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| This is a template winner’s agreement for the Transform Stream of the Water Breakthrough Challenge 4 for information purposes.  Final winner’s contracts may be subject to change, and will have any changes from this template identified for review.  Final winner’s agreements will be sent from mid-April 2024 onwards, once winners have provided a signatory.  The deadline to be included in the first payment run is 17 May 2024.  Please note:   * Sections highlighted in yellow are sections that have been adapted for each winning entry. * Sections highlighted in blue are newly added wording aimed at clarifying aspects of the agreement. * By default, we fill out the sequential version of Annex 4. If you would like to use a (non-sequential) milestone version of Annex 4, please submit your draft for review no later than 25 April 2024. * Sections highlighted in green are to ensure clause numbers are coherent. * All highlighted text will be formatted to display as regular text in the final version of the agreement. * Your full entry submission, including any attachments, will be included in Annex 2 in the final version for signing. |

Company Name

Address

Company Number: xxx

Date

Dear Name,

# Winner’s Agreement: Water Breakthrough Challenge Award Letter

Congratulations on Company (“you” and “your”) being selected as a winner of the Water Breakthrough Challenge (the “Challenge”) which is being run by Nesta and the Water Services Regulation Authority (“Ofwat”).

This Winner’s Agreement contains the terms on which you will be awarded a one-off cash sum (the “Award”) for the Project (as defined below). This Winner’s Agreement incorporates the Challenge terms and conditions set out at Annex 1.

The Award is being funded by Water Company1 customers and payment of the Award will be settled through the mechanism that has been agreed by the Water Companies. Please note that notice to Water Companies to transfer the Award to you will only be made on the condition that you accept and comply fully with the terms of this Winner’s Agreement.

Your selection as a winner of the Challenge and recipient of the Award is subject to the terms and conditions of this Winner’s Agreement. In the event of any conflict between the terms set out in this letter and the Challenge terms and conditions set out at Annex 1, the terms of this letter shall prevail.

## Purpose of Award

1. You shall use the Award to deliver the project “Entry Name”, as described in more detail in your application to the Challenge and project plan attached at Annex 2 (the “Project”) and in accordance with the Project Milestones (defined below). You shall not use the Award for any other purpose.
2. You shall not make any material changes to your Project (as reasonably determined by Ofwat after consulting with Nesta), without the prior written consent of Nesta, as instructed in writing by Ofwat.

## Amount and Period of Award

1. You shall be awarded the Award of £XXX.00 for the Project. The Award must only be used for the purpose of the Project and duration of the Project as set out in your application to the Challenge and project plan attached at Annex 2.
2. You shall ensure that the Award shall only be used towards a maximum of 90% (ninety percent) of the total costs of the Project. You have the flexibility to decide how the remaining costs (as outlined in your application) are funded, provided that it must not funded by charges to water customers in England and Wales.
3. The Award must be shown in your accounts as a restricted fund, restricted to the purposes for which it is given and for use only in accordance with the Project Milestones. The Award must not be included under general funds.

## Cooperation with other Water Companies

1. In delivering your Project, you must make reasonable efforts to cooperate and work with the other Water Companies and (where relevant) their partners participating in the Challenge to ensure that all customers can ultimately benefit from the outcomes of the Project.

## Publication of materials

1. As part of your Project you agreed to share/publish learning material free of charge in line with the terms and conditions of the competition (set out in annex 1).

## Timing of Award payments

1. Nesta shall notify the Water Companies that you have been selected as a winner of the Challenge and direct the Water Companies to make payment of the Award in accordance with the settlement mechanism that has been agreed between the Water Companies.
2. Nesta’s obligation to make notification pursuant to the clause above is conditional upon your acceptance of, and full compliance with, the terms and conditions of this Winner’s Agreement.

## Award Instalments and Project Milestones

1. The Award may only be used in accordance with the instalments and corresponding milestones set out at Annex 4, as may be updated from time to time with the written approval of Ofwat (respectively the “Award Instalments” and “Project Milestones”).
2. You shall promptly on request provide Nesta and Ofwat with an updated Annex 4 to take account of any Adjustments or other changes to the Award Instalments or Project Milestones.

## Accountable Officer

1. You must appoint a person (the “Accountable Officer”) responsible for ensuring that you use the Award in compliance with this Winner’s Agreement, and notify us of the identity of the Accountable Officer on signature of this Winner’s Agreement. The prior written approval of Ofwat shall be required for a change to the Accountable Officer at any time should you wish to appoint as the Accountable Officer any person who is not the Chief Executive Officer or Chief Financial Officer of your organisation. If the identity of the Accountable Officer should change for any reason, you must notify us within 21 working days.
2. The Accountable Officer must maintain oversight of your use of the Award and:
   1. safeguard, control and ensure the efficient, economical and effective management of the Award;
   2. advise you on the discharge of your responsibilities under this Winner’s Agreement or any guidance or other information notified by Ofwat;
   3. ensure that principles of probity, robust governance, transparency and value for money are maintained at all times in relation to the Award;
   4. be responsible for signing the accounts relating to the Award, ensuring that they are properly prepared and presented and that proper accounting records are maintained in a form that complies with the Regulatory Accounting Guidelines as amended from time to time;
   5. ensure that conflicts of interest are avoided or managed in accordance with the requirements of the Challenge terms and conditions set out at Annex 1;
   6. cooperate with and provide all such information as Ofwat may reasonably require in connection with the Project and the use of the Award; and
   7. notify Ofwat in the event that you become aware that the Award or any part of it has been used in a manner not compliant with the terms of this Winner’s Agreement.

