

Agenda 15 a)

D+L
03/10/24



CONSENT FORM FOR LIABILITY OF CHARGES

Date	
Legal Entity	
Property Address	

I hereby agree for a Commercial water account to be opened in the name of from (date)

I confirm that:

- This relationship will be governed in accordance with Source for Business' standard terms and conditions, a copy of which I have been provided and have read;
- I will be responsible for charges from the start date of my lease/date of purchase until the end date of my lease/date of sale and I will receive invoices between these dates.
- If the Legal Entity named as being responsible for the charges is a Limited Company, I am a person duly authorised to sign such an agreement on said Company's behalf.

Please send all invoices to the address at

Please delete as appropriate:

I give consent for my account to be opened on an estimated meter reading in the absence of a meter read from the date of vacation. (If a meter read was taken at this date please provide this below)

Please open my account on the meter read taken at date of occupation:

Meter read: Date Taken:.....

I understand that this consent form shall be kept on file for record and audit purposes.

Full Name:.....

Signature: Date:.....

Field Agent Signature:.....

If you wish to review Ofwat's Customer Code of Practice for further guidance you can do so at the following link: <https://www.ofwat.gov.uk/wp-content/uploads/2017/03/CPCoP-v1.5-pdf.pdf>

PENNON WATER SERVICES LIMITED – RETAIL SERVICES SUPPLY TERMS & CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 “Agreement” means this Agreement entered into between the Customer and PWS, or through one of its brand or trading names.

1.2 “Charges Scheme” means the published usage charges payable by the Transferred Customer that do not exceed the charges that would have been payable on the Exit date by that Transferred Customer had they been able to remain with the relevant undertaker.

1.3 “Customer” means the person, sole trader, partnership, legal entity, professional, company, or association procuring or being supplied with retail Services by PWS, (including a Transferred Customer or an Eligible Exit Area Customer except where otherwise stated in this Agreement).

1.4 “Customer Equipment” means any equipment, either the property of the Customer or rented by the Customer from a third party, connected to the Wholesalers Water Network and used by the Customer to use the Service.

1.5 “Default Tariff” means the Tariff that is used in the event that the Service Plan is not applicable.

1.6 “Eligible Property” is a property connected to the public water supply system which is not dwellings as defined by Part II of the Local Government Finance Act 1992. Properties with a residential part may be considered under this Act as long as the residential area is less than 50% of the property.

1.7 “Eligible Exit Area Customer” means the owner or Occupier of Eligible Premises in an Exit Area

1.8 “Exit Area” means the area of appointment of an Undertaker that has exited the retail market in accordance with The Legislation

1.9 “Exit Date” 1 April 2017, being the date upon which PWS became the Eligible Water Supply Licensee for Transferred Customers

1.10 “Initial Fixed Supply Period” means the minimum 12 month period during which Service is provided as agreed between the Customer and PWS, which shall commence on the day that Service is first provided.

1.11 “Wholesaler” means the relevant statutory wholesaler as appointed under the powers set out in the Water Industry Act 1991 and their agents.

1.12 “Pennon Water Services” or “PWS” means Pennon Water Services Ltd of; Peninsula House, Rydon Lane, Exeter EX2 7HR (Company number 09902835 - VAT number 312 6924 16).

1.13 “Service Plan” means the schedule of charges agreed and amended from time to time in respect of the Usage Charges.

1.14 “Service” relates to the retail activities of water supply and sewerage removal (waste water, property drainage, roads drainage, and if applicable trade effluent) and meter reading services, to an eligible property that the Customer occupies, as agreed with PWS. The physical supply of water and removal of sewerage to the Site is undertaken by the Wholesaler

1.15 “Site” means the location at which the Customer receives the Service.

1.16 “Subsequent Supply Period” means any period during which Service is provided, subsequent to the Initial Fixed Supply Period, as agreed between the Customer and PWS.

1.17 “Supply Period” means either the Initial Fixed Supply Period or the Subsequent Supply Period, during which Service is provided.

1.18 “Supply Point” means the point registered to PWS where the Service shall be made available to the Customer under this Agreement.

