

1 Definitions

1.1 "Agreement" means this Agreement entered into between the Customer and CBW.

1.2 "CBW" means Clear Business Water Ltd of company number SC444366.

1.3 "Customer" means the person, sole trader, partnership, legal entity, professional, company, or association, who has agreed to enter into 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 Water Network and used by the Customer to use the Service.

1.5 "Directions" means the Default Services, Standards and Maximum Tariffs Directions 2007.

1.6 "Disconnections Document" means the Disconnections Document named under the Water Services (Codes and Services) Directions 2007.

1.7 "Default Tariff" means the default tariff for Primary Services published by the Water Industry Commission for Scotland and which such tariff will be used in the event that the Rate Schedule is not applicable in accordance with this Agreement.

1.8 "Eligible property" is a property connected to the public water supply system which is not a dwelling 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 total area of the property.

1.9 "Equipment" means any Equipment connected to the network and used by the Customer to access the Service that is not Customer Equipment.

1.10 "Insolvent" means where a person ceases or threatens to cease to carry on business, becomes insolvent within the meaning of section 123 of the Insolvency Act 1986, has an administrator, receiver, administrative receiver or manager appointed over the whole or any part of its assets, enters into any composition with creditors generally, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of any scheme for amalgamation or reconstruction) or undergoes any similar or equivalent process in any jurisdiction, and a person shall be "solvent" where it has not undergone (or having undergone, is discharged from all effects of) being Insolvent;

1.11 "Initial Fixed Supply Period" means the initial period stated on the front of this Agreement during which Service is provided to the Customer, which shall commence on the day that Service is first provided by the CBW.

1.12 "Network Operator" means the operator responsible for the Water Network and their agents.

1.13 "Rate Schedule" means the contracted tariff set out in this Agreement and amended from time to time in respect of the Usage Charges.

1.14 "Service" means the supply of water and sewerage removal (waste water, property drainage, roads drainage, and if applicable trade effluent) and meter Services, to an eligible property that the Customer occupies.

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 CBW, by either contract or usage of the Service.

1.17 "Supply Period" means either the Initial Fixed Supply Period or the Subsequent Supply Period, or any other usage period during which Service is provided. Where it is specifically agreed otherwise supply periods shall be assumed to be 20 day rolling deemed contracts.

1.18 "Supply Point" means the point registered to CBW where the Service shall be made available to the Customer under this Agreement.

1.19 "The Legislation" includes the applicable market code, the operational code, the Network Operator Act 2008, the English Water Act 2014, the Disconnections Document and Scottish and English Law.

1.20 "Usage Charges" means the charges made by CBW to the Customer for the provision and use of the Service.

1.21 "Water Network" means the distribution network through which Service is provided pursuant to this Agreement.

2 Service

2.1 CBW will provide Service to the Customer subject to the terms of this Agreement. CBW, or its principals, may at any time without notice vary the Service for technical, operational or other reasons within their entire discretion.

2.2 CBW will use reasonable endeavours expected from a competent supplier of the Service to provide a continuous high quality Service in accordance with the terms and conditions set out herein.

2.3 CBW reserves the right not to provide Service where the Service cannot be reasonably provided due to any geographic, practical, regulatory or technical issues, or any other issue outside of the control of CBW.

3 Charges & Payment

3.1 CBW will make Usage Charges for the use of the Service in accordance with its Rate Schedule which may be varied upon giving ten days notice, but subject to the Customer's right to terminate referred to at clause 9.1(e).

3.2 The Customer agrees to pay to invoice by Direct Debit in accordance with the advance notice given on your invoice. Failure to do so will result in the Default Tariff being used to calculate Usage Charges. The Rate Schedule is conditional upon payment by Direct Debit.

3.3 If invoices are not paid by Direct Debit in accordance with the advance notice given on your invoice, then any collection costs incurred by CBW, including administration charges will be charged to the Customer.

3.4 Interest will be charged on unpaid invoices from the due date until payment at a rate of 1.5 per cent per month or part thereof.

3.5 Value Added Tax or any other levy or tax, will be added to all applicable sums due to CBW, at the prevailing rate. VAT will be charged at the standard rate unless CBW receives a Declaration from the Customer that the Service should be "zero rated" as defined by HMRC. Information on how we calculate VAT is available on www.clearbusinesswater.co.uk/VATdeclaration.

3.6 The Customer shall not be entitled to delay or withhold payment. If the Customer disputes an invoice or statement they must contact CBW immediately, who will resolve the issue within 10 business days.

3.7 The Customer agrees that CBW may make credit status enquiries. Subject to credit status, CBW may require a non-interest bearing deposit or pre-payment. CBW may set limits on the amount of specific or all charges that the Customer may incur during a period. This limit is entirely at CBW's discretion.

