

**AGREEMENT ON THE EXTRACTION OF FIRE FIGHTING WATER  
FROM FIRE HYDRANTS IN THE PUBLIC WATER SUPPLY  
SYSTEM AND EXTRACTION OF WATER FROM PUBLIC WATER  
EXTRACTION POINTS**

Tallinn, 22 June 2001

**1. PARTIES TO THE AGREEMENT**

- 1.1. TALLINNA LINN, as represented by Ain Valdmann who is acting pursuant to the Tallinn Municipal Government Order No 2729-k dated 20 June 2001 (hereinafter the “**City**”), and
- 1.2. AKTSIASELTS TALLINNA VESI, registration code 10257326, with the registered office at Ädala 10, Tallinn 10614, as represented by a member of the Board of Directors Brian Hill who is acting pursuant to law and the Articles of Association of the company (hereinafter the “**Company**”),

hereinafter the City and the Company separately and jointly referred to as the “**Party**” and the “**Parties**”, respectively, have entered into this agreement (hereinafter the “**Agreement**”) as follows:

**2. DEFINITIONS**

- 2.1. In interpreting the terms used in this Agreement the Parties shall be directed by the terms used in the Share Sale and Subscription Agreement and the Shareholders’ Agreement concluded between the City, the Company and International Water UU (Tallinn) B.V. on 12 January 2001 and the terms used in the Services Agreement concluded between the City and the Company on 12 January 2001, unless expressly stated below or otherwise in this Agreement or evident in the context:

“**Agreement**” shall mean this Agreement on the Extraction of Fire Fighting Water from Fire Hydrants in the Public Water Supply System and Extraction of Water from Public Water Extraction Points and its schedules and any and all amendments thereto.

**“Extraction Points”**

shall mean the public water extraction points (intended for direct drawing for drinking and domestic purposes) owned by the Company or which the Company is legally entitled to use, that are existing at the date of this Agreement, are administered by the Company, are situated in the Services Area, are connected to the System and are listed in Schedule 1 to this Agreement. The term “Extraction Points” shall also include the fountains that are existing at the date of this Agreement, are connected to the System, are located in public places situated in the Services Area and are listed in Schedule 1 to this Agreement.

**“Fire Hydrants”**

shall mean the fire hydrants owned by the Company or which the Company is legally entitled to use that are administered by the Company, situated in the Services Area, connected to the System and listed in Schedule 1 to this Agreement.

**“Fire Hydrant and Water Extraction Services”**

shall mean the services referred to in Section 6.1 below.

**3. BASIS FOR THE AGREEMENT**

- 3.1. The Tallinn City Council has passed Resolution No 214 dated 15 June 2000 dividing the territory of Tallinn into 12 public water supply and sewerage services areas.
- 3.2. The Tallinn City Council has passed Resolution No 396 dated 30 November 2000 appointing the Company to be the water company (as defined in the PWSSA) for the Services Area and thereby granting the Company the exclusive right and obligation to operate in the Services Area during the Mandate Period.
- 3.3. At the date of this Agreement the Company holds a valid Water Permit issued by the Tallinn Environmental Board.
- 3.4. According to subsection 6(1) of the Rescue Act, the City may administer and carry out fire and rescue work in the City if it has established a rescue service agency to carry out such work.
- 3.5. On the basis of subsection 52(2) of the Statutes of Tallinn, the Tallinn City Council has passed Resolution No 3 dated 22 January 1998 establishing the Statutes of the Tallinn Fire and Rescue Department, which is an agency of the City with the Tallinn City Government as the superior governing body.
- 3.6. According to subsection 9(1) of the PWSSA the provision of the Fire Hydrant and Water Extraction Services shall be regulated by a respective agreement between the City and the Company as the water company for the Services Area.

