

FUNDING AGREEMENT FOR SOUTH WEST WATER LIMITED

Acceptance of Funding

We, **South West Water Limited**, have read and understand this Agreement and all the terms and conditions of this funding.

Signed on behalf of South West Water Limited

Director

Name

Date

Director

Name

Date

Signed on behalf of Defra

Name

Date

FOR OFFICIAL USE ONLY:

I certify that I am satisfied with plans for the funding and payment should be made against the:

	Amount	Processed
Name of official:		
Date:		

Table of Contents

Funding Agreement

- 1. Introduction**
- 2. Definitions and Interpretation**
- 3. The Parties' Obligations**
- 4. Duration**
- 5. Funding**
- 5A. Funding Review**
- 5B. Agreement Review**
- 6. Monitoring and Reporting**
- 7. Accounts and Reports**
- 8. Financial Irregularity**
- 9. Termination**
- 10. Suspension of Payments**
- 11. Confidentiality**
- 12. Freedom of Information**
- 13. Data Protection**
- 14. Prevention of Bribery**
- 15. Not Used**
- 16. Further Assurance**
- 17. Assignment**
- 18. Amendments**
- 19. Waiver**
- 20. Notices**
- 21. No partnership or agency**
- 22. Contracts (Rights of Third Parties) Act 1999**
- 23. Dispute Resolution**
- 24. Governing Law**

Schedule 1: Funding Formula

Schedule 2: Reports

Schedule 3: Dispute Resolution Procedure

Schedule 4: Eligible Customers

Schedule 5: Commercially Sensitive Information

THIS AGREEMENT IS MADE ON THE DAY OF 2012

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS** of Nobel House, 17 Smith Square, London, SW1P 3JR (“**Defra**”); and
- (2) **SOUTH WEST WATER LIMITED** a company registered in England and Wales under number 02366665 and whose registered office is Peninsula House, Rydon Lane, Exeter, Devon, EX2 7HR (the “**Company**”).

WHEREAS:

- A** In its White Paper “Water for Life”, published 8 December 2011, Defra confirmed its intention to fund a reduction in customer bills in the South West region in recognition of the high level of customer bills in comparison with the other regions in England and Wales.
- B** Section 1 of the Water Industry (Financial Assistance) Act 2012 gives Defra authority to provide financial assistance to the Company for the purpose of reducing the water and/or sewerage charges levied on certain of its customers.
- C** This Agreement sets out the terms on which Defra will provide and the Company will accept such financial assistance for this purpose.
- D** The receipt of Funding and the associated Bill Reduction to Eligible Customers and the actions undertaken by the Company pursuant to this Agreement will form part of the Company’s regulated activities as a statutory water and sewerage undertaker pursuant to the 1991 Act.

NOW IT IS HEREBY AGREED as follows:

1. INTRODUCTION

- 1.1 This Agreement sets out the terms and conditions on which the Funding is made by Defra to the Company.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement the following terms shall have the following meanings:

“**Agreement**”: this written agreement consisting of these clauses and schedules and any other document especially incorporated therein.

“**Assurance Reports**”: the reports to be prepared by the Company and verified by the Company’s external assurance provider in accordance with the agreement between the Company, DEFRA and the Company’s external assurance provider.

“**Bill Reduction**”: the reduction by £50 (or the value of the bill for Charges if less than £50) in an Eligible Customer’s bill for Charges or such other sum as may be specified by Defra in accordance with clause 5A.4.

“**Charging Year**”: the twelve months starting 1 April in one year of the Funding Period and ending 31 March of the following year.

“Bribery Act”: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

“Charges”: the Company’s charges for water supply and/or sewerage services.

“Commencement Date”: the date of this Agreement.

“Commercially Sensitive Information”: information contained in the clauses and Schedules listed in Schedule 5 and information provided pursuant to clause 12.2 which is, in the opinion of the Company:

- a) a trade secret; and/or
- b) if disclosed, would, or would be likely to, prejudice the Company’s commercial interests.

“Confidential Information”: any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or intellectual property rights of either party and all personal data and sensitive personal data within the meaning of the DPA.

“Contracting Authority”: any contracting authority (other than Defra) as defined in regulation 3 of the Public Contracts Regulations 2006 (SI 2006/5).

“Customer Database”: the Company’s customer data held on the Company’s billing system which, amongst other things, identifies customers’ accounts as either household or commercial customers.

“Discount Rate”: the discount rate used to reflect the time value of money that is equal to the post tax cost of capital that Ofwat uses in setting price limits in its most recent relevant determination of the Company’s price limits.

“Dispute Resolution”: a disagreement between the parties which shall be referred for dispute resolution in accordance with the dispute resolution procedure set out in Schedule 3.

“DPA”: the Data Protection Act 1998 and any subordinate legislation made under it from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“EIR”: the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

“Eligible Customers”: the Company’s customers identified as eligible for the Bill Reduction by Defra as set out in Schedule 4 as may be amended from time to time by the service of notice by Defra on the Company in accordance with that Schedule.

“Financial Irregularity”: any fraud or other impropriety, mismanagement or misuse of the Funding.

“FOIA”: the Freedom of Information Act 2000 and any subordinate legislation made under that act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“Funding”: the money which Defra shall pay to the Company in accordance with this Agreement and which shall be a sum equal to the total of the Bill Reductions given to all Eligible Customers for each Charging Year.

“Funding Formula”: the provisions set out in Schedule 1 for:

- a) the calculation of the Funding in each Charging Year; and
- b) forecasting the Funding required for the next Charging Year.

“Funding Period”: the period for which the Funding is awarded starting on the Commencement Date and ending on the Termination Date.

“Funding Purpose”: the provision of a Bill Reduction for all Eligible Customers during each Charging Year of the Funding Period.

“Funding Schedule”: the statement which the Company will provide to Defra annually and which will be updated from time to time setting out the total Funding which the Company forecasts will be required according to the Funding Formula.

“Information Acts”: the FOIA, the EIR and the DPA.

“Invoice Dates”: the dates set out in paragraph 3.5.5 of Part 2 of Schedule 1.

“Ofwat”: the Water Services Regulation Authority established by s.219 of the 1991 Act.

“Payment Schedule” the proportion of the Funding for which the Company may invoice Defra on each of the Invoice Dates set out in the Funding Schedule.

“Prohibited Act”: in connection with this Agreement:

- (a) directly or indirectly offer, promise or give any person working for or engaged by Defra a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity;
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity; or
- (c) a material breach by the Company of any part of clause 14.

“Quarter”: a three month period ending on the last calendar day of the months of June, September, December and March each year.

“Quarterly Reconciliation Report”: a report containing for a Quarter the information set out in Schedule 2.