1.19 “The Legislation” includes the market codes, the operational codes, the Scottish Water Act 2008, the Water Act 2014 and other relevant Scottish and English Laws and Regulations

1.20 “Transferred Customer” means the person, sole trader, partnership, legal entity, professional, company, or association, owning or occupying an eligible premises which were transferred to PWS on Exit Date.

1.21 “Usage Charges” means the charges made by PWS to the Customer for the provision and use of the Service.

1.22 “Water Network” means the distribution network through which Service is provided pursuant to this Agreement.

1.23 “Market Operator” means the Central Market Authority in Scotland and the Market Operator in England (from time to time).

1.24 “The Wholesaler” means the wholesale Water Company relevant to the location of the Site in question.

1.25 “Wholesale Charges” means charges levied by the Wholesaler which are directly attributable to the volume of use of the Customer’s water or sewerage usage, payable by Customer and collected by PWS on behalf of the Wholesaler.

1.26 Clause, Schedule and paragraph headings shall not affect the interpretation of these terms. The Schedules form part of these terms and shall have effect as if set out in full in the body of this agreement. Any reference to these terms includes the Schedules.

1.27 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.28 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and includes all subordinate legislation made from time to time under that statute or statutory provision.

1.29 A reference to writing or written includes email.

1.30 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2.0 SERVICE

2.1 PWS will hold and maintain the relevant regulatory consents and/or licence required to operate as a supplier of retail Services.

2.2 PWS will hold and maintain adequate levels of insurance which are appropriate for a reasonable service provider of this nature to hold.

2.3 PWS will comply with the relevant legislation and reasonable policies relating to the operation of water or sewerage supply by the relevant Wholesaler.

2.4 PWS will provide the Service to the Customer subject to the terms of this Agreement. PWS or its representatives may at any time without notice vary the Service for technical, operational or other reasonable reason within their entire discretion.

2.5 PWS will use reasonable endeavours to provide a continuous high quality Service in accordance with this Agreement.

2.6 PWS reserves the right not to provide Service where Service cannot be reasonably provided due to any geographic, practical, regulatory or technical issues arising. Where possible, the Customer will be given reasonable notice

2.7 The Service provided by PWS is dependent on the Wholesaler's supply of water and sewerage services as relevant which may affect PWS' ability to provide the Service[s]. This is beyond PWS' control and PWS is not liable for any loss of any nature as a result of the Wholesaler's supply (or lack of).

3.0 CHARGES AND PAYMENT

3.1 PWS may make credit status enquiries about the Customer from a range of reputable credit reference agencies. Subject to credit status, PWS may require a non-interest bearing deposit or pre-payment. PWS may set limits on the amount of specific or all charges that the Customer may incur during a period. This limit is entirely at PWS' discretion.

3.2 Save for Transferred Customers and Eligible Exit Area Customers, PWS will levy Usage Charges for the use of the Service in accordance with its Service Plan which may be varied upon giving ten calendar days' notice, but subject to the Customer's right to terminate as set out in this Agreement. These Usage Charges, which will be invoiced monthly in accordance with clause 5, Measurement. Usage Charges may be required to be pre-paid by way of deposit. Usage Charges may relate back to months prior to the previous quarter.

3.3 For Transferred Customers or Eligible Exit Area Customers PWS will levy Usage Charges for the use of the Service in accordance with its Charges Scheme which may be varied upon giving ten calendar days' notice, but subject to Transferred Customers or Eligible Exit Area Customers right to terminate as set out in this Agreement.

These Usage Charges, which will be invoiced monthly in accordance with clause 5, Measurement. Usage Charges may be required to be pre-paid by way of deposit. Usage Charges may relate back to months prior to the previous quarter.

3.4 The Customer is liable to pay in full all due Wholesale charges levied by or on behalf of the relevant Wholesaler which are incurred by the Customer or relating to the Site including but not limited to cancellation or missed appointment. These are Wholesaler charges, collected by PWS on behalf of the Wholesaler and are payable by the Customer in accordance with the payment terms set out in this Agreement.

