



# Deemed Contract Terms and Conditions for the Supply of Water for Retail Exit customers.

---

## **Our terms with you**

We supply water services to your Premises on the basis of these General Terms and Conditions for the Supply of Water.

### **Key features:**

The Agreement is between you and us. In the Agreement: -

- 'we', 'our', or 'us' means SES Business Water a trading name of Sutton and East Surrey Water Services Ltd. Company Number 2446416 of London Road, Redhill, Surrey, RH1 1LG;
- 'you' and 'your' means "The Customer".
- Our charges will increase and / or decrease with our retail area default charges for water which are published every April.
- We will provide periodic invoices, statements or payment plans detailing the payments due for our services.
- We will seek to read your meter (where appropriate) bi-annually.

## **Your Premises**

- You must notify us in writing if you move out of any of your Premises. If you do not notify us, you will be responsible for paying the charges until you do so or we otherwise become aware. Notification to include the person or organisation responsible for paying the Water Charges.

## **Any questions?**

If you have any questions or would like to discuss anything contained in this document further, please get in touch with [query@sesbusinesswater.co.uk](mailto:query@sesbusinesswater.co.uk) or telephone 0203 750 9300.

## 1 Our Agreement with You

- 1.1 These General Terms and Conditions shall apply to the Agreement between you and us for the supply of water.
- 1.2 The Agreement shall continue on a rolling basis unless it is terminated in accordance with these terms. You may terminate the Agreement and transfer your supply at any time subject to these conditions.

## 2 Definitions and Interpretation

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

Act means the Water Industry Act 1991 and the Water Industry (Scotland) Act 2002.

Agreement means the contract between you and us made up of the Agreement for the Supply of Water and these General Terms and Conditions.

Billing Period means one calendar month, three calendar months, six calendar months or one year as agreed with you.

Charges means our charges payable by you for the supply of water to your Premises calculated at the Charge Rates.

Charge Rates means our charge rates for the supply of water to your Premises as set out in the Agreement (as may be adjusted in accordance with clause 9).

Competent Authority means any body that has a relevant regulatory or supervisory role including, but not limited to, the Secretary of State for Environment, Ofwat, Scottish Ministers and the Water Industry Commission for Scotland (in Scotland only), the Drinking Water Quality Regulator, the Environment Agency and the Health and Safety Executive.

Customer, You and Your means you, the person, firm or company detailed in the Agreement, and includes your employees and agents. Where an individual enters into the Agreement on behalf of a business, that individual confirms they have the authority to contractually bind and enter into the Agreement on behalf of that business and the business shall be the Customer in the context of this Agreement.

Default Retail Charges means the Charges in accordance with the retail Charges rates published for the Sutton and East Surrey water region and amended annually, usually every April.

Drought Order has the same meaning as in section 221 of the Water Resources Act 1991; and for Customers in Scotland, Water Shortage Order has the same meaning as in section 51 & Part 7 of the Water Resources (Scotland) Act 2013.

Emergency Event means any event which is causing or is likely to cause danger to persons or danger to property which we believe on reasonable grounds is existing or imminent.

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

Force Majeure Event means any act of God, adverse weather (excluding any serious deficiency in supplies caused by an exceptional shortage of rain), industrial disturbance or dispute (other

than one affecting only the Party in question or associated with it), war, threat of war, act of terrorism, riot, civil commotion, public demonstration, sabotage, earthquake, or any other event beyond the reasonable control of the Party in question.

General Terms and Conditions means these General Terms and Conditions as amended, updated or replaced by us from time to time. If we amend, update or replace them, we will send you a new copy at least thirty days before they come into force.

Interruptible Supply means a supply of water which may be interrupted by us in accordance with the interruptible supply terms for each Premises set out in the Agreement.

Losses means damage, losses, expenses or costs.

Meter in the context of the Agreement means a meter installed at or near, serving your Premises.

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

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

Parties means you and us.

Payment Plan means the estimated annual charges for the Premises, to be paid in accordance with the payment terms detailed in the Agreement. If, however, the retail area default charges are amended, a new Payment Plan will be provided. The new Payment Plan will also reflect any variation in consumption levels from those estimated in the initial Payment Plan.

Planned Maintenance means any maintenance requirement identified in the relevant water undertaker's maintenance plans as notified to you or us in accordance with clause 5, or any reasonably foreseeable maintenance required.

Premises means any eligible Premises agreed by you and us to be supplied under the Agreement.

