

# **Attachment 2**

## **Replacement Schedule 2**

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**Terms and Conditions of Service**


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**INTRODUCTION TO TERMS AND CONDITIONS**

These Terms and Conditions, as approved by the municipal council of the City of Edmonton (the “City”), form part of City Bylaw #12585 (the “Waterworks Bylaw”) which regulates the provision of Water Services in the City by EWSI Services, Inc. (“EWSI”). The Waterworks Bylaw, which also includes the EWSI Price Schedule in effect from time to time, is enacted pursuant to the powers vested in the City under the provisions of the Municipal Government Act. R.S.A. 2000 C. M-26.

These Terms and Conditions apply to EWSI and its relationship with all of its Customers. Every Customer, by applying for or using a Service Connection or Water Services or other services of any kind provided by EWSI under the authority of these Terms and Conditions, is deemed to have accepted these Terms and Conditions and is bound by and subject to them.

Unless otherwise agreed in writing by EWSI, provision of Water Services or other services by EWSI will occur only in accordance with these Terms and Conditions..

**ARTICLE 1 - DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following words and phrases, whenever used in these Terms and Conditions or in an application, contract or agreement for service under these Terms and Conditions, shall have the meanings set forth below:

“**Account**” means a written and/or digital record of use of Water Services or other services by a Customer, including the amounts payable from time to time by the Customer to EWSI;

“**Business Day**” means any day other than Saturday, Sunday or a holiday as defined in the Interpretation Act, R.S.A. 2000, c. I-8, as re-enacted, amended or replaced from time to time;

“**City**” means the municipal corporation of the City of Edmonton;

“**Cross Connection**” means any temporary, permanent or potential connection of any piping, fixture, fitting, container or appliance to the Waterworks System that allows or may allow backflow, including but not limited to: swivel or change over devices, removable sections, jumper connections and bypass arrangements;

“**Curb Cock**” means a shut-off valve connected to a Service Connection enabling shutting off water supply to a Customer’s property;

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**“Customer”** means any person, firm or body corporate that receives Water Services or other services of any kind from EWSI, and where the context or circumstances so require includes any person who makes or has made an application for Water Services or otherwise seeks to receive Water Services, and also includes any person acting as an agent or representative of a Customer;

**“Customer Usage Information”** means information regarding the historical use of Water Services or water consumption of a Customer, and includes the Customer’s history of payment for Water Services or other services provided under these Terms and Conditions;

**“Disturbed Ground”** means terrain (surface or sub-surface) that is disturbed and that may require incremental construction techniques or support systems to provide stability;

**“Dwelling”** means a private residence with sleeping and cooking facilities intended for domestic use;

**“EWSI”** means EPCOR Water Services Inc. or its successor;

**“Facilities”** means any infrastructure forming part of the Waterworks System and owned by EWSI including, without limitation: water treatment plants, water distribution mains, water transmission mains, Water Service Lines, valves, reservoirs, pumping stations, fire hydrants, chambers, pressure reducing valves, meters, measurement devices and other physical plant and piping appurtenances, used to produce and supply potable water;

**“Force Majeure”** means circumstances not reasonably within the control of EWSI, including acts of God, strikes, lockouts or other industrial disturbances, acts of the Queen’s enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, inclement weather, orders or acts of civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, mechanical breakdowns, intervention of federal, provincial, state or local governments or any of their agencies or boards, the order or direction of any court, and any other cause, whether of the kind herein enumerated or otherwise, provided that lack of funds shall not constitute a circumstance not reasonably within the control of EWSI;

**“Multiple Dwelling”** means a wholly or primarily residential development containing more than one Dwelling, whether or not the development is within a single building or structure, which receives Water Services through a total number of Service Connection Points that is less than the total number of Dwellings in the residential development;

**“Price Schedule”** means the fees and charges for Water Services set out Schedule 1 of the Waterworks Bylaw;

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**“Private Service(s) Line”** means the water line and all associated equipment and facilities for providing water to a Customer that are located downstream of the Service Connection Point, except for the water meter that is owned by EWSI;

**“Service Connection”** means the all of the Facilities required to effect a physical connection between the Waterworks System and a Private Service Line to allow a Customer to receive water delivered through the Waterworks System, including without limitation the Water Service Line from the water main to the Customer’s property line;

**“Service Connection Point”** means the point where a Water Service Line owned by EWSI and forming part of the Waterworks System physically connects to a Private Service Line (which will ordinarily but not necessarily be a point at or near a Customer’s property line).

**“Water Services”** means all services provided by EWSI under these Terms and Conditions, including but not limited to provision of potable water to a Customer through a Service Connection;

**“Water Services Agreement”** means any agreement under which EWSI has or may incur an obligation to provide Water Services to one or more Customers, and may at EWSI’s sole option include any development agreement entered into by the City of Edmonton to which EWSI is not a party to the extent that the development agreement addresses the supply of Water Services to a Customer;

**“Water Services Guidelines”** means any document referred to as Water Services Guidelines in paragraph 2.2 of Article 2 of these Terms and Conditions;

**“Waterworks System”** means the Facilities and all associated real and personal property used by EWSI to supply potable water to Customers.

**1.2 Conflicts**

If there is any conflict between a provision in these Terms and Conditions, and a provision in a Water Services Agreement or other agreement between EWSI and a Customer, the provision in these Terms and Conditions shall govern unless an express term of the Water Services Agreement or other agreement states otherwise.

**1.3 Extended Meanings**

In these Terms and Conditions, words importing the singular number shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa. Words importing a

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person shall include a person, firm, partnership, corporation, organization or association (including, without limitation, individual members of any unincorporated entity).

**1.4 Headings**

The division of these Terms and Conditions into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.

**ARTICLE 2 - GENERAL PROVISIONS**

**2.1 Fundamental Obligations of EWSI and of Customers**

- (a) EWSI will provide Water Services listed in the Price Schedule, at the fees, rates or other charges specified in the Price Schedule, in accordance with these Terms and Conditions and with applicable provisions of the Water Services Guidelines. All additional services provided by EWSI to a Customer will be billed to the Customer in accordance with an agreement between the Customer and EWSI. A Customer is obligated to pay for all services provided by EWSI, whether or not listed in the Price Schedule, and any such services may be added by EWSI to the Customer's Account.
- (b) Upon request of a Customer and upon fulfillment of all conditions set out in these Terms and Conditions and in the Water Services Guidelines, EWSI will install and maintain a Service Connection to a Customer's premises abutting a street or right-of-way where there is a water main. Unless an agreement between EWSI and a Customer specifically provides otherwise:
  - (i) EWSI shall be and remain the owner of the Water Service Line forming part of the Service Connection;
  - (ii) the Customer shall be and remain the owner of the Private Service Line downstream of the Service Connection Point;
  - (iii) EWSI shall be and remain the owner of all water meters and other measuring and monitoring devices associated with the Service Connection, regardless of whether they are located upstream or downstream of the Service Connection Point.
- (c) The general operating costs of maintaining the Waterworks System, not unique to the requirements, requests for specific services, acts or omissions of any particular Customer or defined group of Customers, are intended to be covered by the rates for Water Services set out in the Price

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Schedule. EWSI will maintain the Waterworks System at no additional specific charge to any Customer for Water Services provided beyond the fees, rates and charges for Water Services set out in the Price Schedule or in any Water Services Agreement, provided however that the cost of repairing or remedying any loss or damage to Facilities or other property that is caused by a Customer or other party for whom a Customer is responsible in law and that results in a judgment of a court in EWSI's favour, may at EWSI's sole option (and in addition to any other legally available remedies) be added to a Customer's Account as an additional amount due and payable by the Customer to EWSI.