“Reconciliation Report”: a report containing the information set out in Schedule 2.

“Reseller”: has the meaning set out in the Water Resale Order 2006 made by The Director General of Water Services pursuant to Section 150 of the 1991 Act and in addition applies to a licensed water supplier in accordance with its retail authorisation using the Company’s supply system or other water undertaker or sewerage undertaker using the Company’s supply system.

“Sound Operational Principles”: adherence to the regulatory, governance and financial framework that applies to the Company.

“Spending Review”: the Government’s periodic spending review carried out by HM Treasury which fixes spending budgets for government departments for a pre-determined period.

“Termination Date”: 31 March 2020 or either: 1) such later date as may be agreed between the parties; or 2) the date on which this Agreement is terminated by either party in accordance with this Agreement.

“1991 Act” means the Water Industry Act 1991.

- 2.2 The headings are inserted for convenience only and shall not affect the interpretation of the Agreement.
- 2.3 Reference to any legislative and statutory requirement or similar instrument shall be deemed to include reference to any subsequent amendment to, or replacement of, them.
- 2.4 References to any person shall, as the context may require, be construed as a reference to any individual, firm, company, corporation, government department, agency or any association or partnership (whether or not having a separate legal personality).
- 2.5 Unless the context requires otherwise, the singular shall include the plural and vice versa, and the masculine shall include the feminine and vice versa.
- 2.6 References to clauses and Schedules shall mean references to clauses in and schedules to this Agreement.

3. THE PARTIES’ OBLIGATIONS

- 3.1 Defra shall pay the Funding as calculated in accordance with the terms of this Agreement to the Company at such times as are set out herein for the duration of the Funding Period.
- 3.2 Defra hereby confirms that the Secretary of State has exercised his powers in respect of promoting the Bill Reduction to Eligible Customers in accordance with his duties pursuant to Section 2 of the 1991 Act.

- 3.3 Based upon the parties' current understanding of the law, the parties understand that the Funding is not and will not be subject to corporation tax or any other tax or deduction.
- 3.4 The Company shall use the Funding solely for the Funding Purpose.
- 3.5 The Company shall use reasonable endeavours to ensure that:
- 3.5.1 only Eligible Customers receive the Bill Reduction;
- 3.5.2 all Eligible Customers receive the Bill Reduction; and
- 3.5.3 where the status of a Company account changes during a Charging Year the Eligible Customer shall receive a Bill Reduction pro rata based on the number of days within the Charging Year from or to as the case may be the date on which the account status changes.

4. DURATION

Except where otherwise specified, the terms of this Agreement shall apply from the Commencement Date until the Termination Date.

5. FUNDING

- 5.1 On or before the 31 December prior to the start of each Charging Year the Company shall provide Defra with a Funding Schedule.
- 5.2 On receipt of the Funding Schedule Defra shall confirm whether or not it agrees with the Funding Schedule within 15 working days.
- 5.3 If Defra disagrees with the Funding Schedule the parties shall each use reasonable endeavours to agree a new Funding Schedule before the start of the next Charging Year.
- 5.4 If the parties cannot agree a new Funding Schedule before the start of the next Charging Year, in the absence of manifest error, Defra shall pay the Funding according to the previously agreed Funding Schedule or, if there is no previously agreed Funding Schedule, according to the latest Funding Schedule submitted by the Company, and the matter shall be referred for Dispute Resolution.
- 5.5 The Company shall submit invoices to Defra on the Invoice Dates for the sums set out in the Funding Schedule (or as amended pursuant to clauses 5.3 and 5.4) and, subject to clauses 9 and 10, Defra shall pay the amounts invoiced to the Company within 30 days of receipt of each invoice.
- 5.6 The Company shall promptly notify and repay to Defra any money incorrectly paid to it as a result of any administrative error.
- 5.7 Should the Company be subject to financial or other difficulties which may affect its effective delivery of the Funding Purpose or compliance with this Agreement, it will notify Defra immediately so that, if possible, and without creating any legal obligation, Defra will have an opportunity (at its absolute discretion) to provide assistance in

resolving the problem or to take action to protect Defra and the Funding in accordance with this Agreement.

5A. FUNDING REVIEW

- 5A.1 The Company acknowledges that Defra has a ceiling for the Funding of £40,000,000 (forty million pounds) in each Charging Year (the “**Funding Review Level**”). If the Funding exceeds the Funding Review Level in respect of any Charging Year (an “**Excess**”) the Company shall, at the request of Defra, fund the Excess provided that Defra shall reimburse the Company the Excess in the following Charging Years pursuant to this clause 5A.
- 5A.2 The Company shall give Defra indicative estimates of the Funding required by 30 November each year for the following Charging Year and firm estimates of the Funding required by 31 December.
- 5A.3 The Company shall notify Defra immediately if, in respect of a Charging Year, it becomes aware that there is, or is likely to be, an Excess in that Charging Year.
- 5A.4 If, pursuant to clause 5A.2 or 5A.3, Defra is informed by the Company that there is or is likely to be an Excess, Defra shall review its policy and the level of Funding (a “**Review**”) and, as a result of the Review may, at its sole discretion, alter the value of the Bill Reduction for subsequent Charging Years (a “**Bill Reduction Change**”).
- 5A.5 The Review shall take into account any Excess which the Company is funding so that any Bill Reduction Change allows Defra to reimburse the Excess at the earliest possible opportunity such reimbursement to be made by Defra to the Company in accordance with paragraphs 4.1 and 4.2 of Schedule 1 subject to the Funding Review Level not being exceeded in any Charging Year.
- 5A.6 If Defra decides to implement a Bill Reduction Change pursuant to clause 5A.4, it shall promptly notify the Company in writing so that the Company can apply the Bill Reduction Change in the Funding Formula for subsequent Charging Years.
- 5A.7 If Defra notifies the Company of a Bill Reduction Change between 1 April and 31 December the Company shall apply the Bill Reduction Change in all subsequent Charging Years.
- 5A.8 If Defra notifies the Company of a Bill Reduction Change between 1 January and 31 March the Company shall apply the Bill Reduction Change in the Charging Year following the next Charging Year and all subsequent Charging Years.
- 5A.9 If Defra has not reimbursed fully or at all the Excess by the Termination Date Defra shall within 30 days of receipt of an invoice from the Company after the Termination Date reimburse the Company the Excess or the balance of the Excess as appropriate.

5B. AGREEMENT REVIEW

- 5B.1 If, for reasons outside the control of the parties, for example, but not limited to, a change in the law, either party believes that its ability to fully and properly carry out its obligations under this Agreement is impaired, it may request a meeting between the parties (a “**Review Meeting**”) to review the terms of this Agreement which

Review Meeting shall be held within 30 days of the request being made or such other time as agreed by the parties.

