

**WATER SERVICES REGULATION AUTHORITY
WATER INDUSTRY ACT 1991, SECTION 13(1)**

**Modification of the Conditions of Appointment of Thames Water Utilities
Limited**

Made on 8th December 2014

Coming into effect at 12h00 on 8th December 2014

The Water Services Regulation Authority, in exercise of the power conferred on it by section 13(1) of the Water Industry Act 1991 ("the Act"), after giving notice as required by section 13(2) of the Act, hereby makes the modifications described in the Schedule attached hereto to the Conditions of the Appointment of Thames Water Utilities Limited ("the Appointee") as a water and sewerage undertaker under Chapter 1 of Part II of the Act, the Appointee having consented to these modifications.

**Signed for and on behalf of the
Water Services Regulation Authority**



**Cathryn Ross
Chief Executive**

Schedule

Condition B of Thames Water's Conditions of Appointment are amended as follows:

1. By the insertion of the following definitions into paragraph 2 (defined terms which apply for the purposes of all Parts of this Condition):

"Preparatory Work Notice" means the Thames Tideway Tunnel Preparatory Work Notice made by the Secretary of State on 4th June 2014 pursuant to regulation 5(3) of the SIP Regulations (as varied from time to time in accordance with regulation 5(7) of the SIP Regulations);

"Project Specification Notice" means the Thames Tideway Tunnel Project Specification Notice made by the Secretary of State on 4th June 2014 pursuant to regulation 4(1) of the SIP Regulations (as varied from time to time in accordance with regulation 4(7) of the SIP Regulations);

"Sewerage Services for the Thames Tideway Tunnel Project" means sewerage services set out in the Preparatory Work Notice that the Appointee is required to provide for the delivery of the Thames Tideway Tunnel Project and any additional services set out in the Preparatory Work Notice that the Appointee is permitted to provide and has agreed to provide;

"SIP Regulations" means the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 made under Part 2A of the Water Industry Act 1991 as inserted by the Flood and Water Management Act 2010;

"Thames Tideway Tunnel Price Control" has the meaning given in paragraph 9.4(1A) of this Condition B; and

"Thames Tideway Tunnel Project" means the project specified in the Project Specification Notice.

2. By the substitution of sub-paragraph 9.4 with the following sub-paragraph:

"9.4 In respect of the Appointed Business's Wholesale Activities except those activities for which there are Excluded Charges, the Water Services Regulation Authority shall determine (having regard to all the circumstances which are relevant in the light of the principles which apply by virtue of Part I of the Water Industry Act 1991 in

relation to the Water Services Regulation Authority's determinations including, without limitation, any change in circumstance which has occurred since the last Periodic Review or which is to occur):

(1) one single Price Control in respect of the Appointed Business's water services and one single Price Control in respect of the Appointed Business's sewerage services other than Sewerage Services for the Thames Tideway Tunnel Project in relation to the period from 1 April 2015 to 31 March 2020 or alternatively (at the discretion of the Water Services Regulation Authority), one single Price Control in respect of the Appointed Business's water services and sewerage services other than Sewerage Services for the Thames Tideway Tunnel Project in relation to the period from 1 April 2015 to 31 March 2020, each such Price Control consisting of, in each Charging Year:

- (a) the percentage change (expressed, in the case of an increase, as a positive number, in the case of a decrease, as a negative number, and, in the case of no change, as zero) in the Retail Prices Index between that published for the month of November in the Prior Year and that published for the immediately preceding November; and
- (b) a number, "K", which may be a positive number or a negative number or zero

which together shall be expressed as a percentage, and which shall limit the change in the charges to be levied by and/or revenue allowed to the Appointed Business in each Charging Year in respect of the Wholesale Activities concerned; and

(1A) for the five year period commencing on 1 April 2015 and ending on 31 March 2020 only, one single Price Control in respect of the Appointed Business's Sewerage Services for the Thames Tideway Tunnel Project ("the Thames Tideway Tunnel Price Control"), such Price Control to consist of, in each Charging Year:

- (a) the percentage change (expressed, in the case of an increase, as a positive number, in the case of a decrease, as a negative number, and, in the case of no change, as zero) in the Retail Prices Index between that published for the

month of November in the Prior Year and that published for the immediately preceding November; and

- (b) a number, "K_t", which may be a positive number or a negative number or zero,

which together shall be expressed as a percentage, and which shall limit the change in the charges to be levied by and/or revenue allowed to the Appointed Business in each Charging Year in respect of the Wholesale Activities concerned; and

- (2) how the Appointee shall, in respect of each such Price Control applicable to it, demonstrate the compliance referred to in sub-paragraph 9.1."

