

Scheme of Terms and Conditions

Scheme of Terms and Conditions in respect of Non-Household water and wastewater customers in the Thames Water, South East Water and Portsmouth Water supply areas, and for customers allocated to Castle Water by Ofwat.

1 Introduction

- 1.1 Castle Water Limited (“**CWL**”) is a limited company registered in Scotland with company number SC475583, with its registered office at 1 Boat Brae, Rattray, Blairgowrie, PH10 7BH, and licensed by Ofwat to provide water and wastewater services in England.
- 1.2 Castle Water (South East) Limited (“**CWSEL**”) is a limited company registered in England with company number 03037009 with its registered office at One St Peters Square, Manchester M2 3DE and licensed by Ofwat to provide water and wastewater services in England.
- 1.3 In this Scheme, CWL and CWSEL are together referred to as “**Castle Water**”.
- 1.4 This is the Scheme of terms and conditions made by Castle Water pursuant to section 29 of The Water and Sewerage Undertakers (Exit from Non-Household Retail Market) Regulations 2016 which sets out the terms and conditions applicable to Customers (as hereinafter defined) in England for the provision of water and wastewater services by Castle Water (this “**Scheme**”). This Scheme will operate in circumstances where there is no other contractual agreement in place between a Customer and Castle Water.
- 1.5 In this Scheme, “**Customer**” means any party liable to make payment to Castle Water under section 144 of the Water Industry Act 1991 (“**Section 144**”) in respect of: (i) any Non-Household premises which were transferred to Castle Water as an Acquiring Licensee (as defined in the Retail Exit Code published by Ofwat) (a “**Transferred Customer**”); (ii) any Non-Household premises in an Exit Area (as defined in the Retail Exit Code published by Ofwat) (an “**Eligible Exit Area Customer**”); and (iii) any Non-Household premises subject to an interim supply allocation procedure (as referred to in the Interim Supply Code published by Ofwat) (an “**Affected Customer**”).
- 1.6 Castle Water may offer to enter into alternative contractual terms with Customers instead of the terms of this Scheme. Upon the date of the alternative contractual terms coming in to effect, this Scheme shall cease to be enforceable in its entirety in relation to the supply of services by Castle Water to the Customer at the premises to which the said terms apply.

2 Contract Commencement and Termination

- 2.1 This Scheme forms the basis of the contract between Castle Water and the Customer (“**Deemed Contract**”).
- 2.2 A Deemed Contract will commence on: i) the date when a premises is registered to Castle Water on the Central Market Operating System (“**CMOS**”) and where no other contract terms apply between Castle Water and a Customer in relation to those premises; or ii) the date when any agreed contract in force between Castle Water and a Customer in respect of a premises registered to Castle Water on CMOS ceases to be in force.

- 2.3 A separate Deemed Contract will commence for each of the circumstances narrated at Clause 2.2 in respect of each distinct premises for which a Customer is a person liable under Section 144.
- 2.4 A Deemed Contract will terminate on the earlier of: i) the registration of the transfer of the supply to a premises to another retailer on CMOS; or ii) the agreement of alternative contract terms between a Customer and Castle Water relative to a premises; or iii) the deregistration of a supply point registered to Castle Water on CMOS.

3 Pricing Terms

- 3.1 The Customer shall pay to Castle Water the charges for water and wastewater services (including disconnection charges) as set out in the applicable Scheme of Charges which can be found at castlewater.co.uk or at Castle Water's registered office (the "**Scheme of Charges**") ("**Charges**").
- 3.2 The Charges may be subject to applicable VAT which the Customer shall then be liable to pay to Castle Water.
- 3.3 The Customer shall pay the Charges within 14 days from the date of any invoice issued by Castle Water to the Customer, except where indicated to the contrary in the applicable Scheme of Charges. If the Customer disagrees with part of an invoice, the Customer must pay Castle Water the undisputed amount. All amounts due to Castle Water shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 3.4 Where any Charges due to Castle Water are not paid by the Customer by the due date for payment under this Scheme, interest will accrue on the due amount (from the due date for payment until the date of payment in full) at a rate of 8% above the Royal Bank of Scotland plc base interest rate or as if the Late Payment of Commercial Debts (Interest) Act 1998 applies.
- 3.5 Where the Charges are not paid by the Customer within seven days of the due date, Castle Water may amend the payment terms applicable to the Customer to alternative payment terms, which may include payment of up to 12 months in advance or may seek a deposit from the customer of up to twelve months Charges.
- 3.6 Without prejudice to the Scheme of Charges, Castle Water will charge the Customer and the Customer agrees to pay to us Castle Water reasonable costs incurred to recover outstanding sums from you. Such costs may include, visiting a property to collect money you owe, litigation (the cost of which will be recoverable from you on a full indemnity basis) and disconnecting and reconnecting your supply.
- 3.7 Where in relation to premises which are the subject of a Deemed Contract (the "**Relevant Premises**")
- 3.7. there has been a recalculation (a "**Wholesale Recalculation**") of any charges due and payable by Castle Water to the appointed water or wastewater undertaker for the Relevant Premises (the "**Relevant Wholesaler**") which:
1. are in respect of the supply of water or sewerage services to the Relevant Premises; and
 2. during a period in respect of which Castle Water has issued an invoice to the Customer; and
- 3.7.2 as a result of such Wholesale Recalculation, Castle Water has received payment from the Relevant Wholesaler of a credit against previously paid or payable wholesale charges;

then Castle Water shall revise the Charges payable by the Customer taking into account the impact of such Wholesale Recalculation and shall refund or credit to the Customer any sums paid or payable as a result of such revision (a “**Charge Revision**”). Where the Customer has outstanding sums due to Castle Water in respect of the Relevant Premises or in relation to the provision of any other services, Castle Water shall be entitled to apply the whole or any part of such Charge Revision in settlement of such outstanding sums.