5B.2 At such Review Meeting the parties shall each use reasonable endeavours to agree any changes to the Agreement which may be necessary to resolve the matter which is the subject of the Review Meeting. Any change to the Agreement shall be recorded in writing and properly executed as a deed of variation by the parties.

5B.3 If the parties cannot reach agreement at the Review Meeting the matter shall be referred for Dispute Resolution.

6. MONITORING AND REPORTING

6.1 The Company shall monitor the delivery of the Funding Purpose throughout the Funding Period to ensure that the Funding Purpose is being met and that this Agreement is being adhered to.

6.2 During the Funding Period, the parties shall comply with the provisions of clauses 6.4 to 6.11.

6.3 On termination of this Agreement, the parties shall comply with the provisions of clauses 6.12 to 6.16.

6.4 After the end of each Quarter, other than the Quarter ending in March each year, the Company shall provide Defra with a Quarterly Reconciliation Report and an Assurance Report in respect of such Quarterly Reconciliation Report. These will be provided with the invoice for the following Quarter in accordance with the Invoice Dates.

6.5 Within 15 working days of receipt of the Quarterly Reconciliation Report Defra shall confirm to the Company in writing whether or not it agrees with the Quarterly Reconciliation Report and, in the case of disagreement, the areas of dispute.

6.6 If Defra disagrees with the Quarterly Reconciliation Report, the parties shall each use reasonable endeavours to resolve any matter in dispute. If the parties are unable to resolve any disagreement within 60 days of Defra's receipt of the Quarterly Reconciliation Report, the dispute shall be referred for Dispute Resolution.

6.7 After the end of each Charging Year the Company shall provide Defra with a Reconciliation Report and an Assurance Report in respect of such Reconciliation Report. These will be provided with the first invoice in the following Charging Year in accordance with the Invoice Dates.

6.8 Within 15 working days of receipt of the Reconciliation Report Defra shall confirm to the Company in writing whether or not it agrees with the Reconciliation Report and, in the case of disagreement, the areas of dispute.

6.9 If Defra disagrees with the Reconciliation Report, the parties shall each use reasonable endeavours to resolve any matter in dispute. If the parties are unable to resolve any disagreement within 60 days of receipt of the Reconciliation Report, the dispute shall be referred for Dispute Resolution.

6.10 When a Quarterly Reconciliation Report or a Reconciliation Report is agreed by both parties and it indicates an overpayment of Funding in the relevant Charging Year, the

overpayment shall be included in the calculation for the Company's next invoice to Defra for Funding as set out in Schedule 1.

- 6.11 When a Quarterly Reconciliation Report or a Reconciliation Report is agreed by both parties and it indicates an underpayment of Funding in the relevant Charging Year, the underpayment shall be included in the calculation for the Company's next invoice to Defra for Funding as set out in Schedule 1.
- 6.12 Within 15 working days following the completion of 6 months after the Termination Date, the Company shall provide Defra with a final Reconciliation Report in the form set out in Schedule 2 (the "**Final Report**"), an Assurance Report in respect of the Final Report and an invoice.
- 6.13 Within 60 working days of receipt of the Final Report Defra shall confirm to the Company in writing whether or not it agrees with the Final Report and, in the case of disagreement, the areas of dispute.
- 6.14 If Defra disagrees with the Final Report, the parties shall each use reasonable endeavours to resolve any matters in dispute. If the parties are unable to resolve any disagreement within 90 working days of receipt of the Final Report, the dispute shall be referred for Dispute Resolution.
- 6.15 If the Final Report is agreed by both parties and it indicates an overpayment of Funding, the Company shall return such overpayment to Defra within 30 days.
- 6.16 If the Final Report is agreed by both parties and it indicates an underpayment of Funding Defra shall make a further payment of Funding to the Company in a sum equal to that of the underpayment to the Company within 30 days.
- 6.17 Subject to clause 10, Defra will continue to pay the Funding requested by the Company calculated according to the terms of this Agreement irrespective of any dispute pursuant to this Agreement and whether or not referred for Dispute Resolution.

7. ACCOUNTS AND RECORDS

- 7.1 The Company shall retain all customer and accounting documents relating to the Funding Purpose for at least 6 years after the Termination Date.
- 7.2 The Company shall permit duly authorised agents of Defra to examine the Company's records and documents relating to the Funding Purpose and to provide such copies and oral or written explanations as may be required. This obligation does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Company under section 6(3) and 6(5) of the National Audit Act 1983.
- 7.3 The Company shall:
 - 7.3.1 be subject to the requirements of appropriate applicable accounting reporting standards to the extent to which it identifies the value and purpose of the Funding in its audited accounts and its annual report; and

7.3.2 maintain a record of internal financial controls and procedures and provide Defra with a copy if requested in line with the existing regulatory and financial framework applying to the Company.

8. FINANCIAL IRREGULARITY

8.1 The Company shall conduct its business in accordance with Sound Operational Principles.

8.2 The Company shall notify Defra immediately of any actual or suspected Financial Irregularity (or any circumstances which are likely in the Company's opinion to result in Financial Irregularity) and indicate the steps that are being taken to address that irregularity.

8.3 Defra shall have the right, within the financial and regulatory framework applying to the Company, to insist on additional steps to be taken by the Company to address any actual or suspected Financial Irregularity.

9. TERMINATION

9.1 Subject to clause 9.2, without prejudice to Defra's other rights and remedies, Defra may terminate this Agreement on written notice to the Company at any time.

9.2 If Defra terminates this Agreement on or between:

9.2.1 1 April and 31 December in any year of the Funding Period, termination shall take effect at the end of the Charging Year during which the termination notice is issued;

9.2.2 1 January and 31 March in any year of the Funding Period, termination shall take effect at the end of the Charging Year following the one in which the termination notice is issued.

9.3 After the Termination Date, Defra shall make no further payment of the Funding to the Company except to reimburse the Company for all Bill Reductions made to Eligible Customers including any Excess pursuant to clause 5A.9 in accordance with the Agreement in respect of any Charging Year up to the Termination Date.

9.4 The Company, without prejudice to its other rights and remedies, may terminate this Agreement at any time on 3 months' written notice to Defra if Defra fails to:

9.4.1 make the payments in accordance with the Funding Schedule to the Company; and

9.4.2 inform the Company that it has suspended payments in accordance with clause 10.2.1.

9.5 Save as otherwise expressly provided in the Agreement, termination or expiry of the Agreement shall be without prejudice to any rights, remedies or obligations accrued under the Agreement prior to termination or expiration and nothing in the Agreement

shall prejudice the right of either party to recover any amount outstanding at such termination or expiry.