Relevant Law means any statute, regulation, bylaw, ordinance or subordinate legislation which is in force or which may be introduced to which either you or us is subject; the common law as applicable to you or us; any binding Court order, judgment or decree applicable to you or us; any binding order, decision, determination or direction of a Competent Authority which applies generally or applies to you or us in relation to the Agreement; any and all relevant licences, consents or permissions, including our water supply licence; and any applicable industry code, policy, guidance or standard terms enforceable by law.

Start Date means the date on which the supply commences.

Supply Change means a change to the Water Supply (e.g. changes to the source, colour or qualities of the Water Supply) other than a Supply Interruption.

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

Switch means the Switch of responsibility for the supply of water to Premises from us to another water or sewerage undertaker.

Switch Date means the date a Switch occurs pursuant to clause 10.

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

Termination Read means the Meter Read performed on termination of the Agreement.

Transfer Date means the transfer of Premises to us from another water or sewerage undertaker and in respect of each Premises, the date the provision of the Water Supply commences for those Premises.

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

Unplanned Maintenance means any maintenance which is not Emergency Event works and that is undertaken to rectify an unforeseen (and reasonably unforeseeable) Supply Interruption; to avoid a Supply Interruption provided that such Supply Interruption was not reasonably foreseeable; or in good faith, to avoid or limit an Emergency Event situation arising.

VAT means value added tax.

Water Supply means water supplied pursuant to our obligations in clause 3.

We, Us and Our means Sutton and East Surrey Water Services Limited (registered in England with company number 2446416). Our registered office is at London Road, Redhill, Surrey, RH1 1LG;

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

### **3 Supply of Water**

- 3.1 We agree to supply water to you at those eligible Premises in the Sutton and East Surrey Water region.
- 3.2 Subject to clause 4, we shall supply water to you at each of the Premises that is wholesome in accordance with any regulations made pursuant to section 67 of the Act (unless the requirement of the Premises is specified in the Agreement to be for non-potable water), and at a level of constancy and pressure that complies with regulation 10 of the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008 (SI 2008/594); and section 65 of the Act in respect of water for domestic purposes or water for fire hydrants that have been notified to us by you (either pursuant to the Agreement or otherwise).
- 3.3 The Parties may by written agreement add additional Premises to the Agreement from time to time in which event we shall amend the Agreement to include the additional Premises; and we shall supply water to you at the new Premises from the Transfer Date.
- 3.4 The Parties may by written agreement remove Premises from the Agreement from time to time, in which event we shall amend the Agreement to remove the Premises and our obligations to supply water to you at the Premises shall cease from the Switch Date for those Premises.
- 3.5 We reserve the right to adjust our prices, should your consumption or usage levels change significantly in accordance with the Charges.
- 3.6 If you wish to add further Premises to the Agreement, we will adjust your Payment Plan or

future invoices as applicable.

- 3.7 You agree to let us know about any change to any Premises, or to how those Premises are used.

### **4 Supply Interruptions:** We may Interrupt the Water Supply to any Premises if:

- 4.1 it is an Interruptible Supply and the Supply Interruption is performed in accordance with any applicable terms set out in the Agreement;
- 4.2 the Water Supply is affected by a Force Majeure Event, an Emergency Event or any actions to prevent the occurrence or limit the effects of an Emergency Event;
- 4.3 a Drought Order or Water Shortage Order is made which overrides the terms of this Agreement;
- 4.4 the Water Supply is affected by a Network Event; or
- 4.5 the relevant water undertaker is performing Planned Maintenance; Unplanned Maintenance or Emergency Event works on its Supply System.

### **5 Information and Notification of Supply Interruptions and Supply Changes**

- 5.1 Unless you have been notified by the relevant water or sewerage undertaker of a Supply Interruption or a Supply Change, we will promptly notify you of the nature or scale of a Supply Interruption or a Supply Change and its estimated duration (provided this is material or could reasonably be construed as material once we are informed specifically by the water or sewerage undertaker).
- 5.2 If any Planned Maintenance by the relevant water or sewerage undertaker will or is reasonably likely to cause a Supply Interruption, once we are informed specifically by the water or sewerage undertaker we shall provide you with written notice of such Supply Interruption.
- 5.3 In respect of Planned Maintenance, we shall, to the extent reasonably practicable, liaise with you to assess the impact of this on you and shall arrange with the relevant undertaker to make all reasonable endeavours to minimise or eliminate the Planned Maintenance (or impact thereof) affecting you.

