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New Retail Areas Stakeholder Group: Metering working paper

Datalogging

On 14 June 2010, the second workshop of the New Retail Areas Stakeholder Metering Group was held. At this meeting the Group discussed the Commission's draft proposals with regard to datalogging and AMR readings.

From the discussions that took place at the workshop, the Commission considers the current position with regard to datalogging to be as follows:

- Datalogging is to be encouraged within the non-household competitive market.
- Both Licensed Providers and third party companies should be encouraged to offer datalogging solutions to both drive innovation and lower prices for customers.
- With around 145,000¹ mechanical meters in the market, there is scope for both Licensed Providers and other third party companies to provide datalogging services to customers.
- Licensed providers and other third party companies will be free to set prices and determine the appropriate length of contracts with customers.

Having considered the discussions that took place, the Commission has also clarified and/or changed the following in its datalogging proposals:

- Customers, Licensed Providers or third party companies² will be able to provide datalogging services.
- Scottish Water will develop an accredited installer scheme to facilitate the installation and removal of dataloggers on Scottish Water's revenue meters. This will most likely take the form of requirements that will be included in Scottish Water's Terms and Conditions.

¹ Scottish Water currently believes that around 100,000 of these meters are loggable.

² Customers, Licensed Providers and third party companies who install loggers are referred to as "Installers".

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- The Installer will be required to sign Scottish Water's Terms and Conditions and complete Form O and submit it to Scottish Water.
- Flags will be created on the CMA central system that will allow Scottish Water to indicate whether a meter has a Scottish Water or an Installer's logger attached. These flags will form part of the Market Dataset and will therefore be viewable by Scottish Water and all Licensed Providers. The flags will ensure that there is visibility within the market as to whether equipment has been attached to meters.
- When a logger has been removed, Form O(A) will be used to notify Scottish Water who will, in turn, remove the logger flag from the CMA central system.
- The Installer will remain responsible for all costs incurred by Scottish Water in relation to datalogging. Scottish Water will charge these costs to the Installer directly.
- There will be no explicit technical standards for dataloggers, however, all loggers must be non-intrusive and must not interfere with the operation or integrity of Scottish Water's meter. Installers will also be required to conduct Data Logging Activities in accordance with their method statement, approved by Scottish Water as part of the accreditation scheme
- Scottish Water can purchase logging data from the Installer should it wish to do so.

Revised process and documents

We have revised both the individual steps in the Data Logging Activities process for non-household customers, and the draft terms and conditions for Installers to sign. These terms and conditions will then form the legal relationship with Scottish Water for Data Logging Activities.

We have also updated the proposed Process 12A of the Operational Code to mirror the revised terms and conditions. Again, this Process will regulate the relationship between Scottish Water and Licensed Providers for Data Logging Activities.

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We therefore outline below the revised steps in the process for non-household customers wishing to take advantage of Data Logging Activities. We have also included a process map to more clearly explain the steps involved:

1. Customers appoint an Installer to serve as their provider of data logging services, or if they are an accredited Installer, may carry out Data Logging Activities themselves if they wish.
2. Installers will be required to sign and be bound by Scottish Water's terms and conditions.
3. Installers will only be required to sign Scottish Water's terms and conditions once (i.e. they will not be required to sign for each logger installation).
4. The Installer will send the terms and conditions (where necessary) and Form O to Scottish Water at least 10 business days before the installation of any equipment. Form O can be used for multiple logger installations, but must identify all of the affected meters and the type of logger to be used for each one.
5. Where the Installer is not the customer's Licensed Provider, the Installer will send a copy of Form O to the Licensed Provider for information. By sending Form O to the Licensed Provider, we will ensure that Licensed Providers are aware of dataloggers being installed on their customers' meters.
6. Scottish Water will have 5 business days from receipt of Form O to inform the named contact listed on Form O that the type of logger proposed is incompatible with the meter at the supply point. A failure to respond by Scottish Water within 5 business days from Installer's submission of Form O will indicate that Scottish Water has no issue with the installation.
7. Once Scottish Water has received Form O and the compatibility of the logger has been established, Scottish Water will flag on the CMA central system that a logger is

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present³. These flags will be viewable by both Scottish Water and Licensed Providers⁴.

