

CONFIDENTIALITY AGREEMENT - UNILATERAL DISCLOSURE

THIS AGREEMENT is made **BETWEEN**

- (1) Anglian Water Services Ltd (company number 2366656) whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambs, PE29 6XU ("**Anglian**"); and
 - (2) [insert], (company number [insert] whose registered office is at [insert] (the "**Company**")
- together referred to as "**the parties**"

WHEREAS

- (A) Anglian may have provided and wishes to provide certain information to the Company in relation to the Project and the parties wish to record the terms and conditions on which the confidentiality of information will be preserved between the parties.

NOW IT IS AGREED as follows:

1. Interpretation

1.1. In this Agreement:

- a) "**Confidential Information**" means any information of whatever nature disclosed (whether in writing, verbally or by inspection of documents, computer systems or sites or pursuant to discussions or by any other means and whether directly or indirectly) by Anglian or by a third party on behalf of Anglian to the Company including, without limitation, personal data, any information relating to the products, customers, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs of Anglian or any of its Group Companies and any information generated by the Company which reflects such information.
 - b) "**Group Companies**" means each company which is either at the date of this Agreement or at any time in the future being a subsidiary or ultimate holding company of Anglian or a subsidiary of any such ultimate holding company. For the purposes of this Agreement "holding company" and "subsidiary" shall have the meanings assigned to each of them in the Companies Act 2006 as amended
 - c) "**Intellectual Property Rights**" means know-how, patents and patent applications, trade marks, service marks, trade names, design rights, copyright (including rights in software) and any rights or property similar to any of the foregoing in any part of the world whether registered or not registered together with the right to apply for the registration of any such rights, and all rights or forms of protection having equivalent or similar effect, in any part of the world
 - d) "**Project**" means the discussions between the parties relating to the possible supply of meter reading services to the Company in respect of non household customers in the Anglian Region (being the area in which Anglian Water is the appointed water and/or sewerage undertaker under the Water Industry Act 1991)
- 1.2. Any reference to statutes or statutory provisions shall include a reference to that statute or statutory provision as from time to time amended, extended, modified or re-enacted

2. Undertakings Concerning Confidential Information

- 2.1. In consideration of Anglian making available its Confidential Information to the Company, the Company undertakes as follows:
- a) to keep and safeguard Anglian's Confidential Information as private and confidential and exercise no lesser security measures and degree of care than those which it applies to its own Confidential Information; and
 - b) not to use Anglian's Confidential Information for any purpose other than in connection with the purpose for which it was disclosed; and
 - c) not to disclose Anglian's Confidential Information to any third party except as permitted under Clause 3

3. Disclosure of the Confidential Information

- 3.1. The Company may disclose the Confidential Information of Anglian:
- a) with prior written consent of Anglian; or
 - b) to its officers, directors and employees and professional advisers to the extent that disclosure is essential for the purpose for which it is disclosed; or
 - c) where disclosure is required by law, by any court of competent jurisdiction or by any relevant regulatory body, provided that the Company shall (unless precluded from doing so by law or regulation):
 - i) immediately notify Anglian of such requirement;
 - ii) consult with Anglian on the advisability of taking legally available steps to resist or narrow such disclosure; and
 - iii) if disclosure is required, exercise reasonable efforts to obtain an undertaking that confidential treatment shall be afforded to such part of the Confidential Information which is disclosed.
- 3.2. Prior to disclosure of any Confidential Information to any recipient under clause 3.1(a) or (b), the Company shall procure that the recipient is advised of the obligations under this Agreement and shall ensure that the recipient complies with the terms of this Agreement as if the recipient were a party to this Agreement.
- 3.3. Except in relation to disclosures required under clauses 3.1(c), the Company agrees to remain primarily liable to Anglian for any breach, default or non-compliance by the Company of the provisions of this Agreement caused by an act or omission of a sub-recipient

4. Exceptions

- 4.1. This Agreement shall not apply to Confidential Information:
- a) to the extent that the Confidential Information is or becomes generally available to the public other than by breach of this Agreement;
 - b) which the Company can show by its written or other records was in its possession prior to receipt from Anglian and which had not previously been obtained from Anglian or any other party on behalf of Anglian; or
 - c) which is received in good faith by the Company from a third party who on reasonable enquiry by the Company claims to have no obligations of confidence to Anglian in respect of it and who imposes no obligation of confidence upon the Company.