3.5 The Customer agrees to pay by all invoices in full within 14 calendar days after invoice date.

3.6 Failure to pay within the 14 days will result in the Default Tariff being used to calculate usage charges as the Customer agreed Service Plan is conditional upon payment by BACS.

3.7 PWS will also charge interest on any amount outstanding at the due date at four percent (4%) per month accruing daily.

3.8 Value Added Tax or any other levy or tax, will be added to all applicable sums due to PWS, at the rate prevailing. VAT will be charged at the standard rate unless PWS receives a Declaration from the Customer that the service should be "zero rated" as defined by HMRC.

3.9 The Customer is liable to PWS for all expenses and costs, including a reasonable administration charge, and all legal and professional fees and expenses, incurred as a result of the Customer's failure to comply with clause 3.4, including but not limited to PWS' right to enforce these terms and to recover outstanding payments.

3.10 The Customer shall not be entitled to delay or withhold payment. If the Customer disputes an invoice or statement they must contact PWS immediately, who will resolve the issue within 28 days. All amounts due under these terms from the Customer to PWS shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3.11 In the event that the Customer fails to provide PWS with at least 30 days' notice of any change in personal details of the Customer including: change of address, consent for trade effluent changes, adjustment in Rateable Value due to changes in the property, and property eligibility changes amongst others in accordance with clause 4.1.7, then the Customer shall pay all Usage Charges in respect of the Service until 30 days after notice of any such change has been given by the Customer.

3.12 The Wholesaler charges may increase annually, however this is outside the control of PWS. The Customer remains liable for payments of these Wholesaler charges in full.

3.13 The Customer may be liable for increased charges if their usage exceeds PWS' Fair Usage Policy (or if the Customer's usage is directly attributable to an increase in costs to be borne by PWS).

4.0 CUSTOMER OBLIGATIONS

4.1 The Customer agrees and undertakes:

4.1.1 to comply with all policies, reasonable instructions and guidance issued by either the Wholesaler or PWS which have been drawn to the Customer's attention (either explicitly or by reference).

4.1.2 to comply with all regulatory conditions and other Laws, Licences, Conditions, Directions, Codes, Regulations and Trade Effluent Consents relevant to the provision or use of the Service, as amended from time to time;

4.1.3 to remain responsible for all pipes and apparatus installed for the supply of water that are situated on the Customer's side of the meter and shall ensure that these are maintained in good working order at all times by a qualified plumber or engineer;

4.1.4 to use only Customer Equipment that is in good working order, is maintained by a competent maintainer and complies with all relevant technical standards, legislation and regulation relating to its use;

4.1.5 to permit the Wholesaler to install, operate, renew and maintain any pipes, meters or any other apparatus to transport measure and control water ("Equipment") all of which shall remain in the ownership of the Wholesaler. The Customer is responsible for ensuring that the Equipment is not damaged or mistreated and that they keep it free from obstruction when installed on land under the customers control or ownership;

4.1.6 to pay all charges and fees invoiced by PWS within the time limits and in the manner set out in clause 3;

4.1.7 to be responsible for the usage of the Service, whether authorised by the Customer or not (and the Customer agrees that PWS is not obligated to monitor the level of water or sewerage usage and/or report unusual usage patterns);

4.1.8 to use the level of service as defined under their Service Plan. Should the Customer use additional services not included in their plan, PWS reserve the right to upgrade the Customer and charge for these additional services under the appropriate Service Plan, for the remaining duration of their Period; 4.1.9 to notify PWS, giving at least 30 days' notice, of any changes in contact details of the Customer including change of address; consent for trade effluent changes, adjustment in Rateable Value due to changes in the property, and property eligibility changes;

4.1.10 At the Customer's expense, to terminate any existing contracts (with alternative suppliers) which provide the Customer with services similar to the Service pursuant to the Supply Point;

4.1.11 That in the event that the Equipment becomes damaged by the Customer, or by any person on the Customer's premises (save for employees and agents of PWS), or becomes damaged due to the use of unapproved equipment, to pay PWS for any remedial work including replacement of the Equipment if PWS considers appropriate undertaken at such rate as is reasonable in the circumstances;

4.1.12 to report with sufficient detail any fault which affects the Service to PWS as soon as reasonably practical after detecting the same, or in an emergency immediately to the Wholesaler;

4.1.13 to allow PWS or its duly appointed agents access to the Customer's premises for the purposes of installation, maintenance, disconnection, inspection, meter reading or testing. The Customer is responsible for getting any permissions and paying any costs incurred from third parties in gaining access permission.