8. Where a datalogger is removed by either the Installer, the Installer must send Scottish Water Form O(A) notifying the removal. Scottish Water will then remove the flag on the CMA central system⁵.
9. Where the non-household customer chooses not to use their Licensed Provider to carry out Data Logging Activities, the customer may or may not agree to share the data collected with their Licensed Provider.
10. Where an Installer has data from a logger, Scottish Water may purchase that data if it wishes to do so.

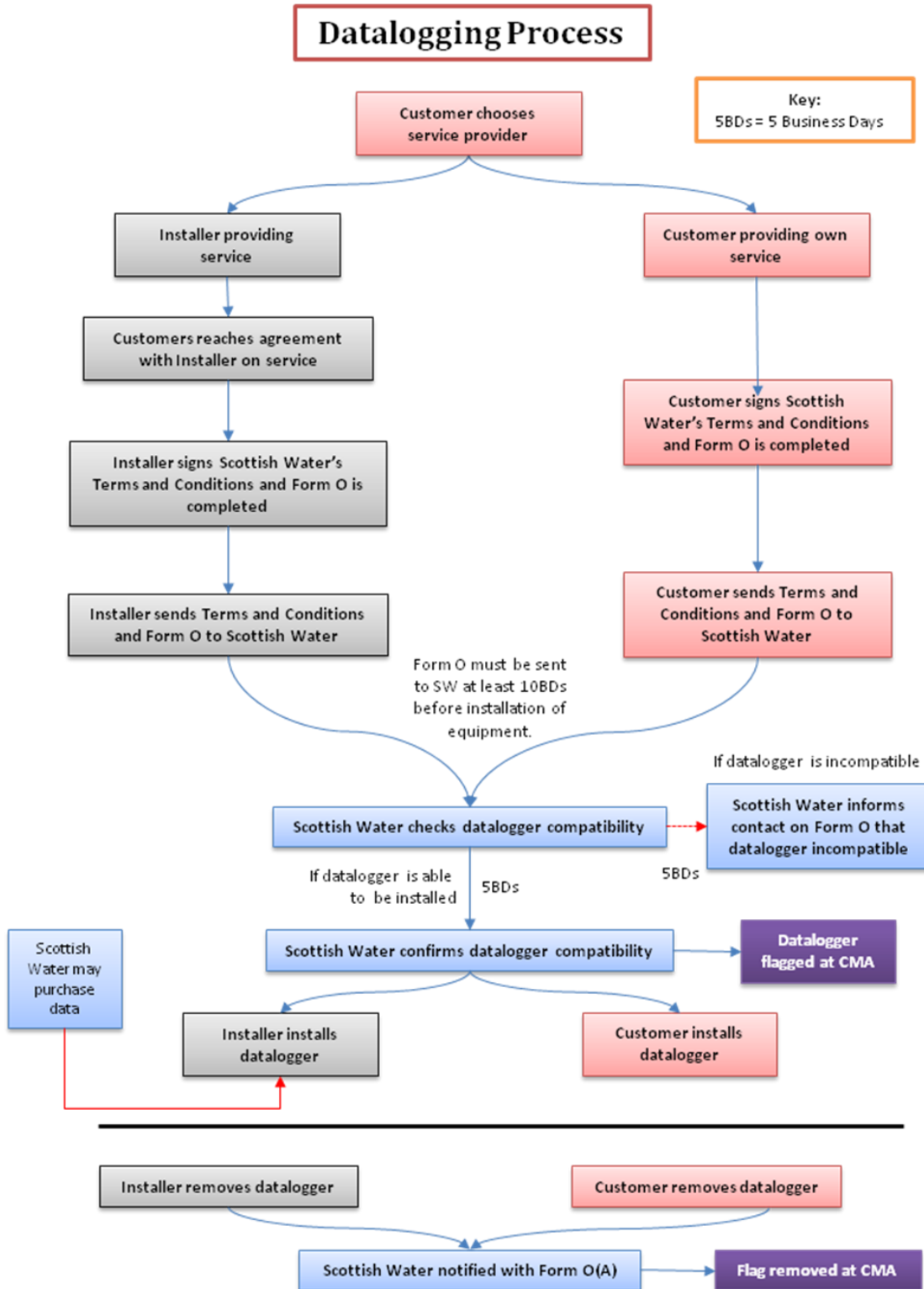
³ Where Scottish Water has its own logger installed, it will flag on the CMA central system that a Scottish Water logger is present.