- 9.6 No transfer of Company employees or agents associated with the Funding Purpose will be made to Defra on termination of the Agreement.

10. SUSPENSION OF PAYMENTS

- 10.1 Defra may suspend payments to the Company other than in respect of Bill Reductions previously notified to Eligible Customers if there occurs one or more of the following events:

10.1.1 the Company commits a material breach of this Agreement and, if such breach is capable of remedy, has failed to remedy that breach within 60 days, or another agreed timescale if longer, of Defra issuing a notice of the breach to the Company;

10.1.2 the Company becomes insolvent, is placed into receivership, administration or liquidation (other than for the purpose of a bona fide internal reorganisation or amalgamation), unless a special administrator is appointed under the regulatory regime;

10.1.3 a petition has been presented for the winding-up of the Company or it enters into any amalgamation or composition for the benefit of its creditors, or it is unable to pay its debts as and when they fall due for reasons other than Defra's failure to comply with this Agreement; or

10.1.4 the Company commits or has committed a Prohibited Act.

(together "**Suspension Events**").

- 10.2 If there is a Suspension Event and Defra suspends payment of the Funding to the Company pursuant to clause 10.1, it shall:

10.2.1 inform the Company in writing of its decision to suspend within 48 hours of the suspension;

10.2.2 refer the matter of the suspension for Dispute Resolution if it has not lifted the suspension after 60 days;

10.2.3 be entitled to suspend payment of the Funding until either:

10.2.3.1 the Suspension Event has been removed or remedied to Defra's satisfaction; or

10.2.3.2 the matter has been referred for Dispute Resolution and, as a result of such reference, the parties have agreed or the mediator has determined that Defra should resume payments.

11 CONFIDENTIALITY

- 11.1 Except to the extent set out in this clause 11 or where disclosure or publication is expressly permitted elsewhere in this Agreement, both parties from the Commencement Date up to the date 6 years from the Termination Date shall treat all

Confidential Information belonging to the other party as confidential and shall not disclose any Confidential Information belonging to the other party to any other person without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the performance of each party's obligations under the Agreement.

11.2 Subject to clause 12:

11.2.1 the contents of this Agreement shall be treated as confidential to the Company and no part of the Agreement shall be disclosed without the Company's consent (such consent not to be unreasonably withheld);

11.2.2 any publication of any part of this Agreement will have any information which is Confidential Information belonging to Defra or the Company (as specified in writing to Defra by the Company) redacted, including from time to time agreed changes to the Agreement; and

11.2.3 each party may only disclose the other party's Confidential Information to its personnel and professional advisers who are directly involved in the provision of the Funding Purpose or the performance of other obligations set out in the Agreement and who need to know the information and shall ensure that such personnel and professional advisers are aware of and shall comply with the party's confidentiality obligations.

11.3 Both parties shall not, and shall procure that their staff do not, use any of the other party's Confidential Information received otherwise than for the purposes of this Agreement.

11.4 Clause 11.1 shall not apply to the extent that such information was:

11.4.1 in the possession of the disclosing party without obligation of confidentiality prior to its disclosure;

11.4.2 obtained from a third party without obligation of confidentiality;

11.4.3 already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

11.4.3 independently developed without access to the other party's Confidential Information.

11.5 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the delivery of the Funding Purpose under the Agreement, both parties undertake to maintain adequate security arrangements that meet the requirements of professional standards and best practice.

11.6 Both parties will immediately notify the other party of any breach of security in relation to Confidential Information and all data obtained in the delivery of the Funding Purpose under the Agreement and will keep a record of such breaches. Both parties will use their best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the obligations set out in clauses 11.1 to 11.4.

- 11.7 The parties will co-operate in any investigation that either party considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

12 FREEDOM OF INFORMATION

- 12.1 The Company acknowledges that Defra is subject to the requirements of the Information Acts and shall assist and co-operate with Defra to enable Defra to comply with its disclosure obligations under the Information Acts but shall not be required to provide information to Defra pursuant to an obligation on Defra under the Information Acts which is not being held by the Company on behalf of Defra.

- 12.2 The Company shall, in particular, provide Defra with:

12.2.1 a copy of any information in its possession that Defra requires for the purposes of complying with its obligations under the Information Acts within 10 working days (or such later period as Defra may specify) of Defra requesting that information; and

12.2.2 any reasonable advice or assistance, including any explanation as to why the Company considers an exemption from the disclosure requirements in the Information Acts may apply, requested by Defra to enable it to respond to a request in compliance with its disclosure obligations.

- 12.3 Defra acknowledges that this Agreement and information provided pursuant to clause 12.2 if so marked contains Commercially Sensitive Information

- 12.4 If Defra receives a request for information pursuant to one of the Information Acts (a “**Request**”) which information includes Commercially Sensitive Information, it shall consult the Company before making the decision whether or not to disclose the Commercially Sensitive Information subject to the Request.

- 12.5 If the Company responds to such consultation within 10 days, Defra shall reasonably and properly:

12.5.1 take into account the Company’s views; and

12.5.2 consider whether or not any of the exemptions to its statutory duty to disclose information available under the relevant Information Act apply to the Request.

- 12.6 Notwithstanding clause 12.5, Defra may, at its sole discretion, disclose any information contained in this Agreement if it is the subject of a Request and if, in Defra’s opinion, it must be disclosed for Defra to fulfil its duties under the Information Acts.

13. DATA PROTECTION

- 13.1 The Company shall (and shall procure that its staff) comply with any notification requirements under the DPA and both parties will duly observe all their obligations under the DPA which arise in connection with the Agreement.

- 13.2 The provisions of clause 13.1 shall apply during the Funding Period and indefinitely after its expiry.

14. PREVENTION OF BRIBERY

14.1 The Company shall:

14.1.1 not, and shall use reasonable endeavours to ensure that its staff, agents, consultants and sub-contractors shall not, in connection with this Agreement, commit a Prohibited Act;

14.1.2 not engage in any activity, practice or conduct in relation to the purpose of this Agreement which would constitute an offence under sections 1, 2 or 6 of the Bribery Act if such activity, practice or conduct has been carried out in the UK;

14.1.3 have and shall maintain throughout the term of this Agreement its own policies and procedures, including adequate procedures as determined by section 7(2) of the Bribery Act and any guidance issued under section 9 of the Bribery Act, to ensure compliance with clauses 14.1.1 and 14.1.2;

14.1.4 promptly report to Defra any request or demand for any undue financial or other advantage of any kind received by the Company in connection with the Funding Purpose; and

14.1.5 if requested in relation to any matter relevant to this Agreement, provide Defra with any reasonable assistance, at Defra's cost, to enable Defra to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act.