### **6 Calculation and Payment of Charges**

- 6.1 We shall calculate the Charges in accordance with the retail Charges rates published for the Sutton and East Surrey Water region.
- 6.2 We shall procure Meter Reads (or Transfer Read) for the Premises as set out in the Agreement, or on/near the day a Transfer Date occurs. If we have been prevented from procuring the Meter Read (or Transfer Read) we may raise an invoice on the basis of an Estimated Read.
- 6.3 We shall calculate our Charges using the Meter Read, Transfer Read, Switch Read or Estimated Read as appropriate for measured customers.
- 6.4 We may provide you with an invoice or statement at any time informing you of the charges payable by you. As a minimum we will provide you with one bill for unmeasured customers and two bills for measured customers each year.
- 6.5 Payments are to be made in accordance with the payment terms stated on the invoice or statement.
- 6.6 If you pay by direct debit, we may specify, and you agree to pay the amounts of the periodic payments

that we estimate are required to cover our charges.

- 6.7 We reserve the right to charge for any payment not received by us by the due date and we may also disconnect your supply in accordance with clause 13.
- 6.8 We reserve the right to re-assess and amend your payment method based upon your payment record or credit status.
- 6.9 All amounts payable pursuant to this Agreement are expressed exclusive of any applicable VAT and accordingly VAT shall be payable in addition to the amounts expressed at the rates from time to time in effect against a valid VAT invoice.
- 6.10 We reserve the right to adjust our Charge Rates in the event we suffer any additional costs in providing our services to you as a result of any change in the Relevant Law or any regulatory change imposed on the water industry by a Competent Authority.
- 6.11 You hereby authorise us to utilise any consumption data we receive, from you or a third party, for our internal purposes.

**7 Charges Adjustments:** If you use water that is supplied pursuant to this Agreement for the purposes of fire-fighting or testing fire-fighting equipment ("Fire-Fighting Offtake") in any Billing Period, we shall make an adjustment to the Charges for such Billing Period equivalent to the proportion of the Charges incurred that relate to the Fire-Fighting Offtake provided you notify us in writing:

- 7.1 within 30 days if the Fire-Fighting Offtake occurred for the purpose of fire-fighting or as soon as is reasonably practicable after the Fire-Fighting Offtake date; or
- 7.2 no later than 30 days after the date of the Fire-Fighting Offtake if the Fire-Fighting Offtake occurred for the purposes of testing fire-fighting equipment.

## **8 Other Charges**

- 8.1 In addition to our Charges, we may also recover our reasonable costs if you fail to keep to your responsibilities under this Agreement. These may include, but are not limited to, costs in connection with: recovering unpaid Charges; disconnection for unpaid Charges; disconnection at your request; visiting Premises because you have failed to keep to the terms of this Agreement; you failing to keep an agreed appointment at Premises; you failing to allow access to Premises to read the meters; or any unauthorised removal of, obstruction of, damage to, or tampering with a Meter or metering equipment or in connection with fitting any device to a Meter or metering equipment. Our late payment, disconnection and reconnection charges are stated in clause 13.
- 8.2 At any time, we may ask you for a refundable deposit. If so, we will explain the reason and the purpose for which we will use it. You must pay the deposit within 14 days of our request. If you do not pay a refundable deposit when we ask, we may disconnect your supply in accordance with clause 13. We will hold, and repay, any refundable deposit in the way explained in our request to you. However, we can use your refundable deposit, including any interest, to pay Charges you owe under the Agreement.

## **9 Review of Charges and Additional Services**

**Charges:** Our charges will change in line with the retail area default charges as published from time to time, annually annually as set out in Schedule 1.

## **10 Switching Premises**

- 10.1 If you require us to cease supply of water to any Premises you shall notify us in writing of the relevant Premises and the planned date upon which the Switch will become effective (Switch Date).
- 10.2 In respect of any Switch the Agreement shall terminate in part in relation to those Premises specified in the switch notice on the Switch Date.
- 10.3 If a Switch relates to all your Premises, the Agreement shall terminate in its entirety on the Switch Date of the last Premises to Switch.
- 10.4 Termination for any reason shall not affect any rights or liabilities that have accrued prior to termination or any term that is expressly or by implication intended to continue or come into force on or after termination. Without limitation, the Parties intend that any remaining payment obligations of the Customer, together with clauses 15 and 23, shall survive termination.

## **11 Termination not related to Switching Premises**

- 11.1 We may terminate the Agreement in whole or in part immediately upon written notice to you if you fail to pay any undisputed Charges within 14 days of the date of a written notice from us requiring payment, with details of the overdue sums.
- 11.2 Either Party may terminate the Agreement in whole or in part immediately upon written notice to the other Party if the other Party commits a material breach of its terms and fails to either remedy such material breach (where capable of remedy) within 14 days of having been notified of the material breach.
- 11.3 We may terminate the Agreement immediately if you make any arrangement or composition with your creditors, if you are the subject of a winding-up or administration order or pass a resolution for voluntary liquidation (other than a voluntary winding-up or solvent liquidation for the purposes of reconstruction or amalgamation), if a receiver or administrator is appointed over all or any of your assets or a distress, attachment or other legal process is levied, enforced or issued on or against you or any of your assets, or if you enter into or suffer any similar process in any jurisdiction.