- (d) When EWSI performs a repair on its Facilities affecting a Customer's property, EWSI will make all reasonable efforts to return the property to its original or similar to original condition as soon as practicable after the repair is completed.
- (e) Customers are solely responsible to take all necessary measures to prevent damage to their Private Service Lines due to any cause, including settlement of the structure or soil through which the Private Service Line passes. EWSI shall not under any circumstances whatsoever be liable for any repair, maintenance or replacement of any Private Service Line, except to the extent that damage to a Private Service Line is caused by a deliberate or negligent act of EWSI.
- (f) Where any physical facilities required to supply Water Services to a Customer (whether owned by the Customer if downstream of the Service Connection Point or by EWSI if upstream of the Service Connection Point) are located in Disturbed Ground, EWSI's obligation to construct does not include incremental construction costs required to stabilize such physical facilities and/or to bring the disturbed ground to a stable state. The Customer may at EWSI's sole option be required to pay all additional construction costs in such circumstances including the costs of any required support system.
- (g) Every Customer shall:
  - (i) Pay all charges, fees and bills for Water Services performed by EWSI, its employees, agents or contractors, in accordance with the Price Schedule or an agreement with EWSI, as applicable, without any deduction or set-off whatsoever;
  - (ii) comply with the requirements of these Terms and Conditions and any Water Services Guidelines in effect from time to time.

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**2.2 Water Services Guidelines**

- (a) EWSI may adopt, and amend from time to time, written requirements, standards, specifications, procedures, protocols or guidelines not inconsistent with these Terms and Conditions (the “Water Services Guidelines”) as EWSI deems advisable for the purpose of clarifying or explaining:
- (i) any fee, rate or other charge set out in the Price Schedule, including the circumstances and the manner in which such fee, rate or charge will be applied and billed to a Customer;
  - (ii) the manner in which EWSI’s obligations under the Waterworks Bylaw and any applicable federal or provincial legislation or regulations will be fulfilled and the impacts on Customers;
  - (iii) EWSI’s operating policies and procedures, and its requirements in relation to provision of Water Services or other services, including without limitation requirements intended to: provide security for costs incurred by EWSI, ensure the health and safety of employees, ensure the safety of the potable water supply delivered through the Waterworks System and maintain the reliability of the Waterworks System

and any such Water Services Guideline (or amendment thereto) becomes effective and binding upon a Customer or other person affected when delivered to the City Clerk by EWSI. EWSI’s authority under this clause includes the authority to rescind all or any portion of any Water Services Guideline previously filed with the City Clerk, and any Water Services Guideline or portion thereof so rescinded ceases to be binding upon Customers as of the effective date of rescision as specified in a written notice from EWSI to the City Clerk.

- (b) Without limiting the generality of paragraph 2.2(a) above, Water Services Guidelines may deal with any or all of the following subject matters:
- (i) procedures or requirements that a Customer must comply with before a Service Connection is installed or activated, or before Water Services are provided, or as a condition of ongoing provision of Water Services;
  - (ii) Customer Accounts, including without limitation provisions or requirements concerning: opening an Account, making payments on an Account, consequences for failure to pay Accounts in full, lost bills, dishonoured cheques, collection of delinquent Accounts, adjusting improperly billed Accounts, Water Service application fees, handling of confidential Customer Account information,

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- closing an Account, and any other matter relating to Customer Accounts;
- (iii) measurement of water consumption, including without limitation provisions or requirements concerning: meter inspection and testing, meter settings, chambers and installations, meter reading, disputes concerning meter data, estimates of consumption, private or subsidiary meters, remote meter reading devices, relocation of meters, access for meter readers, and adjustments to bills when meters have malfunctioned;
  - (iv) procedures or requirements concerning investigation of Customer complaints and concerns;
  - (v) procedures or requirements for provision of temporary Water Services, including without limitation Water Services provided during the construction phase of a development;
  - (vi) procedures or requirements for upgrading, re-sizing relocating or otherwise changing a Service Connection, whether at the instigation of EWSI or at the request of a Customer;
  - (vii) turn-on and turn-off of Water Services, whether at the instigation of EWSI or at the request of a Customer;
  - (viii) supply of water for firefighting purposes, including without limitation procedures and requirements concerning the maintenance of public or private fire hydrants and permissible use of water from fire hydrants.
- (c) The following are deemed to be Water Services Guidelines and are effective and binding upon every Customer, and may be amended or rescinded from time to time by EWSI:
- (i) the EWSI document entitled “EWSI Service Standards”;
  - (ii) the document entitled “Design and Construction Standards for the City of Edmonton; Volume 4 – Water”;
  - (ii) the EWSI document entitled “Cross Connection Control Policy”;
- (d) While EWSI is committed to, and will endeavour to comply with, its Water Services Guidelines, the operations of EWSI are complex and dynamic and the Water Services Guidelines may not therefore appropriately or exhaustively deal with every situation that arises. EWSI may deviate from the provisions of the Water Services Guidelines or take action not specifically authorized by these Terms and Conditions or by the Water

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Services Guidelines where such deviation or action is not inconsistent with these Terms and Conditions, and is reasonably necessary in the circumstances.

**2.3 Fees and Other Charges**

EWSI will provide Water Services hereunder pursuant to the rates, fees or other charges specified in the Price Schedule. Any additional, supplementary or extra service provided by EWSI to a Customer or to any other person will be charged a separate rate or fee.

**ARTICLE 3 - METHODS AND PROCEDURES FOR OBTAINING WATER SERVICES**

**3.1 Requirement for Account and Obligation to Pay**

- (a) A Customer shall open an Account with EWSI as a condition of obtaining Water Services, regardless of whether the Water Services requires installation of a new Service Connection or construction of any new Facilities.
- (b) EWSI may add to a Customer's Account the charges for all Water Services or other services provided by EWSI to the Customer, and the Customer is obligated to pay in full all such charges without reduction or set-off for any reason whatsoever, upon receipt of a bill for the charges. A late payment charge of 2.5% per month, not compounded, is applied to all charges on a Customer's Account if the Customer's payment has not been received by EWSI before one month from the date of issuance of the bill in respect of the charges. The Customer is charged a dishonoured cheque charge for each cheque returned for insufficient funds.
- (c) At the sole option of EWSI an owner of premises to which Water Services are supplied who rents or leases the premises to a tenant or lessee that is a Customer, may be required to open an Account for the supply of water to the portion of the premises occupied by the tenant/lessee Customer.
- (d) Without limiting Section 3.1(a) above EWSI may, without approval or consent of an owner, upon not less than 90 days written notice to the owner, open a new Account in the name of the owner in respect of leased premises if:
  - (i) the tenant/lessee Customer is more than 60 days in arrears of payment for Water Services; and
  - (ii) it is physically impossible or impracticable to disconnect Water Services to the tenant/lessee Customer without adversely affecting Water Services to one or more other Customers that occupy the

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same premises and/or that receive Water Services through a common Service Connection

and in such case the owner will be liable to pay for Water Services only from the date on which the new account is opened by EWSI in the Owner's name. The owner will not be liable to pay EWSI for the tenant/lessee's arrears for Water Services at that location, unless a provision in an agreement otherwise specifies.