4 Responsibility for Pipework and Leaks

- 4.1 The Customer acknowledges and agrees that it is responsible for the water and wastewater pipework and other infrastructure, in or under the Relevant Premises including responsibility for any loss of water or for any water or wastewater flooding arising from the condition of such pipework or infrastructure or any equipment or appliances connected to such pipework or infrastructure and any Charges arising therefrom;
- 4.2 Where there is a leak in the supply to the Relevant Premises (irrespective of whether such leak occurs inside or outside the Relevant Premises) unless and until a leak allowance is granted by the Relevant Wholesaler (acting in its sole and unfettered discretion), the Customer shall be responsible for all Charges relating to the leak and any costs and losses incurred by Castle Water in relation to such leak.
- 4.3 If a leak allowance is granted by the Relevant Wholesaler, Castle Water shall pay or credit to the Customer, those Charges paid by the Customer to Castle Water which has been paid by the Relevant Wholesaler to Castle Water as part of any leak allowance payment. Where the Customer has outstanding sums due to Castle Water in respect of the Relevant Premises or in relation to the provision of any other services, Castle Water shall be entitled to apply the whole or any part of such leak allowance payment in settlement of such outstanding sums.

5 Right to Switch

- 5.1 Any Customer has the right to move to other contractual terms with Castle Water or to switch to another provider of water and/or wastewater services at any time without any additional payment becoming due by that Customer, subject always to the provisions of the Market Codes in relation to the rights of Castle Water to cancel a transfer.
- 5.2 Where a Customer relocates within the Castle Water retail area, Castle Water will continue to offer the same terms and conditions contained in this Scheme to that Customer following such relocation taking place. Nothing in this Scheme shall prejudice Castle Water’s entitlement to recover Charges from a Customer for multiple premises where those premises are registered to Castle Water on CMOS.

6 Other Non-Price Terms

- 6.1 References in this clause 6 are to the Retail Exit Code published by Ofwat.
- 6.2 A supply to be made or the services to be provided pursuant to this Scheme may be discontinued by Castle Water only if: i) Castle Water is entitled to make a request pursuant to section 61(1ZB) of the Water Industry Act 1991; or ii) the Customer has consented to or has requested the discontinuance.

7 Provision of Information

- 7.1 Alternative terms and conditions from this Scheme may be available. Information on the services Castle Water provides can be found at castlewater.co.uk and Castle Water can be contacted by phone on 01250 718700.
- 7.2 If a Customer requests a copy of alternative terms and conditions that Castle Water has available, Castle Water shall provide these within 10 business days after receiving the request.

8 Allocated Customers

- 8.1 References in this Clause 8 are to the Interim Supply Code published by Ofwat.
- 8.2 An Affected Customer allocated to Castle Water as the result of an interim supply allocation procedure will have the right to switch to another provider, or to switch to alternative terms and conditions offered by Castle Water, without additional payments becoming due by that Customer. However, notwithstanding any other part of this Scheme, Castle Water retains the right to submit a cancellation request to the Market Operator under the Wholesale Retail Code published by Ofwat.
- 8.3 The terms of this Scheme shall apply to an Affected Customer from the Date of Relevant Cessation of Supply.

9 Limitation of Liability

- 9.1 Nothing in this Scheme shall limit or exclude Castle Water's liability for: i) death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors; or ii) fraud or fraudulent misrepresentation.
- 9.2 Subject to Clause 9.1, Castle Water shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Scheme for: i) loss of profits; ii) loss of sales or business; iii) loss of agreements or contracts; iv) loss of anticipated savings; v) loss of damage to goodwill; vi) any indirect or consequential loss; or vii) any loss arising directly, or indirectly, from the actions or omissions of an appointed water and wastewater undertaker in discharging their statutory obligations.
- 9.3 Subject to 9.1, Castle Water's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Scheme shall be limited to the lower of (i) the total amount of Charges paid by the Customer to Castle Water in the previous 12 month period and (ii) the sum of £5,000,000.

10 Changes to this Scheme

This Scheme is subject to change and may be changed by Castle Water at any time:

- 10.1 As required to comply with any applicable law or regulatory requirement; or
- 10.2 on three months' notice which notice shall be deemed to have been given by the publication of the revised Scheme of Terms and Conditions on the Castle Water website (castlewater.co.uk).

11 Force Majeure

Castle Water shall not be in breach of any of its obligations under the Deemed Contract nor be liable

for any delay in performing, or failure to perform, any of its obligations under the Deemed Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.

12 Governing law and jurisdiction

This Scheme, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England. Castle Water and the Customer are taken to have prorogated to the non-exclusive Jurisdiction of Glasgow Sheriff Court and the Court of Session.

Castle Water Limited | 1 Boat Brae | Rattray | Blairgowrie | PH10 7BH
Castle Water is a Private Limited Company registered in Scotland with
Company Number SC475583

Castle Water (South East) Limited | One St Peters Square |
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