5.0 MEASUREMENT

5.1 The reading shown on the meter shall be the primary evidence of the volume of water consumed at the Customer's Site, unless that meter is found to be registering falsely to a degree which exceeds that permitted by relevant Legislation.

5.2 Where the meter reading is unavailable, estimates (based on historic consumption market data as provided by the Market Operator) will be used to raise invoices.

5.3 Waste water shall be assumed to be 95% of the water metered into the property unless proven otherwise and amended by the Wholesaler.

5.4 The Customer may at any time by giving reasonable notice in writing request PWS to verify the meter readings for accuracy. If verification shows that the meter is accurate, the costs of such verification shall be borne by the Customer. Where the meter has been found to register inaccurately, then a suitable adjustment shall be made in the accounts rendered by PWS since the penultimate date on which the meter was read (otherwise than in connection with the examination) and the amount of money due from or to PWS shall be paid on demand except in the case where it is proved to have begun to register inaccurately as described on some later date.

5.5 In Scotland, Property and Roads drainage shall be measured on the Rateable Value of the property, more information of which can be found at <http://www.saa.gov.uk>. Should there be no meter at the property; the entire bill will be measured using the Rateable Value or assessed usage as per Industry regulations.

5.6 If a data logger is installed by someone other than on behalf of PWS or associated company, the Customer must tell PWS immediately and the Customer accepts all charges and liability for the meter that may result from damage incurred during the installation.

5.7 The meter remains the property and responsibility of the Wholesaler throughout the time the meter is installed.

6.0 FAULTS AND EMERGENCIES

6.1 Where the Customer believes that there is, has been or is likely to be a leak, burst pipe, flooding or other emergency that affects their Service or believes that the Equipment may be damaged then the Customer must immediately notify the Wholesaler.

The Customer shall undertake not to use the Service in any way that is likely to create any risk to the health and safety of any person or risk of damage to any property, or in any way that could interfere with the efficient supply of the Service to other consumers.

6.2 Emergency services will be provided by the Wholesaler. In an emergency, the Wholesaler may require the Customer to stop using water or disposing associated water.

6.3 If a fault is caused by the Customer Equipment, by breach of this Agreement by the Customer, or by the Customer's negligence, or if a fault occurs on the Customer's premises or land, then PWS may recover from the Customer all reasonable costs incurred.

7.0 LIABILITY

7.1 Neither party's liability in respect of death or personal injury caused by or arising from that party's negligence is affected by anything in this Agreement.

7.2 Unless warranties, representations, agreements, terms or conditions, either express or implied, including as to merchantability and fitness for purpose, are expressly set out in this Agreement, then such warranties etc. are expressly excluded.

7.3 Neither party shall be liable to the other for any consequential losses arising from or in connection with the Agreement.

7.4 The Customer accepts that they have responsibility for the water and waste water pipe work in, on or under the property at which the supply point is located. This includes but is not limited to loss of water, damage of the meter by frost, or flooding of water or waste water due to the condition of that pipe work. The Customer accepts that if they ask the Wholesaler, or PWS or its agent to visit their premises unnecessarily they will be liable for the charges. 7.5 Any act or failure by the Wholesaler that result in loss or damage to the Customer that result in compensation is limited to the amount that is recovered from the Wholesaler.

8.0 TERMINATION

8.1 This Agreement will remain in force for the Initial Fixed Supply Period and Subsequent Supply Period (the "Supply Period") and will continue thereafter until terminated. PWS will continue to supply the Customer and the Customer will continue to pay PWS all property incurred charges and expenses until termination date. The Customer must give PWS not less than 3 months written notice, to expire at the end of the Initial Fixed Supply Period or any subsequent Supply Period.