- 3.7. According to Section 1.5.3 of the Council Rules and Regulations, the costs of water extracted from the Fire Hydrants for fire fighting, other rescue operations and training shall be paid according to a respective agreement between the City and the Company as the water company for the Services Area.
- 3.8. This Agreement shall be interpreted in accordance with the Share Sale and Subscription Agreement, the Shareholders' Agreement and the Services Agreement and their annexes. In case of controversy between the Services Agreement and this Agreement the provisions of the Services Agreement shall prevail and they shall be taken as a basis in a way that is in accordance with the Share Sale and Subscription Agreement and the Shareholders' Agreement and their annexes.
- 3.9. In the case the City shall amend any applicable law or regulation or other document that affects the provisions or application or interpretation of this Agreement, the Parties shall in their conduct be directed by the principles set forth in this Agreement and, if necessary, shall in good faith negotiate amendments to this Agreement that are necessary to maintain the balance of their rights and obligations as set forth in this Agreement.
- 3.10. Hereby the Parties confirm that the sums indicated in the Agreement are not derived from the Business Plan included in the offer submitted by the investor International Water UU (Tallinn) B.V. in relation to the purchase of the shares of the Company and subscription of new shares, but these sums are based on the agreement between the Parties.

#### **4. OBJECT OF THE AGREEMENT**

- 4.1. The Parties have agreed the object of this Agreement to be the following:
  - (A) The provision by the Company of the Fire Hydrant and Water Extraction Services to the City; and
  - (B) The payment by the City for the provision of the Fire Hydrant and Water Extraction Services.
- 4.2. The application of this Agreement is limited to the Services Area.

#### **5. FIRE HYDRANTS AND EXTRACTION POINTS**

- 5.1. In providing the Fire Hydrant and Water Extraction Services according to this Agreement, the Company and the City shall use the Fire Hydrants and Extraction Points, which have been listed in Schedule 1. In the case of construction and use of additional fire hydrants and public water extraction points as well as closure and liquidation of the existing ones, the relevant amendment shall be made to the Agreement. As a precondition for the inclusion of new public water extraction points to Schedule 1 the Parties must reach the agreement referred to in Section 7.3 below. Extraction points that are not listed in Schedule 1 to this Agreement shall not be used.

#### **6. RIGHTS AND OBLIGATIONS OF THE COMPANY**

- 6.1. Upon the terms and subject to the conditions set out in this Agreement, the Services Agreement and the relevant legislation, the Company shall, within the Services Area, provide to the City the Fire Hydrant and Water Extraction Services which shall comprise of the following:
  - (A) Supply of water for the Fire Hydrants, the supply of potable water for the Extraction Points and the supply of water to fountains located in public places situated in the Services Area and listed in Schedule 1 to this Agreement; and
  - (B) Regular monitoring, maintenance and repairs of the Fire Hydrants and Extraction Points in order to ensure the constant water supply thereof.
- 6.2. Upon the terms and subject to the conditions set out in the legislation, the Company shall monitor the quality of the potable water supplied to the Extraction Points.
- 6.3. Upon receipt of the knowledge of malfunction or breakdown of the Fire Hydrants and Extraction Points, the Company shall immediately take all measures to eliminate the malfunction or breakdown and liquidate the resulting damages.
- 6.4. The Company shall allow the Tallinn Fire and Rescue Department to use the Fire Hydrants for fire fighting and for other rescue operations, if necessary.
- 6.5. Upon the scheduled repairs of the parts of the System related to the provision of the Fire Hydrant and Water Extraction Services, the Company shall inform the City not less than 5 (five) calendar days in advance and the general public through appropriate means of information required by the City not less than 3 (three) calendar days in advance. The Company shall inform the City and the general public of the need for emergency works as soon as practicable under particular circumstances.
- 6.6. The Company shall observe the terms and conditions of the Water Permit.
- 6.7. The Company shall co-ordinate with the City the liquidation of any Fire Hydrant or Extraction Point and notify the City of the date of such liquidation not less than 5 (five) days in advance.
- 6.8. The Company shall replace the existing Fire Hydrants listed in Schedule 1 at its own cost (without any compensation to the Company for the cost of them by the City) according to the Services Agreement and on the basis of the list presented to the Company by the Tallinn Fire and Rescue Department pursuant to Section 7.10 below.
- 6.9. The Company shall have the right to limit or discontinue the provision of the Fire Hydrant and Water Extraction Services in the case of emergency and scheduled repairs of the System. In the case of scheduled repairs, the Company shall ensure the supply of water for certain Fire Hydrants as agreed with the City in advance.
- 6.10. The Company shall install new fire hydrants in new locations at the request of and at the cost of the City. In new developments the connection charge paid by the respective developers shall include the costs of building and instalment of new fire hydrants and all necessary equipment.
- 6.11. The Company shall install new extraction points at the request of and at the cost of

the City.