**3.2 EWSI's Requirements Upon a Customer's Application for Water Services**

- (a) A Customer applying for Water Services involving a new Service Connection shall supply information regarding the location of the premises to be served, the manner in which the Service Connection will be utilized, and any other information that may be reasonably required by EWSI.
- (b) Before making a decision on a Customer application involving a new Service Connection, EWSI is allowed a reasonable time to verify the identity of the Customer and/or the accuracy of the information provided, and may require the Customer to sign a formal application for Water Services, in writing, which may be on a standard form approved by EWSI.
- (c) For all commercial and industrial Customers, and for any other Customer for whom provision of Water Services will involve installation of a new Service Connection or construction of new Facilities or an extension to or modification of the Waterworks System, an express written acknowledgement that the Customer has agreed to these Terms and Conditions is required before EWSI will take any steps toward providing the requested Water Services.
- (d) At EWSI's sole option, a Customer for Water Services involving a new Service Connection or construction of new Facilities or an extension to or modification of the Waterworks System may be required to execute a Water Services Agreement, before EWSI incurs any costs to supply Water Services to the Customer.
- (e) Upon receipt of all required information, verification of the Customer's identity and the accuracy of the information, and execution of any applicable acknowledgement form or agreement, EWSI will
  - (i) advise the Customer whether and on what terms EWSI is prepared to supply Water Services to the Customer;
  - (ii) in the case of a Customer requiring a new Service Connection, advise the Customer of the type and character of the Service Connection it is prepared to supply to the Customer, and any conditions (including without limitation, payments by the Customer)

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that must be satisfied as a condition of installation of a Service Connection and supply of Water Services.

**3.3 Rejection of Application for Water Services or Service Connection**

EWSI may, without limitation, reject any Customer's request for a Service Connection or for Water Services when:

- (a) the Customer does not have currently in effect all approvals that may be required for the installation of the Service Connection;
- (b) the Customer refuses to enter into a Water Services Agreement or other form of agreement acceptable to EWSI;
- (c) any representation made by the Customer to EWSI for the purpose of obtaining a Service Connection is, in EWSI's reasonably held opinion, fraudulent, untruthful or misleading;
- (d) the Customer has not, when requested by EWSI to do so, provided a signed written application for Water Services;
- (e) the type of Water Services or Service Connection applied for is not available or not normally provided by EWSI in the locality where the Water Services or Service Connection is requested;
- (f) the requirements of the Water Services Guidelines have not been met; or
- (g) the proposed Water Services or Service Connection, in EWSI's reasonably held opinion, has unusual characteristics that might adversely affect the quality of Water Services supplied to other Customers, public health or safety, the health or safety of EWSI's personnel, or the safety or reliability of any other Facilities or the Waterworks System.

**3.4 Security Deposits**

- (a) EWSI may at the time of a Customer's application for Water Services or at any time thereafter request a Customer to supply information reasonably required by EWSI to determine the Customer's credit history and/or credit risk. If a Customer fails to supply such information EWSI may refuse to supply, or discontinue supply of, Water Services to the Customer.
- (b) EWSI, in its sole discretion, may at the time of a Customer's application for Water Services or at any time thereafter require the Customer to post a security deposit or an increase to an existing security deposit in circumstances that may include, without limitation, the following:

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- (i) late payment by the Customer for Water Services or other services provided by EWSI;
  - (ii) the Customer has issued more than one cheque or pre-authorized debit that has been returned for non-sufficient funds in any six month period;
  - (iii) there has been a significant increase in the Customer's rate of consumption of water;
  - (iv) the Customer is applying for re-connection or for a new Water Services after having previously been disconnected from Water Services for non-payment;
  - (v) the Customer making the application for service has a credit rating that is not satisfactory to EWSI; or
  - (vi) the Customer is applying for a permit to take water from a fire hydrant.
- (c) EWSI, in its sole discretion, may determine that a Customer is not required to post a security deposit or is no longer required to maintain an existing security deposit, in circumstances that may include, without limitation, the following:
- (i) the Customer has a good payment history with EWSI;
  - (ii) where a result satisfactory to EWSI is obtained from an external credit check;
  - (iii) where the Customer provides a co-signor who agrees to be personally responsible for payment for Water Services supplied and services rendered to the Customer and who has a credit rating acceptable to EWSI; or
  - (iv) where the Customer provides to EWSI an indemnity bond or irrevocable letter of credit from a financial institution satisfactory to EWSI.
- (d) Unless extraordinary circumstances apply, the maximum security deposit EWSI will require from a Customer for Water Services not involving a new Service Connection is an amount equal to three times the amount EWSI estimates will be the average monthly billing to the Customer for Water Services.
- (e) A deposit made by a Customer may be returned to the Customer after a satisfactory payment history over a period of 12 consecutive months or when the Customer's Water Services are terminated and the Customer's account is closed. Where a Customer's Water Services are terminated

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and the Customer's Account is closed for non-payment, prior to any refund, the deposit will be applied to the balance owing by the Customer to EWSI.

- (f) EWSI will pay to a Customer as soon as practicable after the end of each calendar year, or after the Customer's Account is closed, simple interest on the daily balance of any cash deposit held by EWSI in respect of the Customer. The interest rate applicable to such payments is the "Bank Rate" announced by the Bank of Canada and in effect from time to time.

**3.5 Customer Contracts**

- (a) Water Services Agreement

EWSI may, in its sole discretion, require a Customer previously connected or seeking to connect to the Waterworks System to sign a Water Services Agreement in respect of a Service Connection, as a condition of receiving or continuing to receive a Service Connection or Water Services.

- (b) Assignment of Contractual Obligations

All services, whether or not they require EWSI's assignment consent, that are properly assigned or otherwise transferred to a corporate Customer's affiliate or successor taking over the operation of an existing facility, shall be subject to the terms of the Customer's Water Services Agreements and billing history. Any change in service requirements as a result of such assignment or transfer shall be made in accordance with these Terms and Conditions. The existing contractual arrangements will remain in place until any new agreements have been approved and accepted by both parties.

**3.6 Authorizations and Approvals for Service Connection**

The Customer shall be responsible for obtaining all permits, certificates, licenses, inspections, reports, and other authorizations necessary for the installation and operation of the Service Connection. EWSI shall not be required to commence or continue installation or operation of a Service Connection unless and until the Customer has complied with the requirements of all governmental authorities, permits, certificates, licenses, inspections, reports and other authorizations, all right-of-way agreements, and all of EWSI's requirements applicable to the installation and operation of the Service Connection. EWSI reserves the right, but is not obligated, to verify that all necessary authorizations have been obtained by Customers.