⁴ However, only Scottish Water will have control of the flags.

⁵ Where Scottish Water removes its own logger, it will also remove the flag on the CMA central system.

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If Scottish Water's water revenue meter is damaged as a result of any Data Logging Activities, Scottish Water will look to recover the cost of repairing the meter from the Installer. Under the Operational Code, Licensed Providers notify Scottish Water when a meter is faulty and Scottish Water charges them for the cost of any work required. This will continue to be the case unless Scottish Water establishes that a party other than the Licensed Provider is responsible for damage to the meter..

If the meter needs to be replaced or inspected by Scottish Water under the Operational Code, the customer's Licensed Provider will arrange for any datalogging equipment to be removed before Scottish Water carries out any work. Form F will be revised to add a field for the Licensed Provider to confirm that any logger will be removed from the meter. If the equipment is not removed, Scottish Water may remove and return it to the Installer recovering the reasonable cost of the work required from the Installer.

If a customer appoints an Installer to provide data logging services and wishes to have the data used for billing purposes, the customer will be responsible for arranging this with their Licensed Provider. If and how this data will be used is left with the Licensed Provider and its customer to agree.

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Appendix 1

**The Installation and Removal of Data Logging Equipment
on Scottish Water's Water Revenue Meters**

Terms and Conditions

Terms and Conditions – Data Logging Activities

This document sets out the Terms and Conditions to which all parties (including Non-Household Customers and Licensed Providers) who wish to install and/or remove data logging equipment (**Data Logging Activities**) must adhere in connection with Scottish Water's (**Scottish Water's**) water revenue meters. In this document, parties who wish to install and/or remove data logging equipment and who are approved under Scottish Water's accreditation scheme are referred to as **the Installer**.

1. Interpretation

Any references to "meter" or "meters" in this document refer to Scottish Water owned water revenue meters, and any references to "logger" or "loggers" refer to datalogging equipment owned and installed by the Installer.

2. Authorisation and Scope

- 2.1. Scottish Water will make its meters available to the Installer to facilitate the provision of Data Logging Activities, provided the Installer confirms its agreement to these Terms and Conditions by signing the Declaration below.
- 2.2. No-one other than an Installer approved by Scottish Water under its associated accreditation scheme will be permitted to carry out Data Logging Activities on any meter installed at a Supply Point.
- 2.3. Any datalogging equipment installed by Scottish Water will remain the property and responsibility of Scottish Water at all times. Likewise, any loggers installed by the Installer will remain the property and responsibility of the Installer at all times.
- 2.4. All Data Logging Activities undertaken by the Installer will be conducted in accordance with these Terms and Conditions.

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- 2.5. If the Installer wishes to carry out Data Logging Activities on a meter where Scottish Water's data logging equipment already exists, Scottish Water will allow the Installer to add its own data logging equipment to the meter where feasible.
 - 2.6. Where the installation of the Installer's data logging equipment is infeasible due to a Scottish Water logger being installed on the meter, at the Installer's request and subject to the confirmed consent of the Non-Household Customer for the supply point(s) concerned, Scottish Water will provide to the Installer a data file containing the relevant data, at a minimum of once a month.
 - 2.7. These Terms and Conditions do not apply to Data Logging Activities on electromagnetic meters installed at Supply Points.
3. Notification
- 3.1. Before carrying out Data Logging Activities on a meter, the Installer will notify Scottish Water of its intentions including details of the Supply Point, the meter to which the logger will be attached and the type of logger to be used.
 - 3.2. In order to notify Scottish Water, the Installer will send the signed terms and conditions (where necessary⁶) and Form O (attached to this agreement) to Scottish Water at least 10 business days before the installation of any equipment.
 - 3.3. Scottish Water will have 5 business days from receipt of Form O to inform the Installer that the type of logger proposed is incompatible with the meter at the Supply Point.
 - 3.4. Scottish Water may inform the Installer if a logger is already installed at the Supply Point, however, Scottish Water will not use the existence of another logger to refuse permission for the Installer to carry out Data Logging Activities.