## **12 Effect of Termination**

- 12.1 In the case of Termination due to any of the events listed in clauses 10 and 11 above, Charges will be due and payable up to and including the Switch Date, disconnection date or termination date (as relevant).
- 12.2 Termination for any reason shall not affect any rights or liabilities that have accrued prior to termination or any term that is expressly or by implication intended to continue or come into force on or after termination. Without limitation, the Parties intend that any remaining payment obligations of the Customer, together with clauses 15 and 23, shall survive termination.

**13 Disconnection and Charges for Non-payment:** If you do not pay any Charges on or before the due date, we may disconnect the water supply to the relevant Premises. We will reconnect the supply once all outstanding bills have been paid, including the applicable disconnection, reconnection and cost of recovery charges. Our Charges for non-payment/disconnection are as follows;

Late payment charge - £50

If you remain in default after 14 days, we will charge a further £100

If you remain in default after 28 days, we will charge a further £250

If you remain in default after 56 days, we will charge a further £500

After 56 days, non-payment will incur a further £10 charge per day or part thereof for each day you remain in default.

Disconnection notice charge - £100

Disconnection visit charge - £500

Disconnection charge - £500

Reconnection charge - £500

We also reserve the right to amend our payment terms to a rolling deposit paid in advance, in the event you default on any payment due.

#### **14 Force Majeure Event**

14.1 Subject to the remainder of this clause 14, neither Party shall be liable to the other where it is unable to perform its obligations under the Agreement by reason of a Force Majeure Event provided that the Party claiming to be prevented or delayed by reason of a Force Majeure Event (the "Affected Party") shall use all reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which the obligations contained in the Agreement may be performed.

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

14.3 The Affected Party shall only be relieved of its obligations in respect of those Premises whose Water Supply are affected, if it does not affect all the Premises.

14.4 If the Force Majeure Event continues materially to affect the Affected Party for more than three months, the Affected Party may terminate the Agreement in whole or in part (insofar as it relates to Premises affected by the Force Majeure Event).

#### **15 Limitation of Liability**

15.1 You accept that you have responsibility for the water and wastewater pipework in, on or under any Premises, including responsibility for any loss of water or for any water or wastewater flooding arising from the condition of that pipework. You will become the owner of and responsible for (including for risk of loss and risk of flooding), the water supplied to you at the connection point. However, nothing in this condition will transfer any risk we or the relevant water or sewerage undertaker have under any duty placed on us or on them by any law.

15.2 We shall only be liable to you in contract, tort (including negligence and breach of statutory duty) or otherwise howsoever arising in connection with the Agreement for direct Losses. All other

Losses are expressly excluded (subject always to clause 15.3).

15.3 Our liability resulting from negligence or any breach or non-performance of the Agreement or any misrepresentation or other tort on our part or on the part of our employees, servants or agents shall be limited in any one calendar year for any one or more incidents or series of incidents whether related or unrelated in that calendar year to the lower of:

(a) the aggregate of the Charges under the Agreement in the preceding calendar year;

(b) if in respect of the first calendar year of the Agreement then the amount of charges incurred by you with your previous water undertaker in the preceding calendar year.

15.4 All conditions, warranties or other terms, whether express or implied, statutory or otherwise, inconsistent with the provisions of this clause 15.4 are hereby expressly excluded (subject always to clauses 15.3 and 15.5).

15.5 Save as otherwise expressly provided in the Agreement, this clause 15 (insofar as it excludes or limits liability) shall override any other provision in the Agreement. However, nothing in the Agreement shall exclude or limit either Party's liability for fraud or fraudulent misrepresentation or for death or personal injury caused by its negligence or the negligence of any of its officers, or for any other liability that may not be excluded or limited by our water supply licence or by any Relevant Law (or other law).

15.6 Subject to the rest of this clause 15, any liability under the Agreement or otherwise on the part of either Party shall be reduced to the extent that the other Party has itself caused or contributed to the same and, in the event of liability to any third party, the Party who has caused or contributed to that liability shall indemnify the other Party in respect of the same.

15.7 The Parties agree to use all reasonable endeavours to mitigate any loss, damage or injury to which they might be subject as a result of a breach of the Agreement or any Relevant Law by the other Party.