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**3.7 Temporary Service and Construction Service**

- (a) Where EWSI reasonably believes that a requested service will be temporary, it may require the Customer requesting the service to pay EWSI in advance of a Service Connection, the estimated cost of Facilities plus the estimated cost of installation and removal of Facilities necessary for the desired service, less the value of the salvaged material.
- (b) EWSI will provide temporary, unmetered Water Service wherever practicable to a Customer for purposes of facilitating construction of a new development. The Customer will pay a rate, charge or fee for such Water Service based on the total cost of construction of the development, as specified in the Price Schedule. A Customer who is receiving unmetered Water Service for the construction phase of a development ceases to be entitled to take unmetered Water Service at the construction rate and is required to apply for metered Water Services when
  - (i) a City occupancy permit is issued in respect of the development; or
  - (ii) when the development is being used for its intended purposewhichever event first occurs.

**3.8 Scheduling for Service Connection**

After the Customer has complied with EWSI's application requirements and has been accepted for service by EWSI and complied with the requirements of all applicable construction and safety standards or regulations, EWSI shall schedule that Customer for Service Connection in accordance with the Water Services Guidelines.

**3.9 Customer to Notify EWSI of Changes**

When a Customer has a change of name or contact information, (including without limitation: mailing address, telephone number(s), e-mail address) the Customer must immediately notify EWSI of such change. EWSI reserves the right to require that such notification be made in writing

**3.10 Customer Usage Information**

- (a) EWSI shall provide standard Customer Usage Information to a Customer, or to an agent or consultant acting on behalf of a Customer, upon request and in the case of an agent or consultant only after receiving written consent to such disclosure from the Customer in a form satisfactory to EWSI, for the 12-month period preceding the date of the request or for such shorter period for which EWSI has collected that information.

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- (b) EWSI shall not be obligated to provide Customer Usage Information for a period greater than 12 months prior to the date of request. If a Customer requests Customer Usage Information for any time earlier than 12 months prior to the date of request, EWSI may in its sole discretion charge an administrative fee for retrieving and supplying the information requested.

**ARTICLE 4 - SERVICE REQUIREMENTS AND FACILITIES**

**4.1 Protection of EWSI's Facilities and Property of Other Customers**

- (a) No Interference with Facilities

The Customer shall not install or allow to be installed on property owned or controlled by the Customer any temporary or permanent structures that could interfere with the proper and safe operation of EWSI's Facilities or result in non-compliance with applicable statutes, regulations, standards or codes.

- (b) Protection of Facilities on Customer's Property

The Customer shall furnish and maintain, at no cost to EWSI, the necessary space and protective barriers to safeguard Facilities installed or to be installed upon the Customer's premises. If the Customer refuses, EWSI may, at its option, furnish and maintain, and charge the Customer for furnishing and maintaining, the necessary protection. Such space, and protective barriers shall be in conformity with applicable laws and regulations and subject to EWSI's specifications and approval.

- (c) Compliance with Requirements and Use of Service Connection

The Customer shall ensure that the Customer's facilities comply with the requirements of any code or regulation and with the Water Services Guidelines. The Customer shall not use a Service Connection or any Water Services received in a manner so as to cause interference with any other Customer's use of a Service Connection or Water Services. At EWSI's request, a Customer shall take whatever action is required to correct such interference or disturbance at the Customer's expense.

- (d) Customer to Pay Relocation Costs

The Customer shall pay all costs of relocating EWSI's Facilities at the Customer's request, if such relocation is for the Customer's convenience, or if necessary to remedy any violation of law or regulation caused by the Customer. If requested by EWSI, the Customer shall pay the estimated cost of the relocation in advance.

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**(e) Prohibited Extension of Customer Owned Facilities**

A Customer shall not extend or permit the extension of a Private Service Line or any other customer-owned piping, equipment or other assets that are connected directly or indirectly to the Waterworks System, beyond the separately titled lot or parcel of land in respect of which they are used to supply Water Services through a Service Connection Point.

**ARTICLE 5 - EASEMENTS, RIGHTS-OF-WAY, AND USE OF AND ACCESS TO FACILITIES****5.1 Easements and Rights-of-Way**

At the request of EWSI a Customer shall grant or cause to be granted to EWSI, without cost to EWSI, such easements or rights-of-way over, upon or under property owned or controlled by the Customer as EWSI reasonably requires for the construction, installation, maintenance, repair, and operation of the Facilities required for a Service Connection to the Customer and the performance of all other obligations required to be performed by EWSI hereunder.

**5.2 Right of Entry**

- (a) EWSI's employees, agents and other representatives shall have the right to enter a Customer's premises at all reasonable times, or at any time during an event of Force Majeure, for the purpose of installing, maintaining, replacing, testing, monitoring, reading or removing EWSI's Facilities and for any other purpose incidental to the provision of Water Services. A Customer shall not prevent or hinder EWSI's entry to the Customer's premises for any such purpose. Without limiting the generality of the foregoing, EWSI has the right to enter a Customer's premises at any reasonable hour in order to:
- (i) install, inspect, test, repair or remove Facilities;
  - (ii) perform necessary maintenance to Facilities;
  - (iii) investigate or respond to a Customer complaint or inquiry;
  - (iv) conduct an unannounced inspection where EWSI has reasonable grounds to believe that theft of Water Services or interference with Facilities (including but not limited to a water meter) has occurred or is occurring.
- (b) EWSI will make reasonable efforts to notify the Customer in advance of entering a Customer's premises or to notify any other person who is at the

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Customer's premises and appears to have authority to permit entry, except:

- (i) in cases of emergency;
  - (ii) where entry is permitted by order of a court or other authority having jurisdiction;
  - (iii) where otherwise legally empowered to enter;
  - (iv) where the purpose of the entry is in accordance with Section 5.2(a)(iv) of these Terms and Conditions.
- (c) EWSI may charge a no access fee sufficient to cover EWSI's reasonable out-of-pocket and administrative costs, if EWSI's lawful entry to a Customer's premises is prevented or hindered, whether by a Customer not keeping a scheduled appointment or for any other cause.

**5.3 Access to Waterworks System**

- (a) A Customer shall be responsible for managing vegetation on the property owned or controlled by the Customer to maintain adequate clearances and reduce the risk of contact with EWSI's above-ground Facilities.
- (b) A Customer shall not install or allow to be installed on property owned or controlled by the Customer any temporary or permanent structures that could interfere with EWSI's free and direct access to its Facilities or result in non-compliance with applicable statutes, regulations, standards and codes.
- (c) A Customer shall not obstruct or impede EWSI's free and direct access to any Facilities, including without limitation any services, watermains, valves, Curb Cocks, fire hydrants, meters or meter settings.
- (d) Where a Customer contravenes any provision of this Section 5.3 and fails to remedy such contravention within ten (10) days after receiving from EWSI a notice in writing to do so, then in addition to any other legal remedy available EWSI may take any steps necessary to remedy the contravention and may charge any costs of so doing to the Customer's Account.

**5.4 Customer Responsibility for Use of Facilities**

- (a) A Customer shall not use a Service Connection or Private Service Line in a manner that interferes with any other Customer's use of a Service Connection or Private Service Line. At EWSI's request, the Customer

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shall take whatever action is required to correct the interference or disturbance at the Customer's expense.