3.8 The Customer agrees to reimburse and indemnify CBW for all expenses, including all legal and professional fees, incurred as a result of the Customer's failure to comply with clause 3.3.

3.9 The Customer will pay all reasonable costs arising from work to the Service.

3.10 Usage Charges shall be invoiced monthly in accordance with clause 5. Usage Charges may relate back to months prior to the previous month.

3.11 In the event that the Customer fails to provide CBW with at least 30 days notice of any change in personal details which may alter the applicable charges of the Customer including but not limited to: 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.

4 Customer Obligations

4.1 The Customer agrees and undertakes:

4.1.1 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;

4.1.2 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;

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

4.1.4 To permit the network operator (at the network operator's expense) 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 Network Operator. The Customer is responsible for ensuring that the Equipment is not damaged or mistreated. The Customer gives CBW permission to organise this on their behalf;

4.1.5 If the Customer acts as a water reseller they must comply with the Water Resale Order 2006;

4.1.6 To pay for all Service provided by CBW within the time limits and in the manner set out herein and to be responsible for the usage of the Service, whether authorised by the Customer or not (and the Customer agrees that CBW is not obligated to monitor the level of water or sewerage usage and/or report unusual usage patterns);

4.1.7 To notify CBW, giving at least 30 days notice, of any changes 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;

4.1.8 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;

4.1.9 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 CBW), or becomes damaged due to the use of unapproved Equipment, to pay CBW for any remedial work undertaken at such rate that is reasonable;

4.1.10 To report with sufficient detail any fault which affects the Service to CBW as soon as reasonably practical after detecting the same, or in an emergency immediately to The Network Operator;

4.1.11 To allow CBW or its duly appointed agents access to the Customer's premises for the purposes of installation, maintenance, disconnection, inspection, meter reading or testing;

4.1.12 To employ a qualified plumber as soon as an issue that affects pipes on the customer's side of the premises is identified.

4.1.13 In the event of Contract Termination by clause 9.1(d) and the Customer remains at the Site and continues to use the Service this Agreement shall be considered to be continuing under clause 1.16, and the Customer agrees to pay all Usage Charges during this period.

5 Measurement

5.1 The meter shown on the meter shall be prima facie evidence to calculate usage charges under this Agreement, unless that meter is found to be registering falsely to a degree which exceeds that permitted by regulations.

5.2 Where the meter reading is unavailable, estimates, based on historic consumption market data, will be used for Usage Charges.

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

5.4 The Customer may at any time, by giving reasonable notice in writing, request CBW 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 CBW 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 CBW shall be paid on demand except in the case where it is proved to have been able to register accurately as described on some later date.

5.5 Property and Roads drainage shall be measured on the Rateable Value of the property, more information of which can be found at 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 privately the Customer must tell us immediately and 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 Network Operator throughout the time the meter is installed.

5.8 Private Water meters will remain the responsibility of the Customer to maintain and consumption recorded must be verified at the Customer's expense if required.

6 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 Network Operator. 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 or on behalf of CBW. In an emergency CBW or the Network Operator 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 CBW may recover all reasonable costs incurred from the Customer.

6.4 If the fault occurs past the point of demarcation and is thereby considered to be the Customer's responsibility by Scottish Water, the customer must employ a qualified plumber immediately to rectify the issue before damage to third party property occurs, CBW will not accept liability for any flooding or other damage that occurs due to the Customer's negligence.

7 Disconnection of Service

7.1 CBW shall 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 CBW reasonably believes that the Service is being mis-used in any way, or for any other reason whatsoever. For the avoidance of doubt, CBW shall not be liable to the Customer for any losses that are incurred by the Customer as a result of such suspension.

7.2 If the Customer fails to comply with any of its obligations under 4.1.11 and the standard rate unless CBW receives a Declaration from the Customer that the Service should be "zero rated" as defined by HMRC, for more than 14 days after its due date, CBW 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 CBW may have.

7.3 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 CBW's rights to charge a termination fee.

7.4 The Customer agrees to pay administration fees based on CBW's costs for each suspension applied in accordance with clause 7.3.

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

7.6 CBW 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.

8 Liability

8.1 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.

8.2 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.

8.3 Subject to clause 8.1, CBW shall not be liable to the Customer for: any indirect, consequential and/or special loss or damage; loss of profit; loss of revenue, loss of production or loss of business; loss of contracts; loss of goodwill, loss of reputation or loss of opportunity; loss of anticipated savings or loss of margin; loss or destruction of data; wasted management, operational or other time or the liability of the Customer to third parties.

8.4 The Customer accepts that they have responsibility for the water and waste water pipework 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 pipework. The Customer accepts that if they ask us to visit their premises unnecessarily they will be liable for the charges.

8.5 Any act or failure by the Network Operator that results in loss or damage to the Customer that results in compensation is limited to the amount that is recovered from the Network Operator.

