Contract.

Termination Read means the Meter Read performed on the termination of this Contract.

Transfer means the transfer of Premises from the Undertaker or a third party to the Licensee.

Transfer Date means the date the provision of the Water Supply commences for Premises.

Transfer Read means the Meter Read performed on the Transfer Date.

Unmeasured Take has the meaning given to it in clause 11.1.

Unplanned Maintenance means any maintenance which is not Emergency Works and that is undertaken:

- (a) to rectify an unforeseen (and reasonably unforeseeable) Supply Interruption;
- (b) to avoid a Supply Interruption provided that such Supply Interruption was not reasonably foreseeable; or
- (c) in good faith, to avoid or limit an Emergency Works situation arising.

VAT means value added tax.

Water Supply means water supplied pursuant to the Undertaker's obligations set out in clause 2.

Water Supply Licence means a water supply licence granted to a company pursuant to Chapter 1A of the Act or such other legislation from time to time in effect which grants an appointment that is analogous to that granted by Chapter 1A of the Act and any conditions which are imposed, agreed or determined pursuant to the Relevant Laws.

Working Day means a day other than a Saturday, Sunday or public holiday in England and Wales.

Working Hours has the meaning given to it in clause 24.2(a).

Schedule 2

Charges

1 Calculation of Charges

- 1.1 The Undertaker shall calculate the Charges in accordance with the Charges Terms set out in the relevant Data Sheet.

2 Payment of Charges

- 2.1 The Licensee shall at its discretion determine the Billing Period for the Premises, and the date on which it wishes to receive invoices, provided that the Billing Period is no greater than one (1) month in duration (unless consented to in writing by the Undertaker).
- 2.2 The Licensee may change the Billing Period for the Premises, and the date on which it wishes to receive invoices, provided that the duration of such changed Billing Period is no greater than one (1) month in duration (unless consented to in writing by the Undertaker) and the Licensee gives the Undertaker not less than three (3) months' prior written notice of such change.
- 2.3 The Licensee shall perform (or shall procure the performance of) the Meter Read (or Transfer Read) for the Premises on the last day of the relevant Billing Period. The Licensee shall notify the Undertaker in writing of the Meter Read (or Transfer Read) not more than five (5) Working Days after the expiry of the relevant Billing Period. If the Undertaker has not received the relevant Meter Read (or Transfer Read), the Undertaker may raise an invoice on the basis of an Estimated Read.
- 2.4 The Undertaker may raise an invoice after the expiry of the relevant Billing Period for the Premises in accordance with the date determined by the Licensee under paragraph 2.1 or 2.2 above. Such invoice shall be due and payable by the Licensee within 14 days of receipt of the invoice (**Due Date**).
- 2.5 Any invoice issued by the Undertaker pursuant to paragraph 2.4 above shall detail (if applicable):

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- (a) the Premises;
 - (b) the Charges;
 - (c) the Charges Terms;
 - (d) For each Meter –
 - (i) the Transfer Read, preceding Meter Read or preceding Estimated Read (as appropriate);
 - (ii) the present Meter Read, present Estimated Read or the Termination Read (as appropriate);
 - (e) any adjustments from previous Billing Periods;
 - (f) any Charges Adjustment; and
 - (g) any VAT payable.
- 2.6 Without prejudice to any other rights or remedies available to the Undertaker, the Undertaker may add interest at the rate of three (3) percent per annum above the current official Bank Rate (as published by the Bank of England from time to time) to any amounts not paid by the Licensee on or before the Due Date (to be calculated on a daily basis).
- 2.7 All amounts expressed as payable pursuant to this Contract are expressed to be exclusive of any applicable VAT and accordingly VAT shall be payable in addition to the amounts expressed at the rates from time to time in effect against a valid VAT invoice.
- 3 Charges Adjustments
- 3.1 If the Licensee is making payment in advance (see paragraph 4 below) for the Water Supply, the Undertaker shall deduct the Advance Payment Discount from the Charges.
- 3.2 If the Undertaker has in effect at any time during the Billing Period a policy of providing a reduction in charges to non-household customers where such customers incur or suffer a

leakage, the Undertaker shall reduce the Charges to the Licensee in the relevant Billing Period by the Leakage Adjustment.