- (b) No Customer shall install or allow to exist any connection or Cross Connection that could cause or allow drinking water, in any part of the Waterworks System to become contaminated or polluted in any way.
- (c) Where EWSI determines that there exists a connection or Cross Connection prohibited by this Section, EWSI shall give notice to the Customer to correct the connection or Cross Connection at the expense of the Customer within the time specified in the notice.
- (d) Where the Customer fails to correct the connection or Cross Connection in accordance with the notice, in addition to any other penalty, EWSI may turn off the supply of water for such time as the prohibited connection or Cross Connection continues.
- (e) Customers will not use water from the Waterworks System, or allow water obtained from the Waterworks System to be used:
  - (i) in an unauthorized manner;
  - (ii) in a manner that will impede water use by other Customers;
  - (iii) unless an Account has been opened by the Customer;
  - (iv) unless the water has first passed through a water meter, except in the case of a development in the course of construction that has not yet received an Occupancy Permit from the City, to which the prescribed Construction Service Charge applies.
- (f) If EWSI finds an unauthorized use of water including as a result of any tampering with a meter or other EWSI Facilities, EWSI may make such changes in its meters, appliances, or other Facilities or take such other corrective action as may be appropriate to ensure only the authorized use of the Facilities, and also to ensure the safety of the general public.
- (g) Upon finding an unauthorized use of water, EWSI may disconnect the Service Connection immediately, without notice and shall charge the Customer, all costs incurred in correcting the condition, in addition to any other rights and remedies which may be available to EWSI.
- (h) A Customer that uses water in contravention of this Section shall pay the following charges:
  - (i) The applicable rate for the water used, in accordance with the Price Schedule, and where necessary based on an estimate by EWSI of the amount of water used in contravention of this Section;

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- (ii) all costs incurred by EWSI in dealing with the contravention;
  - (iii) any other penalty provided by the Price Schedule, these Water Terms and any applicable law or regulation.
- (i) Where EWSI determines that seals on valves, meters or other appurtenances have been broken and not reported, or that a water meter has not been measuring water accurately, EWSI shall be permitted at all times to estimate the quantity of water consumed or obtained, and charge the Customer at the applicable water consumption rate set out in the Price Schedule.

**ARTICLE 6 - WATERWORKS SYSTEM EXTENSIONS**

**6.1 Estimated Cost**

Upon a Customer's request for a new or upgraded Service Connection involving construction of new Facilities or an extension to the Waterworks System, EWSI shall prepare a proposal outlining the estimated cost of the Service Connection including all necessary new Facilities or extensions to the Waterworks System (including but not limited to extensions to Water Distribution Mains or Water Transmission Mains).

**6.2 Agreement in Writing for Waterworks System Extension**

A new or upgraded Service Connection involving new Facilities or an extension to the Waterworks System shall not be constructed unless the Customer has executed a Water Services Agreement in respect thereof to the satisfaction of EWSI.

**6.3 Application of Article**

The provisions of this Article 6 apply only to those Customers who, in EWSI's sole opinion, will have a permanent Service Connection.

**6.4 Customer Payment for Waterworks System Extension Costs**

Unless otherwise specified:

- (a) in a Water Services Agreement; or
- (b) under the provisions of a water main cost sharing program offered by EWSI on an equal and consistent basis to all qualifying Customers

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the full cost of any new Facilities or extensions to the Waterworks System shall be paid by the Customer whose new or upgraded Service Connection gives rise to the need for the new Facilities or extension to the Waterworks System.

**6.5 Changes to Amount Payable by Customer**

The payment, if any, required by Section 6.4 is based on EWSI's assumptions respecting the method of construction and the routing of the Facilities or the Waterworks System extension required to serve the Customer. If the assumed method of construction or routing of Facilities or Waterworks System extension is changed for reasons beyond EWSI's reasonable control, resulting in costs to EWSI in excess of costs estimated on the basis of such assumptions, the Customer shall pay to EWSI the amount by which the cost of such change is estimated by EWSI to exceed such costs as originally estimated.

**ARTICLE 7 - WATER SERVICE LINES AND SERVICE CONNECTIONS****7.1 Physical, Design and Engineering Requirements for Service Connections**

- (a) Detailed requirements for engineering and construction of Service Connections are set out in the Water Services Guidelines. Generally, unless otherwise specified in a written agreement between EWSI and the Customer, it is the Customer's responsibility to supply at the Customer's cost:
- (i) any plans and engineering reports pertaining to the Service Connection that EWSI may reasonably require, signed and sealed by a Professional Engineer;
  - (ii) an assessment of the potential for contaminated soil to impact the Waterworks System;
  - (iii) a engineering report describing the design, construction and materials proposed to prevent adverse effects of contaminated soils or groundwater on the Waterworks System;
  - (iv) proof to EWSI's satisfaction that any Private Service Line to which a Service Connection is to be made, meets all requirements of these Terms and Conditions and the Water Services Guidelines, and conforms to the requirements of all applicable legislation and regulations;
  - (v) in the case of a Service Connection to be made to a Private Service Line that is 40 mm (1 ½ inches) or larger in diameter, proof of satisfactory bacteriological test results for the service from a

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laboratory accredited to perform such tests by the Province of Alberta, approved, signed and stamped by a Professional Engineer.

- (b) If a building to which a Service Connection is requested by a Customer has more than one self contained unit, served by multiple Private Service Lines or by a Private Service Line with multiple branches, EWSI may require each self contained unit to be metered separately and an Account to be opened in respect of each such meter.
- (c) The Customer shall be responsible for the installation and condition of the Customer's Private Service Line and all other piping and equipment or other facilities of any whatsoever on the Customer's side of the Service Connection Point.
- (d) The Customer assumes full responsibility for the proper use of the Service Connection and any Water Services provided by EWSI and for the condition, suitability and safety of any and all devices or equipment necessary for receiving Water Services which are located on the Customer's premises or on other premises owned or controlled by the Customer.
- (e) The Customer shall be responsible for determining whether the Customer requires any devices to protect the Customer's premises or property from damage that may result from the use of a Service Connection or Water Services, or to protect the safety or reliability of the Waterworks System. The Customer shall provide and install any such devices at the Customer's sole expense.
- (f) EWSI may in its sole discretion construct a Water Service Line to premises not abutting a street or right-of-way containing a Water Main, upon execution by a Customer of an agreement satisfactory to EWSI in respect of the physical and financial arrangements concerning the Water Service Line and any associated extension or modification to the Waterworks System.

**7.2 Appropriate Use of Service Connections and Facilities**

- (a) Interference with or Damage to Facilities

No Customer or other person, other than an employee or authorized agent of EWSI, is permitted to remove, operate, or maintain meters, or other Facilities. A Customer shall not interfere with or alter any meter, seals or other Facilities or permit the same to be done by any person other than the authorized agents or employees of EWSI. A Customer is responsible to pay for the cost of repairing or otherwise remedying any damage to or loss of Facilities located on the Customer's premises unless occasioned by circumstances as determined in EWSI's sole discretion to have been beyond the Customer's control.

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**(b) Unauthorized Use**

Where EWSI determines that there has been unauthorized use of the Service Connection or Water Services including, but not limited to, meter tampering, unauthorized connection or reconnection, theft, fraud, intentional or unintentional use of water or Water Services whereby EWSI is denied full compensation for services provided, EWSI will bill the Customer for EWSI's estimate of such unauthorized use and the Customer is obligated to pay the charges so billed. Nothing in this section shall limit any other rights or remedies that EWSI may have in connection with such unauthorized use.