## **7. RIGHTS AND OBLIGATIONS OF THE CITY**

- 7.1. Upon the terms and subject to the conditions set out in Section 8 below and taking account of Section 7.2 below, the City shall pay to the Company for the Fire Hydrant and Water Extraction Services the following sums, these being agreed by the Parties as a correct assessment of the cost of providing the Fire Hydrant and Water Extraction Services:
- (A) For the year 2001 the gross sum of 1,794,000 (one million seven hundred and ninety-four thousand) kroons (this includes VAT (*käibemaks*) of 273,661 kroons);
  - (B) For the year 2002 the gross sum of 2,116,920 (two million one hundred and sixteen thousand nine hundred and twenty) kroons (this includes VAT (*käibemaks*) in the amount of 322,920 kroons);
  - (C) For the year 2003 the gross sum of 2,116,920 (two million one hundred and sixteen thousand nine hundred and twenty) kroons (this includes VAT (*käibemaks*) in the amount of 322,920 kroons);
  - (D) For the year 2004 the gross sum of 2,116,920 (two million one hundred and sixteen thousand nine hundred and twenty) kroons (this includes VAT (*käibemaks*) in the amount of 322,920 kroons);
  - (E) For the year 2005 the gross sum of 2,116,920 (two million one hundred and sixteen thousand nine hundred and twenty) kroons (this includes VAT (*käibemaks*) in the amount of 322,920 kroons);
  - (F) The basis of charges shall be reviewed in year 2005 for application in year 2006 when a volumetric charging system for the Fire Hydrant and Water Extraction Services shall be introduced by the Parties to replace the payment of fixed charge.
- 7.2. As of the year 2002 the amounts set forth in Section 7.1 above shall be adjusted in January of the respective year by reference to the change in the Customer Price Index (*tarbijahinnaindeks*), as published by the Statistical Office (*Statistikaamet*) of Estonia, between 1 November 2000 and 1 November of the year preceding the respective year. These sums shall also be adjusted in case the current rate of VAT (*käibemaksumäär*) applicable to these sums (18 per cent) will change.
- 7.3. The amount payable by the City under Section 7.1 above shall *inter alia* cover the costs incurred by the Company in supplying potable water to and maintaining the existing Extraction Points and public fountains at the points listed in Schedule 1. Upon construction of new public water extraction points (including fountains) the payment for the services provided by the Company with respect to these points shall be agreed between the Parties on a case-by-case basis.
- 7.4. Upon the terms and subject to the conditions set out in Section 8 below, the City shall also pay to the Company the installation and construction costs incurred by the

Company for the new works referred to in Sections 6.10 and 6.11 above. Such costs are to be agreed between the Parties prior to commencing the works.

- 7.5. The City shall unseal the Fire Hydrants in order to test the fire systems only in co-ordination with the Company and notify the Company of any unsealing for the purposes of fire fighting or other rescue operations within 24 (twenty-four) hours from the unsealing.
- 7.6. The City shall immediately notify the Company of all known malfunctions and breakdowns of the Fire Hydrants and Extraction Points.
- 7.7. Upon malfunction and breakdown of the Fire Hydrants and Extraction Points, the City shall, according to its capabilities and within its competence, provide assistance to and co-operate with the Company to eliminate the malfunctions and breakdowns and liquidate the damages thereof in an operative manner.
- 7.8. The City shall notify its agencies, above all the Tallinn Fire and Rescue Department, of the rights and obligations of the City under this Agreement and demand that the agencies using the services provided under this Agreement fulfilled the Agreement.
- 7.9. The City shall within its competence guarantee to the Company the granting of all required permits, authorisations and approvals necessary for or connected to the provision of the Fire Hydrant and Water Extraction Services by the Company, provided that the Company has fulfilled all conditions necessary to obtain them.
- 7.10. The City shall guarantee that by 1 July of the current budgetary year a list will be submitted to the Company regarding the Fire Hydrants that need replacement as determined by the Tallinn Fire and Rescue Department for the next budgetary year.