3.3 If the Licensee uses water that is supplied pursuant to this Contract for the purposes of fire-fighting or testing fire-fighting equipment (**Fire-Fighting Offtake**) in any Billing Period, the Undertaker shall make an adjustment to the Charges for such Billing Period equivalent to the proportion of the Charges incurred that relate to the Fire-Fighting Offtake provided that the Licensee notifies the Undertaker in writing:

- (a) within 30 days if the Fire-Fighting Offtake occurred for the purpose of fire-fighting or, if impracticable, as soon as is reasonably practicable after the date of the Fire-Fighting Offtake; or
- (b) no later than 30 days after the date of the Fire-Fighting Offtake if the Fire-Fighting Offtake occurred for the purposes of testing fire-fighting equipment.

4 **Payment in Advance**

4.1 If requested by the Licensee, the Undertaker may charge the Licensee in advance for the provision of the Water Supply. In such circumstances, the provisions of paragraphs 2.3 to 2.6 above shall be disapplied and the provisions of this paragraph 4 applied.

4.2 In respect of any payment that is made in advance, the Undertaker shall calculate the Provisional Monthly Charge in accordance with the Guidance.

4.3 The Parties shall perform the following in respect of any payment in advance:

- (a) The Licensee shall pay the Provisional Monthly Charge no later than five (5) Working Days prior to the commencement of the relevant Billing Period;
- (b) At the end of the relevant Billing Period, the Licensee shall perform (or procure the performance of) the Meter Read (or Transfer Read) and notify the Undertaker in writing of the Meter Read (or Transfer Read) not more than five (5) Working Days after the expiry of the relevant Billing Period;

- (c) The Undertaker shall thereafter issue an invoice for the Charges for the relevant Billing Period to the Licensee in accordance with the date determined by the Licensee under paragraph 2.1 or 2.2 above and with paragraph 4.4 below.

4.4 Any invoice issued by the Undertaker pursuant to this paragraph 4 shall detail (if applicable):

- (a) the Premises;
- (b) the Charges;
- (c) the Charges Terms;
- (d) For each Meter –
 - (i) the Transfer Read, preceding Meter Read or preceding Estimated Read (as appropriate);
 - (ii) the present Meter Read, present Estimated Read or the Termination Read (as appropriate);
- (e) any adjustments from previous Billing Periods;
- (f) any Charges Adjustment;
- (g) any VAT payable;
- (h) a credit for the amount of the Provisional Monthly Charge for the relevant Billing Period; and
- (i) the amount of the Provisional Monthly Charge for the following Billing Period.

4.5 If the Provisional Monthly Charge for a Billing Period is greater than the amount owing to the Undertaker for such Billing Period, the Undertaker shall deduct such amount from the Provisional Monthly Charge for the following Billing Period or, if requested by the Licensee, reimburse the Licensee such amount within 10 Working Days of receiving such request.

4.6 If the Provisional Monthly Charge for a Billing Period is less than the amount owing to the Undertaker for such Billing Period, the Undertaker may add such amount to the Provisional Monthly Charge for the following Billing Period.

4.7 If the Provisional Monthly Charge over any consecutive three (3) month period is either materially greater or materially less than the actual Charges for the Water Supply in the same period, either Party may require the other Party to agree to a recalculation of the Provisional Monthly Charge in accordance with the Guidance on not less than one (1) month's notice in writing.

5 Reconciliation

5.1 No later than 20 Working Days after the first (1) anniversary of the Commencement Date and each anniversary thereafter during the Term, the Undertaker shall provide the Licensee with a report in writing of all payments made, all amounts paid or owing, and meter readings performed or estimates made (the **Reconciliation Report**) in the preceding 12 month period (the **Reconciliation Period**).