**7.3 Multiple Dwellings**

- (a) EWSI may require that each individual Dwelling within a Multiple Dwelling be metered separately and that a separate Account be opened in respect of each such Dwelling, regardless of the number of Service Connections through which water is delivered to the Multiple Dwelling.
- (b) Where EWSI and a Customer enter into a Water Services Agreement or other agreement in writing that provides for Water Service to a Multiple Dwelling to be delivered through a single Service Connection and measured by a single meter at or downstream of that Service Connection Point, the applicable multi-residential rate in the Price Schedule will apply to the Water Service.

**ARTICLE 8 - METERS****8.1 Installation of Meters****(a) Provision and Ownership**

EWSI shall supply, install, and seal one or more meters for the purpose of measuring the volume of water delivered to a Customer by way of a Service Connection. Each meter and related metering equipment shall remain the sole property of EWSI, regardless of whether the Customer has paid or reimbursed all or any part of EWSI's costs of supply and installation.

**(b) Responsibility of Customer**

Each Customer shall ensure that a location on the Customer's premises for meter installation is provided, and that access to the meter is provided for the purpose of reading or servicing the meter, in accordance with all applicable requirements of the Service Connection Guidelines as amended from time to time.

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**8.2 Access to Meters**

EWSI may, at any reasonable time, read, inspect, remove or test a meter installed on property owned or controlled by the Customer.

**8.3 Meter Testing**

- (a) At the request of a Customer, EWSI shall arrange for on-site meter verification and if necessary, shall arrange for a meter to be tested by a person qualified to perform such work. EWSI charges a fee for responding to such Customer requests as set forth in the Price Schedule. If, upon verification and/or testing, the meter is found to be recording accurately (which for this purpose is defined as recording between 97% and 103% of actual consumption) then EWSI shall retain the fee. If the meter is found to be recording inaccurately as hereinbefore defined, EWSI will refund the fee to the Customer and make appropriate adjustments to the applicable bills.
- (b) EWSI may at any time inspect or test any meter, on its own initiative, regardless of whether the Customer has requested inspection or testing. In such case no fee is payable by the Customer.

**8.4 Circumvention of Meter**

- (a) If under any circumstances, a person other than an EWSI employee, agent or contractor, prevents a meter from accurately recording the total volume of water supplied, EWSI may disconnect the Water Services or take other appropriate actions to ensure access to accurate meter data.
- (b) EWSI may then estimate the demand and amount of water supplied but not recorded by the meter at the Service Connection. The Customer shall pay the cost of the estimated water consumption plus all costs related to the investigation and resolution of the matter.

**8.5 Changes to Metering Equipment**

- (a) Should a Customer request new metering equipment beyond standard metering service, EWSI shall supply, install, test and maintain the required metering equipment. The metering equipment must be requested in writing by the Customer and meet EWSI's requirements. The Customer shall bear the cost of providing and installing the metering equipment, and ongoing operating costs.
- (b) The metering equipment shall become the property of EWSI and will be maintained by EWSI. EWSI shall bill the Customer prior to installation and the Customer shall prepay the cost of installation at least fifteen (15)

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Business Days prior to proposed installation date. If payment is not received by fifteen (15) Business Days prior to the proposed installation date, EWSI shall have no obligation to proceed with the installation.

- (c) Upon request by the Customer, EWSI may provide other metering services, above standard metering service, in its discretion, acting reasonably, and may charge separate fees for such service.

**ARTICLE 9 - CHANGES TO SERVICE CONNECTIONS OR OTHER FACILITIES**

**9.1 Requirement to Give Notice of Changes to Service Requirements**

A Customer shall give to EWSI reasonable prior written notice of any requested change to a Service Connection, to enable EWSI to determine whether or not it can accommodate such revised service without changes to its Facilities.

**9.2 Customer to Bear Cost of Changes to EWSI Facilities**

If EWSI determines that any modifications, extensions or additions are required to existing Facilities to accommodate:

- (a) a Customer's request for change to a Service Connection; or
- (b) any material change to a Customer's consumption of water or use of Water Services, regardless of whether the Customer requests a change to the Service Connection

the Customer is obligated to pay the full cost of such modifications, extensions or additions to Facilities, unless otherwise specified in a Water Services Agreement or under the provisions of a water main cost sharing program offered by EWSI on an equal and consistent basis to all qualifying Customers.

**ARTICLE 10 - SERVICE DISCONNECTION AND RECONNECTION**

**10.1 Disconnection at Customer Request**

- (a) Temporary Disconnection

Upon the request of the Customer, EWSI shall temporarily disconnect any Service Connection, provided that:

- (i) the Customer is obligated to pay any costs incurred by EWSI that will not be recovered as a direct result of the Customer's idle service;

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- (ii) upon a request to restore service, the Customer is obligated to pay any applicable charges outlined under section 10.3; and
- (iii) if the Service Connection remains disconnected for more than twelve (12) months, it will be considered permanently disconnected and all costs related to providing a new Service Connection will apply to any request, from the same or any other Customer, to restore the Service Connection.

(b) Permanent Disconnection

If a Customer requests that a Service Connection be permanently disconnected, or if a permanent disconnection is deemed to have occurred pursuant to Section 10.1(a)(iii), the Customer billing for that service will be finalized. At the discretion of EWSI, the Facilities provided by EWSI will be removed.

If the Customer subsequently requests that the Service Connection be restored, the Customer must pay all costs associated with the original disconnection, removal of the Facilities and restoration of the Service Connection.

**10.2 Disconnection by EWSI**

(a) Disconnection without Notice

If EWSI believes there is any actual or threatened danger to life or property, or in any other circumstances, the nature of which, in EWSI's sole judgement requires such action, EWSI has the right to withhold connection or to disconnect a Customer's Service Connection without prior notice to the Customer. More specifically, and without limitation of the foregoing, EWSI may exercise this right in the event that:

- (i) in the opinion of EWSI, the Customer has permitted the Customer's facilities to become hazardous, the Customer's facilities fail to comply with applicable statutes, standards and codes and/or EWSI requirements, or if the use of the Service Connection may cause damage to any other Facilities;
- (ii) to the knowledge of EWSI, or in its sole judgement, the Customer's facilities are unsafe or defective or will become unsafe or defective imminently. In this event, the Service Connection may not be restored until the Customer facilities are approved by the appropriate authority. EWSI shall provide a written explanation to the Customer within a reasonable time after the disconnection has occurred of the reason for the disconnection under this subsection and the actions required for reconnection;

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- (iii) on account of theft by the Customer of any Water Services or EWSI Facilities;
- (iv) if any tampering with any service conductors, seals or any other Facilities of EWSI or any meters, whether or not provided by EWSI is discovered; or
- (v) if the Customer changes requirements for a Service Connection or Water Services without the permission of EWSI.

If the disconnection is a result of concerns for the health or safety of the Customer, EWSI's employees or contractors, or the general public, EWSI will reconnect the service when the health or safety problem is resolved and when the Customer has provided, or paid EWSI's costs of providing, such devices or equipment as may be necessary to resolve such health or safety problem and to prevent such damage, interference or disturbance.