3. By the insertion of the following new sub-paragraph 9.4A:

"9.4A If either the Appointee or the Water Services Regulation Authority considers that the value of K_t should be adjusted, the Appointee or the Water Services Regulation Authority may apply for an Interim Determination of K_t and Part IV of this Condition B will apply, provided that:

- (1) in respect of a Notified Item or a Relevant Change of Circumstance, the question in sub-paragraph 14.2 (7) of Condition B shall be modified to read:

"is the Materiality Amount equal to or does it exceed ten percent (10%) of the regulatory capital value of the Thames Tideway Tunnel Price Control as at 31 March in the preceding year as published by the Water Services Regulation Authority";

- (2) for the purposes of sub-paragraphs 14.1 and 14.2 of Condition B:

(a) a single reference may be made to adjust the value of K_t in respect of any number of Notified Items and Relevant Changes of Circumstances relevant to the Thames Tideway Tunnel Price Control;

(b) no costs, receipts or savings reasonably attributable to the Sewerage Services for the Thames Tideway Tunnel Project may be included in any reference under sub-

paragraph 14.1 of condition B which relates to a Price Control determined pursuant to sub-paragraph 9.3 or 9.4(1) of Condition B; and

- (c) no costs, receipts or savings reasonably attributable to the Appointed Business' sewerage services other than Sewerage Services for the Thames Tideway Tunnel Project may be included in any reference under sub-paragraph 14.1 of Condition B which relates to the Thames Tideway Tunnel Price Control;

(3) this paragraph 9.4A shall cease to apply on 31 March 2020."

4. By the substitution of sub-paragraph 9.6 with the following sub-paragraph:

"9.6 Subject to paragraph 9.6A, each Price Control determined under sub-paragraph 9.4 pursuant to a Periodic Review shall be set:

- (1) for the five consecutive Charging Years starting on 1 April 2015; and
- (2) thereafter, for each period of five consecutive Charging Years starting on the fifth anniversary of the first day of the period in respect of which the immediately preceding Periodic Review was carried out."

5. By the insertion of the following new sub-paragraph 9.6A:

"9.6A The Price Control determined under sub-paragraph 9.4(1A) of this Condition B shall be set only for the five consecutive Charging Years starting on 1 April 2015 and shall cease to apply on 31 March 2020. From 1 April 2020, the activities and costs associated with the Thames Tideway Tunnel Project shall be determined and remunerated as part of the Appointed Business's sewerage services, and the words "other than Sewerage Services for the Thames Tideway Tunnel Project in relation to the period from 1 April 2015 to 31 March 2020" wherever they appear in sub-paragraph 9.4(1) of Condition B shall be deemed to be of no further effect from 1 April 2020 as though such words were deleted from that paragraph."

6. **By the substitution of sub-paragraph 9.7 with the following sub-paragraph:**

“9.7 If, at any time after 1 April 2015, the Water Services Regulation Authority is unable to conduct a Periodic Review by 31 December in the Charging Year before the Review Charging Year, then:

(1) in respect of Retail Activities, the previous determination pursuant to sub-paragraph 9.3 – in so far as that determination includes the matters decided under sub-paragraphs 9.3(1) and (2) – in respect of the final Charging Year of the period that was set in that previous determination pursuant to sub-paragraph 9.3(3), shall continue to apply for consecutive Charging Years until the next relevant determination under sub-paragraph 9.3 (or equivalent determination by the Competition Commission pursuant to paragraph 16) or the next relevant Interim Determination becomes effective;

(2) in respect of Wholesale Activities:

(a) subject to sub-paragraph 9.7(2)(b), the previous determination pursuant to sub-paragraph 9.4(1) in respect of the final Charging Year of the period that was set in that previous determination shall continue to apply for consecutive Charging Years until the next relevant determination under sub-paragraph 9.4(1) (or equivalent determination by the Competition Commission pursuant to paragraph 16) or the next relevant Interim Determination becomes effective (the “Continuing Wholesale Price Control”); and

(b) where the Water Services Regulation Authority is unable to conduct a Periodic Review by 31 December 2019, the previous determination pursuant to sub-paragraph 9.4(1A) in respect of the 2019/2020 Charging Year shall be incorporated into the Continuing Wholesale Price Control, such that the Continuing Wholesale Price Control comprises both the previous determination pursuant to sub-paragraph 9.4(1) and the previous determination pursuant to sub-paragraph 9.4(1A);

(3) the Water Services Regulation Authority shall conduct a Periodic Review as soon as reasonably practicable thereafter, provided

that the Appointee has not given a relevant notice under paragraph 16.”

7. By the substitution of sub-paragraph 14.1 with the following sub-paragraph:

“14.1 The Appointee may from time to time refer to the Water Services Regulation Authority for determination by it (having considered the proposals of the Appointee) the questions set out in sub-paragraph 14.2 or, as the case may be, sub-paragraph 14.3. Such reference shall be made by notice given to the Water Services Regulation Authority, which, in the case of the questions set out in sub-paragraph 14.2, shall be given in accordance with sub-paragraph 14.4. For the purposes of sub-paragraph 14.2 (and subject to sub-paragraph 9.4A(2)) a single reference may be made in respect of any number of Notified Items and Relevant Changes of Circumstance and sub-paragraph 14.2 shall be construed accordingly.”