8.2 If the Customer terminates, the Customer will be liable for contract charges for the notice to terminate period.

8.3 PWS may terminate this agreement with immediate effect if a) the Customer has committed a material breach of this Agreement; or, b) if the Customer has a Receiver, Administrative Receiver, Liquidator or Supervisor of a Voluntary Arrangement appointed over it, or over any part of its undertaking or assets or a resolution is passed for its Winding Up, Sequestration, Bankruptcy, or if an Administration Order is made, or if it enters into a Voluntary Arrangement with its Creditors, or ceases or threatens to cease to carry on business. c) Either PWS or Wholesaler (or their agents) have disconnected the supply to the premises.

8.4 If this Agreement is terminated under this clause the Customer shall pay to PWS a sum equal to the total amount that would have been payable in respect of the monthly Standing Charges of the Service for the remaining period of the Supply Period, plus any other sums due to PWS under this contract. The Customer agrees that this is a fair and reasonable estimate of foreseeable losses, costs, and expenses, which PWS would suffer in the event of early termination.

8.5 The Customer will be solely responsible for finding a new provider of the Service and for the service to transfer to a new provider within 30 days following termination or the end of the Supply Period and all charges associated with this. If a Customer chooses to continue to receive the Service after termination they will be charged for the Service according to the charges under this contract.

8.6 If the Customer is eligible to a cooling off period, and decides not to continue with the transfer of services to PWS, they must inform PWS in writing of this during that cooling off period. Once the transfer order has been placed, the Customer will be bound by these terms.

8.7 A supply to be made or the services to be provided to the Transferred Customer or Eligible Exit Area Customer may be discontinued only if a) PWS make a request pursuant to section 61(1ZB) of the 1991 Act; or b) The Transferred Customer has consented to or has requested the discontinuance

8.8 Upon termination of the Scheme of Terms and Conditions the Transferred Customer or Eligible Exit Area Customer shall incur no fees or charges relating to that termination.

9.0 DISCONNECTIONS, RECONNECTIONS AND SUSPENSION OF SERVICE

9.1 PWS (or the Wholesaler) reserves the right, where legally entitled to make a temporary disconnection: a) if the Customer does not pay an amount due, including a refundable deposit after receipt of a disconnection warning notice. b) if the Customer does not keep to byelaws or consents where trade effluent is the Service concerned, c) if the Customer refuses to allow access to a meter, or d) on Customer's written request for refurbishment or other purposes.

9.2 PWS (or the Wholesaler) may, where legally entitled, permanently disconnect a Site: a) if the Customer illegally or without authority uses water or sewerage services b) on the Customer's written request c) if the property is being demolished or other purposes, or d) a temporary disconnection has continued for over three months.

9.3 PWS will only authorise a reconnection when all reasons for disconnection have been fully resolved.

9.4 There may be a reconnection fee which must be paid before a reconnection will be made.

9.5 Permanent disconnection may only be reconnected by applying for a new connection to the network.

9.6 Any disconnections that incur reasonable costs during the disconnection process will be invoiced to the Customer in the normal manner. The Customer agrees that this represents a fair and reasonable estimate of the losses, costs, and expenses, which PWS would suffer in the event of a disconnection.

9.7 The Wholesaler may be entitled to suspend Service in order to maintain, repair or improve the Water Network or if obliged to do so by virtue of any direction or request from any Government

Department, Emergency Service, Regulatory or Administrative Authority or by its principals, or if it reasonably believes that the Service is being mis-used in any way, or for any other reason whatsoever. For the avoidance of doubt, PWS shall not be liable to the Customer for any losses that are incurred by the Customer as a result of such suspension.

9.8 If the Customer fails to comply with any of its obligations and such failure remains un-remedied for 7 days after written notice has been given by PWS, or any invoice remains unpaid for more than 21 calendar days after its due date, PWS shall be entitled to begin the procedure in accordance with the disconnections document to suspend the Service forthwith until such time as the failure is remedied, without prejudice to any other rights or remedies that PWS may have.

9.9 Any suspension of Service for any reason whatsoever will not affect the Customer's obligation to pay for the Service during the period of suspension or thereafter, and will not affect PWS' rights to charge a termination fee.