⁶ Installers and/or customers will only be required to submit Scottish Water's terms and conditions once and not for each datalogger.

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- 3.5. A failure to respond by Scottish Water within 5 business days from receipt of Form O will indicate that Scottish Water has no issue with the installation.
 - 3.6. Once compatibility of the logger has been established, Scottish Water will flag on the CMA central system that a logger is present.
 - 3.7. The Installer will provide Scottish Water with contact details for the purposes of clause 3.3 above, in the relevant section below.
4. Technical standards
 - 4.1. Any loggers installed on a meter must be non-intrusive and must not interfere with the operation or integrity of that meter. Where the meter is located on Scottish Water's infrastructure, the Installer will not be permitted to interfere with the integrity of the meter chamber or housing.
 - 4.2. When carrying out Data Logging Activities, no existing ancillary equipment attached to the meter and belonging to Scottish Water will be removed by the Installer, either temporarily or permanently, without the prior written permission of Scottish Water.
 - 4.3. Where data logging equipment installed by the Installer interferes with a meter or where the meter is damaged as a result of Data Logging Activities being conducted by the Installer, Scottish Water may repair or replace the meter in accordance with the relevant processes set out in the Operational Code.
 - 4.4. Installers will be required to conduct Data Logging Activities in accordance with their method statement, previously approved by Scottish Water as part of the accreditation scheme.
5. Operational Code Considerations
 - 5.1. The Installer accepts that Scottish Water may change, inspect or temporarily remove a meter in accordance with the relevant processes set out in the Operational Code.
 - 5.2. Where data logging equipment installed by the Installer is attached to the meter, the Installer will be required by Scottish Water or the Licensed Provider, as appropriate, to remove the equipment prior to Scottish Water's

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visit. Scottish Water will provide a minimum of 5 business days notice to the Installer prior to its visit.

6. Costs

- 6.1. All costs relating to Data Logging Activities conducted by the Installer, including the costs of installation and/or removal of the logger, are to be borne by the Installer.
- 6.2. To recover any costs relating to Data Logging Activities conducted by the Installer, Scottish Water will charge the Installer.
- 6.3. Where the Installer's logger has been requested (under clause 5.2) to remove their logger from the meter, but it is not removed prior to Scottish Water's visit, the Installer will be responsible for the reasonable cost incurred by Scottish Water in undertaking the removal and return of the logger. In such circumstances, Scottish Water will not be liable for any costs associated with replacing or re-installing the data logging equipment whatsoever.
- 6.4. Where Scottish Water has repaired or replaced a meter because of interference or damage caused by the Installer's Data Logging Activities, the Installer will be liable for the reasonable cost of repairing or replacing the meter.
- 6.5. Where Scottish Water either removes a logger under clause 6.3 or repairs or replaces a meter under clause 6.4, the hourly charges payable by the Installer will be the same as those that a Licensed Provider would be liable to pay for a meter installation on the Standard basis under the published Wholesale Charges Scheme, in force from time to time
- 6.6. Scottish Water shall submit an invoice to the Installer for all amounts payable under this agreement, providing such documentation necessary to verify the amount payable. Payment of any amount due shall be made by the Installer to Scottish Water by a Clearing House Automatic Payments System transfer of funds to such bank in the United Kingdom as may from time to time be notified by Scottish Water to the Installer. Payment shall be made by the Installer no later than 10 business days from receipt of Scottish Water's invoice.