5.2 Insofar as the Reconciliation Report shows that there is a discrepancy between payments made and amounts owing and this amount is undisputed then:

- (a) if there has been an undercharge over the Reconciliation Period, the Licensee shall make a payment of such undercharge within 30 Working Days of receipt of the Reconciliation Report; or
- (b) if there has been an overcharge over the Reconciliation Period, the Undertaker shall make a payment of such overcharge within 30 Working Days of issue of the Reconciliation Report.

Schedule 3

Change Control Process

- 1 If either Party requires a change to the terms of this Contract other than one relating to adding or switching Premises, it shall submit to the other Party a written proposal outlining its change requirements (a **Change Proposal**).

- 2 In respect of any Change Proposal which would require the Undertaker to perform works or make changes to the Supply System (a **Supply SystemChange Proposal**), the Undertaker shall notify the Licensee within 20 Working Days of receipt that it regards the Change Proposal as a Supply System Change Proposal.

- 3 In respect of any Supply System Change Proposal:
 - 3.1 The Licensee may require the Undertaker to provide it with a report that details the costs of the Supply System Change Proposal provided that the Licensee reimburses the Undertaker's reasonable costs of providing such report. The Undertaker shall provide the Licensee with such report in such time period as is reasonable taking into account the work required by the Undertaker to compile it.

 - 3.2 The Undertaker may reject a Supply System Change Proposal if:
 - (a) the Licensee has not requested the Undertaker to provide a report pursuant to paragraph 3.1 above and in the Undertaker's opinion (acting reasonably) such a report is necessary considering the nature of the Supply System Change Proposal.

 - (b) the Licensee does not agree to pay the Undertaker's reasonable costs of performing works or making changes to the Supply System;

 - (c) the Undertaker considers that the Supply System Change Proposal would or would be likely to put it in breach of any Relevant Law; or

 - (d) the Undertaker considers that the Supply System Change Proposal would put at risk its ability to meet any of its existing or probable future obligations to supply buildings or parts of buildings with water for domestic purposes.

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- 4 Subject to paragraph 5 below, in respect of any Change Proposal other than a Supply System Change Proposal the receiving Party shall notify the requesting Party within 20 Working Days of receipt of the Change Proposal that it:
- 4.1 agrees to the Change Proposal;
 - 4.2 rejects the Change Proposal and proposes alternative terms; or
 - 4.3 rejects the Change Proposal and provides reasons for its rejection.
- 5 If a Change Proposal relates to a request by the Licensee to change its payment terms, the Undertaker shall agree to such Change Proposal provided that the Licensee meets any conditions set out in this Contract relating to such a change.
- 6 In respect of any rejection of a Change Proposal pursuant to paragraphs 3 or 4 above, the Parties shall thereafter negotiate in good faith the terms of such Change Proposal. If agreement cannot be reached within 60 Working Days, either Party may treat the failure to reach agreement as a Dispute and invoke the Dispute Resolution procedure set out at clause 20.

NETWORK ACCESS CODE



Appendix

Data Sheet

One (1) Data Sheet to be completed for each Premises to be supplied under this Contract.

Name of Customer:	
Customer Account Number:	
Address of Premises:	
Meter Details: Meter Type: Meter Serial Number: Meter Size: Meter Location: Last Meter Reading: Date of Last Meter Reading:	
Transfer Date and Time:	
Potable Supply:	Y/N (delete as appropriate)
Interruptible Supply :	Y/N (delete as appropriate)
Interruptible Supply Terms (if applicable):	
Special Consumer:	Y/N (delete as appropriate)
Safety Requirements (if applicable):	

NETWORK ACCESS CODE



Charges Terms:	
Billing Period (and the date on which the Licensee wishes to receive invoices):	
Operational Contact Information for Licensee: Name: Telephone: Email: Fax:	