15 NOT USED

16 FURTHER ASSURANCE

16.1 For the purposes of this clause 16, the term "**Costs**" shall include:

16.1.1 reasonable costs and expenses; and

16.1.2 damages and other direct losses including interest, penalties and other reasonable professional costs and expenses

and shall exclude loss of:

16.1.3 the use of money;

16.1.4 opportunity;

16.1.5 business;

16.1.6 goodwill; and/or

16.1.7 reputation

and shall exclude:

- 16.1.8 costs, expenses and liabilities or other losses arising from the Company's negligence or breach of this Agreement.
- 16.2 If the Company incurs any Costs arising from a third party claim in connection with the performance of this Agreement (a "**Claim**") Defra shall, subject to the following provisions of this clause 16, reimburse to the Company the Costs within 30 days of an invoice for the Costs being submitted for payment by the Company.
- 16.3 If any Claim is received by the Company or if any third party notifies an intention to make a Claim which may reasonably be considered likely to give rise to a liability under this clause 16, the Company shall:
- 16.3.1 as soon as reasonably practical, give written notice of the Claim to Defra, specifying the nature of the Claim in reasonable detail;
 - 16.3.2 keep Defra fully and promptly informed of the proceedings of the Claim;
 - 16.3.3 inform Defra of any matter which is or likely to be material in relation to the proceedings of the Claim;
 - 16.3.4 take account of all Defra's reasonable requirements in relation to such proceedings; and
 - 16.3.5 not make any admission of liability, settlement or compromise of the Claim or agree to any matter in the conduct of proceedings of the Claim which may affect the amount of liability in connection with the Claim without Defra's prior approval, such approval not to be unreasonably withheld or delayed and provided always that, if the Company refuses to settle or compromise the Claim following approval of such settlement or compromise by Defra, Defra shall have no liability in respect of any Claim arising therefrom in excess of the figure at which it could have settled or compromised the Claim together with other Costs up to the proposed date of settlement or compromise.
- 16.4 The Company shall, in all circumstances, take reasonable steps to mitigate its losses in respect of the matters set out in clause 16.2.
- 16.5 Nothing in this clause 16 seeks to exclude or limit either party's liability to the other for death, personal injury or fraud, or excludes any other liability that cannot as a matter of law be excluded.
- 16.6 If Defra does not agree that the Claim is a valid Claim it shall notify the Company thereof within 15 working days of receipt of the Claim and the Company and Defra shall each use reasonable endeavours to agree the Claim or a revised Claim within a further 30 working days.
- 16.7 If the Company and Defra cannot agree the Claim or a revised Claim within such 30 working days the matter shall be referred for Dispute Resolution.

17 ASSIGNMENT

The Company shall not transfer, assign, sub-contract, charge, or otherwise dispose of any part of any of its obligations under this Agreement to a third party without Defra's prior written approval which shall not unreasonably be withheld.

18 AMENDMENTS

This Agreement may be amended from time to time only by the written agreement of both parties.

19 WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

20 NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing save where there is evidence to the contrary. Subject to the foregoing if personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

21 NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between Defra and the Company, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

22 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

23 DISPUTE RESOLUTION

All disputes between the parties shall be resolved in accordance with the Dispute Resolution procedure set out in Schedule 3.

24 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

SCHEDULE 1

FUNDING FORMULA

1. Introduction

In this Schedule terms highlighted in bold print shall have the meanings ascribed to them in the main body of the Agreement or within this Schedule.

1.1 This Schedule details:

- 1.1.1 how the amount of **Funding** payable for a **Charging Year** by **Defra** to the **Company** for the **Bill Reductions** will be forecast prior to the **Charging Year**;
- 1.1.2 the evidence to be provided to demonstrate that there is no billing benefit to the **Company** by the **Funding**;
- 1.1.3 how the **Funding Schedule** and the **Payment Schedule** are prepared, on which invoicing to **Defra** is based; and
- 1.1.4 the process of quarterly and annual reconciliation and how this is reflected in the amount of **Funding** payable for a **Charging Year**.

PART 1 – CALCULATION OF FUNDING FORECAST

- 2.1 The **Company** will forecast the number of **Eligible Customers** in advance of a **Charging Year**. The **Funding** amount shall be calculated from the number of **Eligible Customers** multiplied by the **Bill Reduction** appropriate for each **Eligible Customer**.
- 2.2 To forecast the **Funding** amount, the **Company** shall use a forecast of the average number of **Eligible Customers** for the next **Charging Year** and the associated value of **Bill Reduction**. For measured **Eligible Customers** the forecast for the average number of **Eligible Customers** for the next **Charging Year** will be projected taking into account anticipated changes from the actual number of customers reported from the **Company's** systems at 30 September of the current **Charging Year**. For unmeasured **Eligible Customers** the forecast for the average number of **Eligible Customers** for the next **Charging Year** will be projected for anticipated changes from the actual number of customers at 1 December of the current **Charging Year**.
- 2.3 For measured customers the forecast takes into account, amongst other factors, the changes in customer numbers for customers who were previously unmeasured who

are forecast to switch to a measured basis of charging and for new **Eligible Customer** properties. The unmeasured customer forecast takes into account, amongst other factors, the changes in customer numbers for customers that choose to switch to a measured basis of charging.

- 2.4 Separate forecasts of customer numbers will be calculated as described for **Eligible Customers** who are unmeasured and measured customers. For **Resellers** the forecast will reflect the number of **Bill Reductions**, i.e. the total number of **Bill Reductions** that **Resellers** receive to pass on to **Eligible Customers**. This forecast will come from information provided by the **Resellers**. For the first year of the **Agreement** this will be estimated using council tax records and other relevant information.
- 2.5 To convert the forecast **Eligible Customer** numbers into a forecast **Funding** value, an average value of **Bill Reduction** will be forecast by the **Company** for each charging multiplier code included in the **Principal Statement** (as described in paragraph 2.7 below). This forecast will be informed, where available, by an actual average value of **Bill Reduction** for the past **Charging Year**, the forecast for the current **Charging Year** and any change in average value of **Bill Reduction** anticipated by the **Company** for the next **Charging Year**. The average **Bill Reduction** may be less than £50 (or such other sum specified by **Defra**) due to the **Bill Reduction** being capped at the amount of the charges to **Eligible Customers** where it is less than the level of the **Bill Reduction**.
- 2.6 The forecast **Funding** for a **Charging Year** set out in the **Funding Schedule** provided to **Defra** will reflect the forecast average number of **Eligible Customers** multiplied by the forecast average value of **Bill Reduction**. The forecast will separately identify the value for unmeasured, measured and **Reseller Bill Reductions**.