(b) Disconnection with Notice

EWSI may withhold connection or may disconnect a Customer's Service Connection (without prejudice to any of EWSI's other remedies) after providing forty-eight (48) hours advance notice to the Customer, as applicable, in the following circumstances:

- (i) if the Customer neglects or refuses to pay when due any amounts required to be paid under these Terms and Conditions, which amount is not the subject of a good faith dispute;
- (ii) as required by law;
- (iii) if the Customer is in violation of any of these Terms and Conditions or any of the terms of a Water Services Agreement with EWSI;
- (iv) any other similar circumstances to those described above that EWSI determines, in its sole discretion, acting reasonably, require the withholding or disconnecting of service upon forty-eight (48) hours notice.

**10.3 Reconnection of Service**

Before EWSI reconnects or restores service, the Customer shall pay:

- (a) any amount owing to EWSI including written off accounts; and
- (b) a reconnection charge in an amount set out in the Price Schedule.

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**10.4 Removal of Facilities**

Upon termination of service, EWSI shall be entitled to remove any of its Facilities located upon the property of the Customer and to enter upon the Customer's property for that purpose.

**ARTICLE 11 - CONTRACT EXIT PROVISIONS**

- (a) A Customer's Water Services Agreement remains in effect, subject to the right of either EWSI or the Customer to terminate such agreement in accordance with the provisions of the agreement.
- (b) Upon receipt of a valid notice of termination of a Water Services Agreement, EWSI shall read the Customer's meter within a reasonable time, and, shall use all reasonable efforts to read the Customer's meter at the time requested by the Customer. A Customer shall pay for all service provided up to the time of such reading.

**ARTICLE 12 - GENERAL RESTRICTIONS AND PROHIBITIONS**

- (a) No Customer or other person shall resell water obtained from the Waterworks System to any other person except in accordance with the terms and conditions of an executed written agreement with EWSI, provided however that water obtained from the Waterworks system which has been enhanced or altered in any lawful manner may be resold without contravention of this clause.
- (b) No Customer or other person shall construct or allow to be constructed more than one Service Connection to any premises without prior written consent of EWSI.
- (c) A Private Service Line must not cross from one separately titled property to another separately titled property even if these properties are owned by the same person.
- (d) No Customer or other person shall install or cause to be installed a branch line or tap between a meter and the Service Connection.
- (e) No person shall take or use water from the Waterworks System in contravention of an Order issued pursuant to the provisions of Section 14.6(d) of these Terms and Conditions.

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**ARTICLE 13 - LIABILITY AND INDEMNIFICATION****13.1 Limitation of EWSI Liability**

- (a) Notwithstanding any other provision of these Terms and Conditions or any provision of any agreement between EWSI and a Customer relating to the provision of Water Services (an “EWSI Agreement”) EWSI, its directors, officers, agents, employees and representatives (“EWSI Parties”) shall not be liable to the Customer, its directors, officers, agents, employees and representatives (“Customer Parties”) for any loss, injury, damage, expense, charge, cost or liability of any kind suffered or incurred by the Customer Parties, or any of them, whether of a direct, indirect, special or consequential nature, however or whenever caused, and whether in any way caused by or resulting from the acts or omissions of the EWSI Parties, or any of them, except for direct property damages incurred by the Customer as a direct result of a breach of these Terms and Conditions or applicable EWSI Agreement or other act or omission by an EWSI Party, which breach or other act or omission is caused by the gross negligence or intentional tort of such EWSI Party.
- (b) Any liability under this Section will be limited to an amount in proportion to the degree to which the EWSI Party is determined to be at fault. For the purpose of the foregoing and without otherwise restricting the generality thereof, “direct property damage” shall not include loss of revenue, loss of profits, loss of earnings, loss of production, loss of contract, cost of capital, and loss of use of any facilities or property, or any other similar damage or loss whatsoever.
- (c) For greater certainty and without limiting the generality of the foregoing, EWSI is not liable for any loss, damage or physical harm to any person (except where caused by the gross negligence or intentional tort of an EWSI Party) and arising from or caused directly or indirectly, in whole or in part, by:
  - (i) any substandard condition or quality of water caused by any thing occurring downstream of a Service Connection Point;
  - (ii) any failure, defect, fluctuation, reduction or interruption in the provision of Water Services by EWSI to its Customers, whether resulting from the break or malfunction of any watermain, service, meter, private service or attachment, or from the interruption in or cessation of water supply in connection with the repair or proper maintenance of the Waterworks System or for purposes of water conservation of for any other cause.

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- (d) All limitations, protections and exclusions of liability contained in any provincial or federal legislation are in addition to and not in derogation of or substitution for the limitations of EWSI's liability contained in these Terms and Conditions.

**13.2 Release**

Subject to Section 13.1 above, none of the EWSI Parties (as defined above) will be liable to any of the Customer Parties (as defined above) for any damages, costs, expenses, injuries, losses, or liabilities suffered or incurred by the Customer Parties or any of them, however and whenever caused, and each Customer Party hereby forever releases each of the EWSI Parties from any liability or obligation in respect thereof.

**13.3 EWSI Not Liable to Customer**

For greater certainty and without limitation to the provisions of Sections 13.1 and 13.2, EWSI Parties shall not be liable to a Customer for any damages of any kind (except to the extent the damages are caused by the gross negligence or intentional tort of an EWSI Party) caused by or arising from any EWSI Party's act in compliance with, or as permitted by, these Terms and Conditions, a Water Services Agreement, or any legal or regulatory requirement related to provision of Water Services.

**13.4 Customer Liability**

- (a) In addition to any other liability provisions set out in these Terms and Conditions or any provision in a Water Services Agreement or any other agreement between a Customer and EWSI, a Customer Party (as defined above) shall be liable for any damages, costs, expenses, injuries, losses, or liabilities suffered or incurred by EWSI Parties (as defined above), whether of a direct or indirect nature, caused by or arising from any acts or omissions of an Customer Party that result in a breach ("Breach") of these Terms and Conditions or the applicable agreement, or any negligent or wilful acts or omissions of harm of a Customer Party whether or not they constitute a Breach.
- (b) A Customer shall indemnify and hold EWSI and its employees and agents harmless from and against any claim (including any claim by another Customer of EWSI) for any loss, damage, expense, charge, cost (including legal fees), fine, penalty or other liability of any kind suffered or incurred by EWSI arising out of or in any way connected with
  - (i) any failure by the Customer to comply with these Water Terms,

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- (ii) any damages to EWSI's Facilities or the facilities of another Customer caused by equipment installed or actions taken or failed to be taken by the Customer;
  - (iii) any claim, damages, or loss suffered by the Customer as a result of any act or omission of the Agent acting for such Customer.
- (c) Any claim by a Customer for direct losses, damages, expenses, charges, costs or other liabilities not barred or restricted under these Terms and Conditions must be communicated in writing to EWSI within 180 days from the date of occurrence of the incident giving rise to the claim or the date on which the Customer ought reasonably to have become aware of the occurrence or incident, failing which EWSI shall have no liability or responsibility whatsoever to the Customer in respect of the claim.

**13.5 Force Majeure**

(a) Force Majeure Relief

If an event or circumstance of Force Majeure occurs that affects EWSI's ability to provide a Service Connection or Water Services, EWSI's obligations and responsibilities hereunder and under any agreement relating to Service Connections or provision of Water Services, so far as they are affected by the Force Majeure or the consequences thereof, shall be suspended until such Force Majeure or the consequences thereof are remedied and for such period thereafter as may reasonably be required to restore the Service Connection or Water Services. The Minimum Charge, if applicable, will continue to be payable during the period in which EWSI claims relief by reason of Force Majeure.

