

DIRECTIONS FROM THE WATER SERVICES REGULATION AUTHORITY TO TOR WATER LIMITED UNDER SECTIONS 66DA AND 117F OF THE WATER INDUSTRY ACT 1991

1. Interpretation

Unless otherwise specified:

- (a) terms capitalised in this direction are defined in the Wholesale Retail Code (the “**Code**”); and
- (b) references to sections are references to sections of the Code.

2. Background

- 2.1 The Water Services Regulation Authority (the “**Authority**”) has issued the Code pursuant to sections 66DA and 117F of the Water Industry Act 1991 (the “**Act**”). The Code prescribes the standard form Wholesale Contract (together with its various schedules and appendices, including the Business Terms, Operational Terms and Market Terms) which is to be entered into by Contracting Wholesalers and Contracting Retailers.
- 2.2 Under sections 66DA(4) and 117F(4) of the Act, if the Authority considers that a water supply licensee or sewerage licensee is not acting as required by the Code, it may give the licensee a direction to do, or not to do, a thing specified in that direction.
- 2.3 On 29 June 2018, the Authority granted the company to whom these Directions are addressed (the “**Licensee**”) a water supply licence with a retail authorisation in accordance with Section 17A of the Act and a sewerage licence with a retail authorisation in accordance with Section 17BA of the Act.
- 2.4 The Licensee is a Contracting Retailer for the purposes of the Wholesale Contract.
- 2.5 Under Section 4 (Wholesale Retail Code) of the Wholesale Contract the Contracting Retailer agrees and undertakes to comply with its obligations and duties to the Contracting Wholesaler and the Market Operator pursuant to and in accordance with the Wholesale Contract.
- 2.6 Section 15 of Part G of Schedule 1 Part 2 Business Terms (the “**Business Terms**”) of the Code sets out insurance requirements that must be maintained by the Contracting Retailer and Contracting Wholesaler as follows:

**DIRECTION FROM THE WATER SERVICES REGULATION AUTHORITY TO TOR WATER
LIMITED UNDER SECTIONS 66DA AND 117F OF THE WATER
INDUSTRY ACT 1991**

“Each Party shall, at all times during the Supply Period, effect and maintain with insurers authorised and regulated by the Prudential Regulation Authority and the Financial Conduct Authority under the Financial Services Act 2012 public liability insurance of not less than £5,000,000 for any one incident and unlimited as to the number of incidents, and shall, upon request, produce to the other Party documentary evidence that the above insurance is and remains in place.”

- 2.7 On 9 October 2019 the Authority asked the Licensee under Condition 8 of Part A of the Water Supply and Sewerage Standard Licence Conditions to provide details of its product and public liability insurance. On 15 October 2019, the Licensee provided the Authority with its Public, Professional and Employers liability insurance statement which covered the period from 15 October 2019 to 14 October 2020.
- 2.8 This statement indicates that the Licensee is insured for public liability up to £1,000,000 in total. This does not meet the requirement of the Business Terms of insurance of not less than £5,000,000 for any one incident and unlimited as to the number of incidents. In addition, the insurance statement provided describes the Licensee’s trade / business as telemarketing / telesales. It does not therefore sufficiently evidence that the policy covers its public liability in relation to the full range of its activities as a Licensee, for instance visiting third party premises for sales, marketing and meter reading purposes.

3. Direction under sections 66DA and 117F of the Water Industry Act 1991

3.1 Commencement and Duration

- 3.1.1 These Directions shall take effect from 10 January 2020.
- 3.1.2 These Directions shall remain in effect until such time as the Authority directs otherwise.

3.2 Actions for Tor Water Limited

- 3.2.1 The Authority hereby directs that:
- (a) the Licensee must comply with Section 15 of the Business Terms of the Code and obtain and maintain the requisite type and level of insurance by no later than 17 January 2020. Evidence of this insurance being in place must be provided to the Authority by 17 January 2020,

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LIMITED UNDER SECTIONS 66DA AND 117F OF THE WATER
INDUSTRY ACT 1991**

- (b) the Licensee must ensure that all future insurance policies comply with Section 15 of the Business Terms.

3.2.2 In accordance with section 66DA(6) and 117F(6) of the Act it is the duty of the Licensee to comply with these Directions. This duty is enforceable by the Authority under Section 18 of the Act.

Dated: 9 January 2020



**Signed on behalf of the Authority by Emma Kelso, Senior Director Markets
& Enforcement**

Duly authorised for that purpose by the Authority