9 Termination

9.1 This Agreement will remain in force -

(a) for the Initial Fixed Supply Period or any Subsequent Supply Period and will continue thereafter until terminated by the Customer giving to CBW not less than 3 months written notice, to expire at the end of the Initial Fixed Supply Period or any Subsequent Supply Period and the Customer arranging for Service to be transferred to another supplier within 30 days following the end of the Supply Period. Each subsequent Supply Period will be for the duration of one year following on directly from the previous Supply Period, or

(b) the Customer may terminate the Agreement by giving no less than 20 days notice at any time and paying the early termination fee as set out in clause 9.2 prior to transferring supplier or

(c) until the Customer has committed a material breach of this Agreement (including but not limited to none payment of any invoices by Direct Debit, and none compliance with this Agreement due to ceasing to be responsible for the Service, e.g. when closing, or moving the premises of, the business) or

(d) until 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, or if an Administration Order is made, or if it enters into a Voluntary Arrangement with its Creditors, or ceases to carry on business as per clause 9.5, or

(e) until the Rate Schedule is increased by more than 10%, in any calendar year or

9.2 In the event of the Agreement being terminated pursuant to clause 9.1(b), 9.1(c), 9.1(c) or 9.1(d) above then the Customer shall pay to CBW a sum equal to the total amount that would have been payable in respect of the Default Tariff minus the Rate Schedule for all Services already provided during the Agreement. The Customer agrees that the aforementioned represents a fair and reasonable estimate of the losses, costs, and expenses, which CBW would suffer in the event of the Agreement being terminated pursuant to clause 9.1(b), 9.1(c) or 9.1(d).

9.3 The Customer will be solely responsible for finding a new provider of the Service after termination 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 Default Tariff.

9.4 The customer may end this Agreement during the initial cooling off period (where applicable) with no penalty where the transfer order is not yet committed to the central systems; cancellations that are requested after the order is committed however will be considered to be complete. The Customer will be charged at the Default Tariff until they choose to take a new Agreement or initiate and complete a transfer to another Licensed Provider.

9.5 Customers who cease to carry on business must provide evidence in either the form of a change of lease/deed or by withdrawing their property from the Scottish Assessor's register and providing their replacement council tax reference number to CBW and Scottish Water.

10 Disconnections and Reconnections

10.1 Temporary disconnection can occur in the following circumstances:

(a) the Customer does not pay an amount due, including a refundable deposit after receipt of a disconnection warning notice;

(b) the Customer does not keep to the byelaws or consents where they are required to do so;

(c) the Customer refuses to allow access to a meter,

(d) or upon Customer request for refurbishment or any other reasonable request.

Temporary Disconnection at the Customer request or due to the Customer not meeting their obligations may result in a termination fee becoming payable.

10.2 Permanent disconnection can occur if:

(a) the Customer illegally uses water or sewerage Services,

(b) upon Customer request if the property is being demolished or other purposes, or

(c) a temporary disconnection has continued for over three months.

10.3 Reconnection will occur when all reasons for disconnection have been fully resolved.

10.4 Any reconnection fees must be paid before a reconnection will be made.

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

10.6 Any disconnections that incur reasonable costs during the disconnection process will be invoiced to the Customer in the normal manner. The Customer agrees to pay the total cost for all disconnections.

11 Fair Usage Policy

11.1 CBW operates a fair usage policy. If the Customer exceeds their volumetric capacity for their meter size, or if CBW believes that the Customer's use of the Service is adversely affecting the network (or any part of it) or other users, then CBW 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.

12 General

12.1 The Customer may not assign or transfer this Agreement or any rights hereunder to any third party, without the prior written consent of CBW. CBW may assign or transfer this Agreement or any rights hereunder without consent of the customer.

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 CBW may change the terms and conditions of this Agreement upon giving 14 days notice.

12.5 If in the unlikely event you have a complaint about the Service received, please refer to our website www.clearbusinesswater.co.uk/contact.

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 CBW under this Agreement shall be made in writing, and sent by post, email or fax. 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.

12.9 For Service delivered in Scotland this Agreement shall be governed by and interpreted in accordance with the Laws of Scotland for supplying in Scotland to non-Household Customers. Both parties agree to keep to any permits, consents and the Network Operator Byelaws.

12.10 For Service delivered in England this Agreement shall be governed by and interpreted in accordance with the Laws of England for supplying in England to non-Household Customers. Both parties agree to keep to any permits, consents and the Network Operator Byelaws.

12.11 All changes made under clause 3.1 and/or clause 12.4 will be advised either in writing or on CBW's website www.clearbusinesswater.co.uk or any other website used by CBW as its principal website or any other website notified to the Customer to be used for this purpose.

13 Data Protection

13.1 CBW will use information they have about the Customer and their account to administer and manage the account. 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.