PART 2 – EVIDENCE OF NO BILLING BENEFIT TO THE COMPANY

- 2.7 The forecast for the required **Funding** will be evidenced by the use of an existing regulatory funding process subject to the following. The **Company** has historically completed an annual “**Principal Statement**” which is submitted to **Ofwat** to support

the approval of **Charges** (as included in a “**Charges Scheme**”) for a **Charging Year**. The **Principal Statement** contains calculations for a basket of tariffs and is designed to confirm that the change in **Charges** between the current **Charging Year** and the next **Charging Year**, when these are weighted by charging multipliers including the number of customers in the previous year, results in a Weighted Average Charges Increase (“**WACI**”) no more than the maximum price limit.

- 2.8 The **Principal Statement** contains two types of tariff entries. Firstly the regulated charges that form part of the **WACI** calculation; changes in these charging multipliers affect the **WACI** formula calculations. Secondly, there are charge multipliers included in a monitoring section where changes in these charges do not affect the **WACI**. The **Bill Reductions** and **Funding** amounts shall be based upon this second category. The **Company** will include the actual and forecast number of **Eligible Customers** within the “Charges multipliers for monitoring” sections of the **Principal Statement**.
- 2.9 In order to demonstrate to **Defra** that the **Bill Reductions** made to **Eligible Customers** and the **Funding** to be provided by **Defra** have no net revenue impact, a secondary **Principal Statement** will be prepared that includes the relevant “Charges multipliers for monitoring” within the revenue calculation for **WACI**, together with offsetting entries for the **Funding** to be provided by **Defra**. The **WACI** in the main and secondary **Principal Statement** will be the same.
- 2.10 The main **Principal Statement** shall be used in the preparation of the estimate of the **Funding** amount and **Funding Schedule** in advance of the **Charging Year**.

PART 3 – FUNDING & PAYMENT SCHEDULES

- 3.1 The **Company** will calculate a forecast **Funding Schedule** for the **Charging Year** and provide this to **Defra** in accordance with the timescale prescribed in this **Agreement**. The total forecast of the sum to be paid by **Defra** to the **Company** for the **Charging Year** will equate to the forecast **Funding** amount. The timing of the required quarterly payments from **Defra** will be based on matching historical customer payment profiles (taking into account an agreed time value of money).
- 3.2 Separate figures will be included within the **Funding Schedule** for:

- 3.2.1 **Funding** forecast for **Bill Reduction to Eligible Customers** who are directly billed by the **Company** (separately for measured and unmeasured customers); and
- 3.2.2 **Funding** forecast for **Bill Reduction to Resellers**.
- 3.3 The forecast average number of customers for measured and unmeasured **Eligible Customers** will be profiled over each month of the **Charging Year** based on a relevant suitable profile calculated from the **Company's** systems from a previous **Charging Year**. A forecast for the profile of number of **Bill Reductions** made to **Resellers** will also be made by the **Company**.
- 3.4 The **Company** and **Defra** may agree adjustments to the timing of **Funding** payments in accordance with the terms of this **Agreement**, in particular arising from clause 5A on the **Funding Review Limit**. This will be shown separately on the **Funding Schedule** and will be included in the calculation of the **Payment Schedule** taking into account the time value of money using the **Discount Rate**.

3.5 Directly Billed Eligible Customers

- 3.5.1 The actual monthly customer payment profile for collections from measured customers and separately for unmeasured customers for the previous three complete **Charging Years** is reported from the **Company's** collection records. The **Company** will select the most suitable historic payment profile and may make adjustments where necessary to provide the basis for a forecast collection profile. The collections profile is intended to reflect the timing of customer payments for the billing of customers for a **Charging Year** including payments received before or after that **Charging Year**.
- 3.5.2 A forecast collection profile is calculated and applied to the forecast **Funding** payment for the relevant **Charging Year**.
- 3.5.3 The **Company** will propose a profile for the quarterly invoicing of **Funding** to **Defra** in the **Funding Schedule** based on a forecast customer payment profile, adjusted using Net Present Value Calculations with an agreed **Discount Rate**. This profile is then converted into the forecast quarterly

invoice values over the relevant **Charging Year**.

3.5.4 The forecast quarterly invoice to **Defra** will be based on a profile set out in a payments schedule. For the calculation of the Payments Schedule therefore payment by Defra to the Company is shown in the month following the assumed invoice date.

3.5.5 Quarterly invoice dates are expected to be a working day as close as possible to the following:

Quarter	Invoice date and month
Quarter 1	15 May
Quarter 2	15 August
Quarter 3	15 November
Quarter 4	14 February

3.6 Eligible Customers of Resellers

3.6.1 Funding payments for **Resellers** will be separately identified on the invoice issued by the **Company** to **Defra** each quarter. The **Funding Schedule** will include an expected invoice amount based on the forecast number of **Reseller** payments calculated from the **Funding Formula**.

3.6.2 The calculation of each value component of **Reseller Funding** will comprise the number of **Bill Reductions** based on the total number of **Eligible Customers** that **Resellers** are forecast to be entitled under the **Agreement** to receive to pass on to their customers and the forecast average amount of **Bill Reduction** forecast to be claimed.

3.6.3 A profile for **Reseller Funding (RF)** for each month in the **Charging Year** will be included in the **Funding Schedule**.

3.6.4 The **Reseller Funding** included in the **Funding Schedule** for each month will be invoiced on a quarterly basis, on the same invoice as for the directly billed **Eligible Customers**. This is expected to be as set out during the month in the schedule below:

RF month	Invoiced Month
April, May, June	May
July, August, September	August
October, November, December	November
January, February, March	February

PART 4-QUARTERLY AND ANNUAL RECONCILIATION

- 4.1 After each **Quarter** the **Company** will produce a **Quarterly Reconciliation Report**. This report will compare the actual number of customers receiving **Bill Reduction** and the total value of all **Bill Reductions** made in aggregate for the **Charging Year** up to the relevant **Quarter**. The **Funding Schedule** as hereinafter provided will be recalculated and any adjustments made to the total **Funding** for the remaining **Quarters** of the **Charging Year** and the profile for the required payment by **Defra**, including any **Excess** pursuant to clause 5A.5.
- 4.2 After the end of each **Charging Year**, the **Company** will provide **Defra** with a **Reconciliation Report** for the final **Quarter** as set out in Schedule 2. The **Reconciliation Report** provides a comparison of the total actual value of **Bill Reduction** for the **Charging Year** with that included in the most recent **Funding Schedule** including any **Excess** pursuant to clause 5A.5. Where there is an overpayment or underpayment of **Funding** shown in the **Reconciliation Report**, this shall be adjusted in the next funding invoice to **Defra**, or through a separate payment/repayment of **Funding** including any **Excess** pursuant to clause 5A.9 where the relevant **Charging Year** is the last **Charging Year** of the **Funding Period**.