## **8. FORM OF PAYMENT**

- 8.1. The annual charges for the Fire Hydrant and Water Extraction Services referred to in Section 7.1 above shall be invoiced by the Company to the City in 4 (four) equal quarterly instalments on the 15<sup>th</sup> (fifteenth) day of February, May, August and November of each calendar year, and shall be paid by the City within 28 (twenty-eight) days of the date of the invoice.
- 8.2. For the year 2001 only, the amount applicable for the whole year shall be invoiced by the Company to the City in 2 (two) equal instalments on 15 September and 15 December, and shall be paid by the City within 28 (twenty-eight) days of the date of the invoice.
- 8.3. The costs of installation and construction referred to in Section 7.4 above shall be reimbursed by the City to the Company as incurred, against invoices submitted twice a year – 15 January and 15 July – for the work performed during 6 (six) preceding months, such invoices being payable within 28 (twenty-eight) days of receipt.
  - (A) After the establishment of the Mandate Monitoring Unit described in Schedule H to the Services Agreement, the Company shall agree the costs of planning, design and construction referred to in Section 8.3 with the Mandate Monitoring Unit before submitting them to the City for reimbursement.

- 8.4. In the year 2001 only, no payments shall be made on the basis of Section 8.3 and the costs of work performed in 2001 shall be reimbursed by the City against the invoice submitted in January 2002 payable within 28 (twenty-eight) days of receipt.

## **9. ACCOUNTABLE REPRESENTATIVES**

- 9.1. The Parties hereby agree to appoint certain persons as their accountable representatives who shall submit to each other all notices between the Parties under this Agreement, hold negotiations to achieve the agreements stipulated in this Agreement, organise the reporting established in this Agreement and inspect the execution of this Agreement.
- 9.2. The Parties shall notify each other in writing of their accountable representative(s) by stating the name, position, address, phone, fax and e-mail address of such person(s). Each Party may change their accountable representative(s) unilaterally as they choose but a Party who wishes to do so shall immediately notify the other Party thereof in writing. The same rule applies if the data regarding the accountable representative(s) has changed. All notices referred to above in this Section shall be appended to this Agreement.

## **10. LIABILITY OF THE PARTIES**

- 10.1. Upon non-performance or non-complying performance of the obligations under this Agreement the Parties shall bear liability according to the provisions regulating liability under the Services Agreement.

## **11. ENTRY INTO FORCE OF THE AGREEMENT AND TERMINATION**

- 11.1. This Agreement shall enter into force as of the date of its signing by the Parties and shall remain effective as long as the Company is the water company in the meaning of the PWSSA and the Services Agreement is effective.

## **12. AMENDMENTS TO THE AGREEMENT**

- 12.1. Any amendments to this Agreement shall be in writing and shall have no effect before signed by the duly authorised representatives of all Parties.

## **13. DISPUTE RESOLUTION**

- 13.1. Any dispute arising under this Agreement shall be resolved according to the provisions of Section 37 of the Services Agreement unless the Parties agree on another method in writing.

## **14. CONFIDENTIALITY**

- 14.1. In applying the confidentiality requirement to this Agreement the Parties shall be directed by the provisions of Section 32 of the Services Agreement.

**15. GOVERNING LAW**

15.1. This Agreement shall be governed by, and construed in accordance with, the laws of the Republic of Estonia.

**16. SCHEDULES**

Schedule 1 – List of the Fire Hydrants and Extraction Points (including fountains as set forth in this Agreement)

**IN WITNESS WHEREOF**, the Parties hereto have duly executed this Agreement as of the day and year first above written.

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Tallinna Linn

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Aktsiaselts Tallinna Vesi