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- 6.7. All amounts due under this agreement shall be paid by the Installer to Scottish Water in full without any deduction or withholding, and the Installer shall not be entitled to claim set-off or to counterclaim against Scottish Water in relation to the payment of the whole or part of any such amount.
7. Responsibilities of the Installer
 - 7.1. The Installer will indemnify Scottish Water against any liability to the Installer or any third party arising from the Data Logging Activities, or the use of the data, except to the extent such liability arises directly from a negligence or breach of statutory duty by Scottish Water.
 - 7.2. Where the Installer undertakes Data Logging Activities, the Installer is responsible for obtaining all associated consents, approvals, permits, authorisations or agreements, and giving all notices (including any consents, approvals, permits, authorisations, agreements or notices required under the New Roads and Street Works Act 1991 or the Transport (Scotland) Act 2005), as required.
 - 7.3. Where the Installer undertakes Data Logging Activities, the Installer is responsible for complying with all associated health and safety obligations, including the health and safety of its employees, its customers (where applicable), its customer's employees (where applicable), Scottish Water's employees and all other people who may be affected by its activities.
 - 7.4. The Installer must effect and maintain with a reputable insurance company a policy of insurance covering all matters which are the subject of indemnities under this agreement including Public Liability insurance to a minimum sum of £5,000,000 in respect of any one incident and unlimited to the number of incidents unless otherwise agreed by Scottish Water in writing.
 - 7.5. At the request of Scottish Water, the Installer shall produce the policies required under clause 7.4 above, receipts or other evidence of payment of the latest premium due thereunder.
8. Status and Amendment
 - 8.1. These Terms and Conditions constitute the whole agreement between the parties and supersede all previous versions applied by Scottish Water.

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- 8.2. An Installer seeking to continue carrying out Data Logging Activities from the date of issue of these Terms and Conditions will be required to re-confirm its agreement to this version by signing the Declaration and returning this document to Scottish Water at the address indicated.
 - 8.3. Either Scottish Water or the Installer may seek to amend these Terms and Conditions at any time on giving 30 days' notice to the other party. However, any amendment to these Terms and Conditions shall only take effect with the written agreement of both parties.
 - 8.4. These Terms and Conditions are personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights and obligations under these Terms and Conditions without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).
9. Termination
- 9.1. Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, the Installer may at any time terminate this agreement with immediate effect by giving written notice to Scottish Water.
 - 9.2. Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, Scottish Water may terminate this agreement with immediate effect by giving written notice to the other party if:
 - 9.2.1. the Installer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment; or
 - 9.2.2. the Installer commits a material breach of any material term of this agreement (other than failure to pay any amounts due under this agreement) and (if such breach is remediable) fails to remedy that breach within a period of 10 business days after being notified in writing to do so; or
 - 9.2.3. the Installer suspends or ceases to carry on its business.

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- 9.3. The parties acknowledge and agree that any breach of clauses 4.1, 4.2 and 7 shall constitute a material breach of a material term for the purposes of this clause.
- 9.4. On termination of this agreement for any reason, the Installer shall as soon as reasonably practicable:
 - 9.4.1. Remove all loggers from Scottish Water's meters, failing which, Scottish Water may remove and take possession of them. Until the loggers are returned or repossessed, Scottish Water shall be only responsible for damage to them arising directly from a negligence or breach of statutory duty by Scottish Water. All reasonable costs incurred by Scottish Water in removing and returning loggers will be payable by the Installer in accordance with clauses 6.6 and 6.7
 - 9.4.2. Notify Scottish Water that the loggers have been removed by submitting Form O(A). Scottish Water will, in turn, remove the customer logger flag on the CMA central system.
- 10. Dispute Resolution
 - 10.1. Introduction
 - 10.1.1. Subject to any contrary provision, if any disagreement between the Installer and Scottish Water concerning this Agreement (a "Dispute") shall arise between the Parties, such Dispute shall be resolved only in accordance with this Clause 10.
 - 10.1.2. A Party involved in a Dispute is referred to as a "Disputing Party".
 - 10.2. Negotiation and escalation
 - 10.2.1. The Disputing Parties shall, within ten Business Days of a written request by one of the Disputing Parties to the other, meet and negotiate in good faith and shall use their respective reasonable endeavours to resolve such Dispute.
 - 10.2.2. If the Dispute or any part of the Dispute cannot be resolved within ten Business Days of the Dispute being referred in accordance with Clause 10.2.1 above, then either Disputing Party may require that the

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Dispute be referred to an Expert for determination in accordance with Clause 10.3.