(b) Notice

EWSI shall where practicable give notice of an event of Force Majeure to Customers affected and shall where practicable give notice to Customers affected when the Force Majeure event ceases to prevent performance of EWSI's obligations.

(c) Obligation to Remedy

EWSI shall promptly remedy the cause and effect of the Force Majeure insofar as it is reasonably able to do so.

(d) Strikes and Lockouts

Notwithstanding any other provision of these Terms and Conditions, the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of EWSI and EWSI may settle such strike, lockout

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or industrial disturbance at such time and on such terms and conditions as it may deem appropriate. No failure or delay in settling such strike, lockout or industrial disturbance shall constitute a cause or event within the control of EWSI or deprive EWSI of the benefits of this Section 13.5.

**ARTICLE 14 - ADDITIONAL PROVISIONS RELATING TO SERVICES**

**14.1 Ownership of Facilities**

- (a) EWSI remains the owner of all Facilities necessary to provide Water Services to Customers, to and including the Service Connection point, unless an agreement between EWSI and a Customer specifically provides otherwise.
- (b) Payment made by a Customer for costs incurred by EWSI in installing Facilities does not entitle the Customer to ownership of any such Facilities, unless an agreement between EWSI and the Customer specifically provides otherwise

**14.2 Special Provisions with Respect to City of Edmonton**

- (a) EWSI may appoint the City's Asset Management and Public Works Department as its sub-contractor or agent for provision of some or all Service Connections required to be carried out by EWSI, provided however that EWSI may rescind or modify the scope of such appointment at any time, and provided also that such appointment does not have the effect of making these Terms and Conditions applicable to the City's Asset Management and Public Works Department.
- (b) The City shall not be obligated to pay EWSI for any water supplied by EWSI to the City for firefighting purposes.

**14.3 Proper Use of Services**

The Customers assume full responsibility for the proper use of the Service Connection and Water Services provided by EWSI and for the condition, suitability and safety of any and all Facilities on the Customer's premises or on premises owned or controlled by the Customer that are not the Customer's property. The Customer shall be liable for any loss, damage, expense, charge, cost or other liability of any kind, whether to EWSI, its agents or employees, EWSI property or otherwise, arising directly or indirectly by reason of

- (a) the routine presence in or use of water delivered through the Waterworks System,

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- (b) the Customer's improper or negligent use of water or Water Services or Facilities, or
- (c) the negligent acts or omissions or wilful acts or omissions of the Customer or any person permitted on the Customer's property.

### 14.4 Compliance with Applicable Legal Authorities

EWSI and all Customers are subject to, and shall comply with, all applicable federal, provincial and local laws, and all applicable orders or other actions of governmental authorities having jurisdiction. EWSI's obligation to provide or continue to supply a Service Connection or Water Services or to disconnect a Service Connection or otherwise terminate Water Services, in respect of any Customer, is subject to the condition that all requisite governmental and regulatory approvals for the supply or continued provision of the Service Connection or Water Services or for their disconnection or termination are obtained and in force.

### 14.5 Interference with EWSI's Property

No one other than an employee or authorized agent of EWSI shall be permitted to remove, operate, or maintain meters and other Facilities owned by EWSI. A Customer shall not interfere with or alter a meter, seals, or other Facilities or permit the same to be done by any person other than the authorized agents or employees of EWSI.

### 14.6 Service Interruptions and EWSI Obligation to Respond

- (a) While EWSI takes all reasonable efforts to guard against Water Services interruptions, it does not guarantee uninterrupted Water Services or any particular standard of Water Services. EWSI shall at any time, without liability whatsoever to any Customer, have the right to disconnect or otherwise curtail, interrupt or reduce Water Services to Customers whenever EWSI reasonably determines, or when EWSI is directed by an authority having jurisdiction, that such disconnection, curtailment, interruption or reduction is:
  - (i) necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any of EWSI's Facilities;
  - (ii) pursuant to non payment of amounts due and payable on a Customer's Account;
  - (iii) necessary to maintain safety and reliability of the Waterworks System; or
  - (iv) due to any other reason including: dangerous or hazardous circumstances, emergencies, forced outages, the need to restrict or

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regulate water consumption for purposes of conservation of water, shortages or potential shortages of water supply, or Force Majeure.

- (b) EWSI will use reasonable efforts to;
  - (i) provide notice of any Water Services reduction or interruption;
  - (ii) minimize such interruption duration and occurrences;
  - (ii) schedule planned interruptions as much as possible at times convenient to Customers;
  - (iii) restore extended service interruptions due to water main breaks, plugged or collapsed water lines or other reasons as soon as practicable.
  
- (c) EWSI is obligated to make reasonable efforts to respond to a Customer requested service call within a reasonable time, and to minimize Water Service interruptions to Customers. The Customer shall pay the cost of a Customer-requested service call and all related work if the cause of the problem is outside the Waterworks System and is not the direct result of an act or omission of an employee, contractor or agent of EWSI that is grossly negligent or an intentional tort.
  
- (d) Either EWSI or the City, or both of them jointly, may at any time issue an Order directing all Customers to cease or restrict use of water from the Waterworks System in the manner and for the period of time specified in the Order, and may cause such Order to be publicly disseminated via print or electronic media or by posting on the websites of EWSI or the City. A Customer is deemed to have received notice of such Order and to be aware of its content 24 hours after it is publicly disseminated, or at such sooner time as a copy of the Order is delivered to the Customer's service address as shown in the Customer's account by an employee, agent or other representative of EWSI or of the City.

**14.7 Assignments**

- (a) A Customer shall not assign any of its rights or obligations under these Terms and Conditions or a Water Services Agreement or any other agreement with EWSI relating to a Service Connection or Water Services without obtaining any necessary regulatory approvals and EWSI's approval where required in such agreement. No assignment shall relieve the Customer of any of its obligations under these Terms and Conditions until such obligations have been assumed by the assignee and EWSI has agreed to the assignment and novation. Any purported assignment by a Customer in violation of this section shall be void.

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- (b) EWSI may assign all or any part of its rights or obligations under these Terms and Conditions or a Water Services Agreement, or any entitlement to payment under any Customer Account, to any Person with or without notice to the Customer.

**14.8 No Waiver**

The failure of EWSI or a Customer to insist upon strict performance of any provision of these Terms and Conditions or a Water Services Agreement or any other agreement between EWSI and the Customer relating to a Service Connection or Water Services, or to take advantage of any of its rights arising therefrom, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or rights. No provision of these Terms and Conditions or a Water Services Agreement or any other agreement between EWSI and a Customer relating to a Service Connection or Water Services shall be deemed to have been waived, and no breach thereof shall be deemed to have been excused, unless such waiver or consent to excuse is in writing and signed by the party claimed to have waived or consented to excuse.

**14.9 Law**

These Terms and Conditions and any Water Services Agreement or other agreement between EWSI and a Customer relating to a Service Connection or Water Services shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta, without regard to principles of conflicts of law. Any legal proceedings arising in connection with these Terms and Conditions or any other agreement relating to a Service Connection or Water Services shall be brought in the courts of the Province of Alberta.