5.0 Quarterly Reconciliation Reports

- 5.1 For each **Quarterly Reconciliation Report**, the actual number of **Eligible Customers** in aggregate for the **Charging Year** up to the end of that **Quarter** will be compared to the previous forecast and a forecast for the remainder of the **Charging Year** updated. The actual value of **Bill Reduction** will be included in an updated **Funding Schedule** forwarded to **Defra** together with the revised actual and forecast customer numbers. The forecast **Bill Reduction** from the revised customer numbers will be included in an updated **Funding Schedule**. The **Company** will calculate a revised invoice amount and profile for the remaining **Quarters** in the **Charging Year**

by taking into account the actual **Funding** already invoiced to **Defra** for the **Charging Year** and recalculating the required **Funding** and its timing of payments for the remainder of the **Charging Year**.

5.2 Quarter 1 (Q1) Invoice

5.3 In preparing the Q1 invoice, the **Company** may provide an updated **Funding Schedule** for the new **Charging Year**. The updated forecast would reflect any changes to the forecast number of **Eligible Customers** or value of the **Bill Reduction** since the forecast **Funding Schedule** for the **Charging Year** was provided to **Defra**. The **Payment Schedule** would be recalculated using the **Discount Rate** and customer payment profile used in calculating the original forecast **Funding Schedule** for the **Charging Year**. The **Payment Schedule** will show the amount of **Bill Reduction** for directly billed **Eligible Customers** and **Resellers Funding** to be invoiced to **Defra** at Q1.

5.4 The Q1 invoice (except for the first year of the **Agreement**) will also separately show any overpayment or underpayment of **Funding** from the previous **Charging Year** as identified in the **Reconciliation Report** at Q4.

5.5 Quarter 2 (Q2) Invoicing

5.6 With the Q1 **Reconciliation Report**, the **Company** will provide an updated **Funding Schedule** for the **Charging Year**. The updated forecast will reflect the actual number of customers and aggregate value of **Bill Reduction** for the **Charging Year** up to the end of each month of Q1 and any changes to the forecast number of **Eligible Customers** or value of the **Bill Reduction** for the remainder of the **Charging Year** since the Q1 **Funding Schedule** for the **Charging Year** was provided to **Defra**. The **Payment Schedule** would be recalculated using the **Discount Rate** and the original customer payment profile used in calculating the forecast **Funding Schedule** for the **Charging Year** over the remaining **Quarters** in the **Charging Year**. The **Payment Schedule** will show the amount of **Bill Reduction** for directly billed **Eligible Customers** and **Resellers Funding** to be invoiced to **Defra** at Q2.

5.7 Quarter 3 (Q3) Invoicing

5.8 With the Q2 **Reconciliation Report**, the **Company** will provide an updated **Funding Schedule** for the **Charging Year**. The updated forecast will reflect the actual number of customers and the aggregate value of **Bill Reduction** for the **Charging Year** up to the end of each month of Q1 and Q2 and any changes to the forecast number of **Eligible Customers** or value of the **Bill Reduction** for the remainder of the **Charging Year** since the Q2 **Funding Schedule** for the **Charging Year** was provided to **Defra**. The **Payment Schedule** will be recalculated using the **Discount Rate** and the original customer payment profile used in calculating the forecast **Funding Schedule** for the **Charging Year** over the remaining **Quarters** in the **Charging Year**. The **Payment Schedule** will show the amount of **Bill Reduction** for directly billed **Eligible Customers** and **Resellers Funding** to be invoiced to **Defra** at Q3.

5.9 Quarter 4 (Q4) Invoicing

5.10 With the Q3 **Reconciliation Report**, the **Company** will provide an updated **Funding Schedule** for the **Charging Year**. The updated forecast will reflect the actual number of customers and aggregate value of **Bill Reduction** for the **Charging Year** up to the end of each month of Q1, Q2 and Q3 and any changes to the forecast number of **Eligible Customers** or value of the **Bill Reduction** for the remainder of the **Charging Year** since the Q3 **Funding Schedule** for the **Charging Year** was provided to **Defra**. The **Payment Schedule** will show the amount of **Bill Reduction** for directly billed **Eligible Customers** and **Resellers Funding** to be invoiced to **Defra** at Q4.

SCHEDULE 2

REPORTS

Reconciliation Reports

1. A **Quarterly Reconciliation Report** will be prepared by the **Company** as set out below.
2. The report will include the aggregate total for the **Charging Year** up to the **Quarter** covered by the report. The report for each **Quarter** will be for the nearest day prior to the last day of the relevant month for which the data required to prepare the **Reconciliation Report** is available from the **Company's** systems. This is defined in the table below:

Quarter	Prepared for the Charging Year up to the end of:
Q1 – Reconciliation Report 1	June
Q2 – Reconciliation Report 2	September
Q3 – Reconciliation Report 3	December
Q4 – Reconciliation Report 4 (Year end)	March

3. The **Quarterly Reconciliation Report** will compare the aggregate value of **Bill Reduction** applied to customers up to that **Quarter** in the **Charging Year** against that forecast in the **Funding Schedule** and used in calculating the Payment Schedule. The number of customers who receive the **Bill Reduction** will be similarly reported. The format is shown in the table below:

FUNDING FORMULA COMPONENT – Value (£)	Aggregate Forecast in Funding Schedule and applied to the Payment Schedule to each Quarter	Aggregate Bill Reduction to Quarter
Unmeasured total (UF)	TOTAL	TOTAL
Measured total (MF)	TOTAL	TOTAL
Eligible customers directly billed by the Company total	UF + MF	UF+MF
Reseller total (RF)	TOTAL	TOTAL

FUNDING FORMULA COMPONENT – customer numbers	Aggregate Forecast in Funding Schedule and applied to the Payment Schedule to Quarter	Actual to Quarter
Unmeasured total (UF)	TOTAL	TOTAL
Measured total (MF)	TOTAL	TOTAL
Eligible customers Directly Billed by the Company total	UF + MF	UF+MF
Reseller total (RF)	TOTAL	TOTAL

4. For the **Reconciliation Report** at the end of the **Charging Year** (Q4), the total variance in **Funding** will be added or deducted in the next invoice from the **Company**.