10.3. Appointment of the Expert for Determination

10.3.1. A Disputing Party wishing to refer a Dispute to an Expert for determination under Clause 10.2.2 shall provide the other Disputing Party with: (i) notice of its intention to refer the Dispute to an Expert and (ii) notice of a proposed Expert. The Disputing Parties shall endeavour within five (5) Business Days of such notice to agree upon the selection of an Expert and may meet for this purpose.

10.3.2. On selection of a suitable Expert under Clause 10.3.1, the Disputing Party which instigated the referral shall forthwith provide the Expert with an "Expert Notification".

10.3.3. An Expert Notification shall include the following:

- (a) the names of the Disputing Parties and a summary of the Dispute (the terms of such summary to be agreed by the Disputing Parties);
- (b) a request that the Expert confirm within five (5) Business Days whether or not he is willing and able to accept the appointment;
- (c) a request for certification of the Expert's scale of fees and expenses;
- (d) a statement that the Expert's fees and expenses will be paid as provided in Clause 10.6.1;
- (e) a statement that the information disclosed in the Expert Notification (and any information subsequently disclosed to the Expert relating to the Dispute) is confidential and that it should not be disclosed, copied or revealed whether the appointment is accepted or not;
- (f) a copy of this Clause 10.3 and a request for confirmation that the Expert is able and willing to act in accordance with the procedure set out herein; and

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- (g) a request for confirmation that the Expert does not hold any interest or duty which would or potentially would conflict with the performance of his duties under his contract with the Disputing Parties, and that he will inform the Disputing Parties immediately in the event of any such conflict arising.

10.4. Determination by the Expert

10.4.1. Where a Dispute has been referred to an Expert by a Disputing Party, the Disputing Parties shall promptly provide to the Expert all information reasonably requested by such Expert relating to the Dispute.

10.4.2. The Expert shall be required by the Disputing Parties to use all reasonable endeavours to render his determination, with full reasons, within twenty five (25) Business Days following his receipt of the information requested, or if this is not possible as soon thereafter as may be reasonably practicable, and the Disputing Parties shall co-operate fully with the Expert to achieve this objective.

10.4.3. The Expert shall determine any Dispute referred to him as an Expert and not as an arbiter or mediator.

10.5. Effect of Expert Determination

10.5.1. The determination of the Expert shall be final and binding upon the Disputing Parties.

10.5.2. No Disputing Party shall commence proceedings in respect of or refer to any court any finding by the Expert, whether made at any time after his appointment or in his determination, as to the Dispute or the construction of or otherwise in respect of this Agreement.

10.6. Costs

10.6.1. The Expert shall provide the Disputing Parties with a breakdown of:-

- (a) his/her fees; and

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- (b) his/her reasonable expenses, including without limitation to the generality of the foregoing, the fees of and reasonable expenses incurred by any technical or professional advisers.

10.6.2. The Disputing Parties shall share equally the fees and expenses of the Expert unless the Expert directs that they should be borne by the Disputing Parties in some other proportion. In the event that the Expert determines that one of the Disputing Parties ("Party A") is liable to pay a sum to another of the parties of the Disputing Parties ("Party B"), including, but not limited to, fees and expenses, Party A will, subject to whatever the Expert's determination may state, pay to Party B an amount equal to such sum together with interest thereon from such date as the Expert's determination may specify. Such interest will accrue from day to day at the rate of 4% over the published base-lending rate from time to time of the Bank of Scotland.

Declaration

We, the Installer, agree to the foregoing Terms and Conditions:

Full Name (please print)

On behalf of (enter Company's name)

Position in Company

Signature

Date

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Installer's Contact details:

Full Name (please print)

Position in Company

Address

.....

.....

.....

Contact number

Contact email

Accreditation No

When complete, please return these Terms and Conditions with the duly signed Declaration to Scottish Water, Wholesale Service Desk, 55 Buckstone Terrace, Fairmilehead, Edinburgh, EH10 6XH.