

# NOVATION AGREEMENT

**NOTE:**

Where the deed of novation is entered into in advance to take effect from the Effective Date, the text highlighted [blue] shall be used and references to "the date of this Deed" will be removed. This note does not form part of the Novation Agreement and will be deleted.

THIS DEED OF NOVATION is made the [DATE]

**PARTIES:**

- 1 'The Employer': Wessex Water Services Limited a company incorporated in England and Wales with company number of 02366648 whose registered office is situated at Claverton Down Bath BA2 7WW;
- 2 'The Substitute Employer': [COMPANY NAME] a company incorporated in England and Wales with company number [COMPANY NUMBER] whose registered office is situated at [REGISTERED ADDRESS]; and
- 3 'The [Supplier][Contractor][Consultant]': [COMPANY NAME] a company incorporated in England and Wales with company number [COMPANY NUMBER] whose registered office is situated at [REGISTERED ADDRESS]

**RECITALS:**

- (A) The Employer and the [Supplier][Contractor][Consultant] have entered into the agreements and contracts detailed in Schedule 1 "the Contracts";
- (B) The Employer wishes to transfer, by way of novation, its rights and obligations under the Contracts to the Substitute Employer, in accordance with this Deed.
- (C) The Employer wishes to be released and discharged from its obligations and liabilities under the Contracts, in accordance with this Deed.
- (D) The [Supplier][Contractor][Consultant] agrees to release and discharge the Employer from its obligations and liabilities under the Contracts on the basis that, among other things, the Substitute Employer assumes the obligations and liabilities of the Employer under the Contracts, in accordance with this Deed.

**OPERATIVE PROVISIONS:**

**1 Novation of the Contract**

- 1.1 [In this Deed, the term 'Effective Date' shall mean [FUTURE DATE]. Notwithstanding the parties' execution of this Deed, the parties agree that where the Effective Date does not occur, clauses 2 to 10 shall have no effect.]
- 1.2 [On the Effective Date t] [T] his Deed novates the Contracts from the Employer and the [Supplier] [Contractor] [Consultant] to the Substitute Employer and the [Supplier] [Contractor] [Consultant].

**2 Release by Employer**

[With effect from and including the Effective Date, t] [T] he Employer releases and discharges the [Supplier][Contractor][Consultant] from further performance of the

[Supplier][Contractor][Consultant]'s obligations under the Contracts and from all claims and demands whatsoever arising out of or in respect of the Contracts whether arising prior to, on or subsequent to [the Effective Date] [the date of this Deed].

**3 Release by [Supplier][Contractor][Consultant]**

[With effect from and including the Effective Date, t] [T]he [Supplier][Contractor][Consultant] releases and discharges the Employer from further performance of the Employer's obligations under the Contracts and from all claims and demands whatsoever arising out of or in respect of the Contracts whether arising prior to, on or subsequent to [the Effective Date] [the date of this Deed].

**4 Acceptance of liability by Substitute Employer**

[With effect from and including the Effective Date, t] [T]he Substitute Employer accepts the liabilities of the Employer under the Contracts and agrees to perform all the duties and to discharge all the obligations of the Employer under it and to be bound by all its terms and conditions in every way as if he were named in the Contracts as a party ab initio in place of the Employer. Without limiting the generality of the foregoing the Substitute Employer acknowledges and agrees that he will receive and accept responsibility for negotiating and settling all claims and demands whatsoever against the Employer arising out of or in respect of the Contracts whether arising prior to, on or subsequent to [the Effective Date] [the date of this Deed].

**5 Acceptance of liability by [Supplier][Contractor][Consultant]**

[With effect from and including the Effective Date, t] [T]he [Supplier][Contractor][Consultant] agrees to perform all his duties and to discharge all his obligations under the Contracts and to be bound by all its terms and conditions in favour of the Substitute Employer in every way as if the Substitute Employer were named in the Contracts as a party ab initio in place of the Employer. Without limiting the generality of the foregoing the [Supplier][Contractor][Consultant] acknowledges and agrees that the Substitute Employer shall have the right to enforce the Contracts and pursue all claims and demands (future or existing) by the Employer whatsoever arising out of or in respect of the Contracts whether arising prior to, on or subsequent to the [the Effective Date] [the date of this Deed].