5. The final amount for a **Bill Reduction** applied to customer bills for a **Charging Year** may not be finalised until up to 6 months after the end of the **Charging Year**, in particular for metered customers. For the last **Charging Year** of the **Agreement**, a **Final Report** shall be provided within 15 working days following the period of 6 months after the **Termination Date** in the same format as the **Quarterly Reconciliation Report**.

SCHEDULE 3

DISPUTE RESOLUTION

- 1 If either party believes there is a dispute or difference between the parties in connection with this Agreement such party shall serve a notice on the other party (a “**Dispute Notice**”) giving brief details of the dispute and, in the first instance, the parties shall each use reasonable endeavours to resolve such dispute amicably and in good faith and in accordance with paragraphs 1 to 5 of this Schedule 3.
- 2 Representatives of the parties shall meet within 14 days (or such other longer period not exceeding 30 days as the parties may agree) of receipt of a Dispute Notice.
- 3 Where either no representatives of the parties are available to meet within the period set out in paragraph 2 or the representatives fail to agree a unanimous resolution of the dispute at such meeting, the dispute shall be referred to the Company’s Chief Executive and to Defra’s Director for Water and Flood Risk Management or their deputies (the “**Officers**”).
- 4 Following a referral pursuant to paragraph 3, the Officers shall meet within 14 days (or such other longer period not exceeding 30 days as the Officers may agree) to attempt to resolve the dispute. Any unanimous resolution of the Officers shall be recorded in writing and signed by them and shall be final and binding unless the parties agree otherwise.
- 5 If the Officers are unable to resolve the dispute within 30 days of it being referred to them the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve.
- 6 To initiate the mediation, a party must serve notice in writing to the other party requesting the mediation (a “**Mediation Notice**”). A copy of the Mediation Notice should be sent to CEDR Solve.
- 7 The mediation will start no later than 60 days after the date of the Mediation Notice at a place nominated by the mediator.
- 8 If the parties reach agreement on a resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once signed by both parties.
- 9 Each party shall pay its own costs in connection with a referral of the dispute to CEDR Solve and shall bear 50% of CEDR’s fees for the mediation.
- 10 No party may commence any court proceedings in relation to any dispute arising out of this Agreement until after the mediation has been concluded and in the event that the parties have not reached agreement on a resolution of the dispute which has been reduced to writing and signed by the parties, provided that the right to issue proceedings is not prejudiced by a delay.
- 11 Unless otherwise agreed, the mediation and all correspondence and documents connected with it shall be conducted in confidence and without prejudice to the rights of the parties in any future court proceedings.

SCHEDULE 4

ELIGIBLE CUSTOMERS

- 1** Eligible Customers entitled to a Bill Reduction shall, for the purposes of this Agreement, be those customers for the time being of the Company who fulfil the conditions determined by Defra which are set out in paragraphs 2 to 7 of this Schedule 4 as may be amended from time to time in accordance with paragraph 8 of this Schedule 4.
- 2** A Bill Reduction will apply to Charges for Dwellings for which the occupier and Charges payer thereof is liable to pay council tax.
- 3** For the purposes of this Schedule 4 a “**Dwelling**” means:

 - (a) a private dwelling-house (which may be a building or part of a building);
 - (b) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968);
 - (c) a boat or similar structure designed or adapted for use as a place of permanent habitation; or
 - (d) any house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004 as they have effect for the purposes of Part 1 of that Act.
- 4** Where a Dwelling forms only part of premises for which a single bill for Charges is issued and for which premises there is a liability to pay both council tax and business rates, a Bill Reduction will apply only where each person liable to pay the council tax is not liable also to pay business rates for any part of the premises.
- 5** Where a bill covers Charges for two or more Dwellings for which council tax and not business rates is payable (ie a Reseller) the Bill Reduction will apply to each Dwelling for which Council Tax is payable as notified to the Company by a Reseller.
- 6** Only one Bill Reduction will apply to each Dwelling connected for water and/or sewerage services.
- 7** The following table of property types and eligibility is included by way of illustration only and generally covers situations where the conditions in paragraphs 4 to 6 are not fulfilled.

Property type	Eligible for Bill Reduction
Commercial owner billed for a property occupied as a Dwelling with separate bills	Yes
Holiday Camps, static mobile home sites, caravan sites, camping sites with a single charges bill	No
House Council Owned	Yes
House Private Owned	Yes
MOD Housing if separate bills	Yes
Shared house where landlord splits water and sewerage bill in rent	Yes, single bill reduction for property reflects 1 property on Council Tax Register
Single Caravan or Mobile Home	Yes (if pays bill to SWW direct or on Council Tax register)
Advertising boards	No
All Crown hereditaments except housing with separate bills	No
Animal drinking trough	No
Cemeteries/Crematoria etc	No
Churches and other religious buildings	No
Cinemas	No
Coal Board hereditament except housing with separate bills	No
Docks, Harbours & Canals	No
Domestic lock-up garages – private or rented	No
Electricity hereditament	No
Factories, steel or wood mills etc	No
Farm House (mixed domestic and commercial use)	No
Gas hereditament	No
Hotels and Boarding Houses	No
Library/Museum/Gallery	No
Local Authority school or college	No
Markets and market stalls	No
NHS hospitals, surgeries and clinics (including integral accommodation)	No
Offices, banks and banks within offices	No
Other Entertainment Places – eg Amusement Arcade	No
Post Office	No
Private hospitals, surgeries and clinics	No
Private school or college	No
Public Houses	No
Quarries	No
Radio and television studios, broadcasting sites	No
Railway or bus station	No
Residential clubs	No
Restaurants	No
Servicing garage, Petrol station or car park	No
Sewage treatment works, recycle centres, refuse tips	No
Shop and living accommodation (mixed domestic and commercial use)	No
Social & Community centres, Village halls	No

Property type	Eligible for Bill Reduction
Sports Ground or club, golf course, racing track	No
Swimming pools etc	No
Telecom hereditament	No
Theatres and music halls	No
Town Halls and local authority offices	No
University (including halls of residence)	No
Warehouses, Stores & Workshops	No
Water hereditament	No
Wholly commercial shops, banks or cafes	No

- 8** The criteria for Eligible Customers for any Charging Year as set out in paragraphs 2 to 7 above may be varied only by the service of written notice by Defra on the Company provided the varied criteria are compliant with paragraph 3 above and the Company acting reasonably agrees that it is reasonable and possible to apply the revised criteria.

SCHEDULE 5

COMMERCIALLY SENSITIVE INFORMATION

- 1)** Definition of “Bill Reduction” in clause 2.1
- 2)** Clauses 5, 5A, 8, 9.3 and 16
- 3)** Schedules 1 and 2 and information produced by the Company or Defra pursuant to these Schedules