#### **16 Notices**

16.1 All notices to be given to a Party under the Agreement shall be in writing in English and shall be delivered by hand or sent by first class pre-paid post, fax transmission or email.

16.2 A notice shall be treated as having been received:

(a) if delivered by hand between 9am and 5pm on a Working Day (referred to in this clause as "Working Hours"), when so delivered; and if delivered by hand outside Working Hours, at the next start of Working Hours;

(b) if sent by first class pre-paid post, at 9am on the Working Day after posting if posted on a Working Day, and at 9am on the second Working Day after posting if not posted on a Working Day;

(c) if sent by fax or email, upon receipt by the sender of the fax transmission report or successful delivery receipt.

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

16.4 In the case of a notice to terminate the Agreement, if such notice is sent by fax or email, the terminating Party shall also, on the same day as the fax or email is sent, send a copy of the notice by first class pre-paid post to the other Party.

**17 Relationship of the Parties:** Nothing contained in the Agreement shall be construed as giving rise to the relationship of principal and agent (save as otherwise expressly provided in the Agreement) or partnership or joint venture between the Parties.

**18 Third Party Rights:** No third party shall have the right to enforce any term of the Contract under the Contracts (Rights of Third Parties) Act 1999.

**19 Data:** All personal information we may collect will be collected, used and held in accordance with the provisions of the Data Protection Act 1998. However, we reserve the right to share certain information with credit referencing agencies and by signing this Agreement, you give us consent to do so.

**20 Waiver:** No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision. No waiver shall, in any event, be effective unless it is in writing, duly signed by or on behalf of the Party granting it and sent to the other in accordance with clause 16.

**21 Final Settlement:** No Charges shall be billed or reclaimed by either party from each other in respect of recovery of services provided for any period for which the Final Settlement Report has been produced by the Market Operator.

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

**23 Governing Law:** The Agreement and any non-contractual obligations arising out of or in relation to the Agreement shall be governed by and interpreted in accordance with the laws of England and Wales or Scotland dependant on the Premises address, and each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales or Scotland.

## Retail Default Charges 2017 - 2018

### Water Charges - SES Water area

Measured Water Charges by Area			
Measured Water Annual Standing Charges	Southern Area	Northern Area 1	Northern Area 2
Standard (£/p.a.)	£23.16	£23.16	£23.16
Mid User (£/p.a.) (10 - 49 MI per site, per charging year)	£1,806.72	£1,410.72	£1,410.72
High User (£/p.a.) (>50 MI per site, per charging year)	£4,399.80	£3,497.04	£3,497.04
Measured Water Volume Charges	Southern Area	Northern Area 1	Northern Area 2
Standard (£/m <sup>3</sup> )	1.3423	1.0517	1.0517
Mid User (£/m <sup>3</sup> ) (10 - 49 MI per site, per charging year)	1.1400	0.8939	0.8939
High User (£/m <sup>3</sup> ) (>50 MI per site, per charging year)	1.0888	0.8492	0.8492
Unmeasured Water Charges by Area			
Unmeasured Water Charges	Southern Area	Northern Area 1	Northern Area 2
Annual Standing Charge (£/p.a.)	£46.20	N/A	£46.20
Variable Charge (£/£ RV)	0.8471	N/A	0.5104
Commercial Licence fee (£/p.a.)	N/A	£103.32	N/A
Mixed Licence fee (£/p.a.)	N/A	£298.20	N/A
Unmeasured Water Miscellaneous Charges by Area			
Levied for the period 01.01.2017 - 31.03.2018 and unable to be apportioned on change of occupation of the premises during the year			
Unmeasured Miscellaneous Charges	Southern Area	Northern Area 1	Northern Area 2
Religious Building, Caravan (unrated), Flushing chamber, Pumping Station, Standpipe (£/p.a.)	£54.55	£54.55	£54.55
Field supply, Cleansing Supply (£/p.a.)	£107.16	£107.16	£107.16
Assessed Water Charges by Area			
This charge is levied and where a non-household customer has a rateable value of less than £2,000, and water use is limited to domestic (tea & toilet) requirements of the persons engaged on the premises.			
Assessed Charges	Southern Area	Northern Area 1	Northern Area 2
Annual Standing Charge (£/p.a.)	£26.40	£26.40	£26.40
Volume charge (£/m <sup>3</sup> ) (Based on 15 m <sup>3</sup> p.a. per person, minimum charge 30 m <sup>3</sup> p.a.)	1.3445	1.0478	1.0478

This page is intentionally blank