9.10 The Customer agrees to pay administration fees based on PWS' costs for each suspension applied in accordance with this Agreement.

9.11 PWS will use reasonable endeavours to give the Customer notice of such suspension as reasonably practicable.

9.12 PWS may suspend Service in circumstances where it could terminate this Agreement or when the Customer has failed to pay any amount due or it reasonably believes that the Customer will fail to pay any amount due or to become due and any such suspension will be without prejudice to the right to terminate.

9.13 Where a customer has been classified as Covid-19 Affected Customer (in accordance with and defined by our published Covid-19 Repayment Scheme) no amounts owed by the Non Household Customer to PWS are "due" or shall be treated as "due" by PWS for the purposes of a disconnection notice under section 61(1ZC)(b) of the 1991 Act, and for these purposes only. All other rights and obligations under these Terms and Conditions of Supply are unaffected by this clause (9.13)

10.0 FAIR USAGE POLICY

10.1 If the relevant Wholesaler operates a fair usage policy, and the Customer exceeds their volumetric capacity for their meter size or if PWS (or a Wholesaler) believes that the Customer's use of the Service is adversely affecting the network (or any part of it) or other users, then the Wholesaler may either regulate the Customer's usage or suspend the

Service (at its sole discretion). The Customer may also be required to pay to increase their meter size, and hereby accepts any associated charges for this work to take place. For the avoidance of doubt, PWS shall not be liable to the Customer for any losses that are incurred by the Customer as a result of such suspension.

11.0 USE OF DATA

11.1 PWS will process information (including personal information) they have about the Customer (and the Customer's representatives) and their

account to administer and manage the account under and in connection with this Agreement. These uses include, but are not limited to, internal Market research, billing and providing up to date information on water, associated waste efficiency and safety issues. The Customer warrants that it is authorised to provide personal information about its representatives for this purpose.

11.2 PWS carry out processing in compliance with the Data Protection Act 1998 and in accordance with PWS's Privacy Policy (available on PWS's website). Force Majeure

11.3 Neither PWS or the Customer shall be liable to the other or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of its obligations if the delay or failure results from national emergency, war or any other cause beyond the reasonable control of the affected party (with the exception of financial hardship) and which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable, and provided the affected party takes all reasonable steps to mitigate the impact of such events.

12.0 GENERAL

12.1 You agree that PWS shall have the right to transfer, assign and/or novate all or any of its rights, benefits and/or obligations under this Agreement on written notice to you. You agree to enter into such documents as PWS may reasonably stipulate in order to provide documentary evidence of Your consent to such transfer, assignment or novation, provided that PWS rights under this Clause

12.1 shall not be conditional upon execution of such documentation by You

12.2 The remaining parts of this Agreement shall remain in full force in the event that any part of this Agreement shall be invalid, illegal or unenforceable, as if the unenforceable part had been omitted from the original Agreement.

12.3 All the terms of this Agreement are set out herein. Neither party has relied upon any representations, assurances or other agreements unless set out herein.

12.4 PWS may change the terms and conditions of this Agreement, with material amendments notified to the Customer, giving 14 days' notice.

12.5 If in the unlikely event you have a complaint about the service received, please email customerservices@source4b.co.uk

12.6 No waiver by either party shall constitute any variation to this Agreement.

12.7 Singular words shall be construed as including words of the plural and vice versa.

12.8 Any notices given by the Customer under this Agreement shall be made in writing and sent by registered post. Any notices given by PWS under this Agreement shall be made in writing, and sent by post or email. In either event, the address for service shall be the address given overleaf for each party, unless changed; in which case, notice of change shall be given in accordance with the terms of this clause. A copy of any legal notices for the attention of PWS shall also be sent to the Company Secretary of PWS.

12.9 All changes made under clause 3.1 and/or clause 12.4 will be advised either in writing or on PWS' website or any other website notified to the Customer to be used for this purpose.

12.10 Any unresolved dispute, which may arise under, out of or in connection or in relation to this Agreement, shall be referred to the exclusive jurisdiction of the courts of England and Wales.

Version 6.0 June 2020