5. Further Undertakings

- 5.1. Confidential Information is, and shall remain, the property of Anglian. In particular, the Company acknowledges and confirms that Anglian retains all Intellectual Property Rights in its Confidential Information.
- 5.2. The parties agree that no right or licence is granted to the Company in relation to the Confidential Information except as expressly set out in this Agreement.
- 5.3. Anglian accepts no responsibility for and make no representations or warranties, express or implied, with respect to the accuracy or completeness of any of the Confidential Information and Anglian shall not be liable to the Company or any third party for any loss resulting from use of the Confidential Information.
- 5.4. The Company undertakes that within five working days of receipt of (a) a written request from Anglian or (b) upon Expiry (as defined below) , it shall:
 - i) return to Anglian all documents and other material in its possession, custody or control that have been produced by Anglian or which incorporate Confidential Information, or
 - ii) destroy by shredding or incinerating all documents and other material in its possession, custody or control that have been produced by Anglian or which incorporate Confidential Information

and to certify to Anglian that this has been done, save that the Company shall be permitted to retain one copy of any Confidential Information received hereunder as may be required by law or for it to satisfy its obligations to any regulatory authorities. The obligation to return or destroy Confidential Information shall not cover information that is maintained on tapes, discs or other storage devices solely or substantially for routine back-up purposes in the ordinary course of business provided that such backed-up information: (a) is not used, disclosed or otherwise recovered from such storage devices; and (b) remains at all times subject to the terms of this Agreement

6. General

- 6.1. This Agreement shall continue until the earlier of either:
 - a) The parties entering into an agreement for the provision of meter reading services in respect of non household customers in the Anglian Region; or
 - b) 120 days from the date the parties enter into this Agreement("Expiry"). Notwithstanding Expiry of this Agreement, the terms of this agreement shall continue to be binding for a period of 5 years from the date that this Agreement is entering into.
- 6.2. No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties. This Agreement constitutes the whole agreement relating to the disclosure of information between the parties at the date hereof.
- 6.3. The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 6.4. The parties acknowledge that damages may not be an adequate remedy for any breach of this Agreement and Anglian shall be entitled to seek the remedy of injunction, specific performance and/or other equitable relief for any threatened or actual breach of this Agreement.
- 6.5. Neither this Agreement, nor the disclosure of Confidential Information by Anglian constitutes the basis of any contract relating to the purpose for which the information is disclosed (other

than the disclosure of Confidential Information) which will only be constituted by a binding agreement to be negotiated and entered into between the parties.

- 6.6. If any undertaking or other provision in this Agreement shall be held illegal or unenforceable in whole or in part, such undertaking or other provision shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of the other undertakings and provisions shall not be affected.
- 6.7. The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person not a party to it, with the exception of any Group Company which shall have the right to enforce the terms of this Agreement in respect of any Confidential Information relating to it. The parties shall be fully entitled by mutual agreement to rescind or vary this Agreement without the consent of any such Group Company.
- 6.8. Each party agrees to sign this Agreement by electronic signature (whatever form the electronic signature takes) and that this method of signature is as conclusive of each party's intention to be bound by this Agreement as if signed by each party's manuscript signature.
- 6.9. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of an executed counterpart of this Agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other similar format) shall take effect as delivery of an executed counterpart of this Agreement. No counterpart shall be effective until each party has executed and delivered at least one counterpart.
- 6.10. This Agreement is governed by and shall be construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

AS WITNESS WHEREOF the parties have each caused this Agreement to be signed and delivered by its duly representative the day and year first above written.

Acknowledged and agreed
by an authorised representative
for and on behalf of Anglian

Acknowledged and agreed
by an authorised representative
for and on behalf of the Company

Signed: _____

Signed: _____

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____