**6 Acknowledgement of payment**

The [Supplier][Contractor][Consultant] acknowledges that up to the date of this Deed he has been paid the sums detailed in Schedule 1 to this Deed, exclusive of value added tax by the Employer, being that part of the sums due to the [Supplier][Contractor][Consultant] under the Contracts and further acknowledges that no further sums are due from the Employer. [The acknowledgement set out in this clause shall be deemed repeated by the [Supplier][Contractor][Consultant] immediately before the Effective Date by reference to the facts and circumstances then existing.]

**7 Contracts in force**

The terms and conditions of this Deed represent the entire agreement between the parties relating to the novation of the Contracts and except as specifically amended by this Deed all the terms and conditions of the Contracts remain in full force and effect.

**8 No discharge of [Supplier][Contractor][Consultant]'s liability**

Nothing in this Deed shall operate to discharge the [Supplier][Contractor][Consultant] from any liability in respect of duties performed prior to the execution of this Deed. For the avoidance of any doubt any such liability shall henceforth be owed to the Substitute Employer.

## **9 Contracts (Rights of Third Parties) Act 1999**

For the purposes of the Contract (Rights of Third Parties) Act 1999, nothing in this Deed confers or purports to confer on any party other than those named herein any right to enforce terms of this Deed.

## **10 Existing Claims**

10.1 In this Clause the 'Existing Claims' mean such breaches or alleged breaches of obligations under the Contracts as are at [the Effective Date] [the date of this Deed] the subject of arbitration or litigation between the Employer and the [Supplier][Contractor][Consultant], brief details of which are set out in Schedule 2 to this Deed.

10.2 Notwithstanding any other provision herein, this Deed shall not operate to release or discharge the Employer or the [Supplier][Contractor][Consultant] in respect of the Existing Claims.

10.3 [With effect from and including the Effective Date, t] [T]he Employer hereby assigns to the Substitute Employer the right to pursue or defend the Existing Claims in the name of the Employer.

10.4 [With effect from and including the Effective Date, t] [T]he Substitute Employer shall indemnify the Employer in respect of any costs, damages or expenses incurred by the Employer in consequence of the Substitute Employer pursuing or defending the Existing Claims.

10.5 [With effect from and including the Effective Date, t] [T]he Employer shall account to the Substitute Employer in respect of any sums which the Employer receives from the [Supplier][Contractor][Consultant] in respect of the Existing Claims.

## **11 Law**

11.1 This Deed is governed by English Law. The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Deed.

EXECUTED AS A DEED ON BEHALF OF THE EMPLOYER

Wessex Water Services Limited (02366648) whose registered office is at Claverton Down Bath BA2 7WW

by ..... (Company Secretary/Director/Authorised Signatory)

and

by ..... (Director/Authorised Signatory)

EXECUTED AS A DEED ON BEHALF OF THE SUBSTITUTE EMPLOYER

.....

of .....

by ..... (Director/Authorised Signatory)

..... (Print Name)

and

by ..... (Director/Authorised Signatory)

..... (Print Name)

EXECUTED AS A DEED ON BEHALF OF THE [SUPPLIER][CONTRACTOR][CONSULTANT],

.....

of .....

by ..... (Director)

..... (Print Name)

and

by ..... (Director/Company Secretary)

..... (Print Name)

**Schedule 1**

**“The Contracts”**

<b>Ref</b>	<b>Contract Title</b>	<b>Contract number</b>	<b>Current Contract Value</b>	<b>Paid to Date</b>	<b>Contract Status</b>	<b>Completion Date (if applicable)</b>
	[insert details]					

**SCHEDULE 2**  
**EXISTING CLAIMS**

[insert details of existing claims]