## Reduction and Recovery of Award

1. Ofwat reserves the right to direct you to repay all or part of the Award if you fail to comply with any term of this Winner’s Agreement.
2. You must repay any part of the Award not spent at the end of the Project or (if earlier) at the date of termination (for any reason) of this Winner’s Agreement.
3. You must promptly repay any overpayment made to you for any reason in connection with this Winner’s Agreement. You must notify Ofwat of any overpayment as soon as reasonably practicable after you become aware of it.
4. Any repayment required to be made pursuant to the Winner’s Agreement must be made in accordance with any directions (including without limitation any reasonable timeframes) notified to you by Ofwat.

## Managing the Award – advisory group, reporting, monitoring and evaluation

1. Ofwat reserves the right to require that specific skills or perspectives (as determined by Ofwat in its discretion) are represented on the Project advisory board. Where Ofwat elects to exercise this right, the appointment of individuals holding the required skills or perspectives shall be subject to Ofwat’s prior written consent (not to be unreasonably withheld or delayed).
2. You shall comply with all reasonable requests by Nesta and/or Ofwat to monitor and evaluate your Project including (without limitation) by:
3. participating in frequent update calls (no more than once per quarter) with Nesta and Ofwat at the times agreed with you in advance;
4. completing and submitting to Nesta quarterly reports and a final report in the manner and format required by Nesta and by the deadlines notified to you by Nesta. Your reports should include as a minimum the information set out in Annex 3 and you shall use reasonable care when preparing the reports. You acknowledge that Nesta may share these reports with its partners in the Challenge and Ofwat and your final report may also be publicly shared to enable others to benefit from your learnings; and
5. promptly providing such other information, updates and/or evaluation reasonably requested by Nesta and/or Nesta request in relation to your Project and your use of the Award.
6. You shall immediately inform Nesta of any significant delay, concern or problem with delivery of the Project or use of the Award.
7. Unless otherwise agreed by Nesta, you shall attend all of the Challenge events notified to you by Nesta.
8. You shall share all of your knowledge and learnings arising from your Project with the Water Companies (which includes New Appointments and Variations (NAVs)), including (without limitation) at the Challenge events, and permit them to use such knowledge and learning unconditionally.

## Term and Termination

1. This Winner’s Agreement shall come into effect on its date and shall continue in full force and effect until the completion of the Project or (if earlier) its termination in accordance with the clause below. Clauses 14 to 17 (Reduction and Recovery of Award), 22 (sharing of knowledge) and 25 onwards shall survive expiry or termination (for any reason) of this Winner’s Agreement.
2. Nesta may terminate this Winner’s Agreement immediately on written notice to you if:
3. you use all or part of the Award for purposes or costs other than those permitted under this Winner’s Agreement;
4. the delivery of the Project does not start within 6 months of the date of this Winner’s Agreement and you have failed to provide Nesta with a reasonable explanation for the delay;
5. you receive duplicate funding from a third party for the Project;
6. funding or third party support for the Project required pursuant to clause 4 above is not committed or is withdrawn for any reason;
7. any Water Company fails to make payment including any required repayment in accordance with the mechanism agreed between the Water Companies for the settlement of funding awarded through the Challenge;
8. you are in breach of any term of this Winner’s Agreement which is not capable of remedy or you are in breach of any term of this Winner’s Agreement which is capable of remedy but you fail to remedy such breach within 30 days of receiving written notice from Nesta;
9. you or any of your directors or senior management team or anyone involved in the Project acts dishonestly or is subject to a regulatory or police investigation, takes any action which, in Nesta’s reasonable opinion, is likely to bring the Challenge and/or the name or reputation of Nesta or Ofwat into disrepute, or where there is evidence of financial mismanagement;
10. there is a material change to your constitution, legal form or ownership or you merge with or transfer a substantial part of your assets or activities to another organisation without seeking Ofwat’s prior written approval; or
11. you cease to operate for any reason, become insolvent or are declared bankrupt, are placed into receivership, administration or liquidation, have a petition presented for your winding up, enter into any arrangement or composition for the benefit of your creditors, are unable to pay your debts as they fall due, or in our reasonable opinion, any such event is likely to happen.

## Audit and Inspection

1. You must comply with the Regulatory Accounting Guidelines as amended from time to time. You shall allow Ofwat and/or its representatives to visit your premises and/or the sites at which your winning project is being carried out and/or inspect your activities and/or examine and take copies of such documentation at any time on reasonable notice.

## Liability

1. Neither Nesta and its partners nor Ofwat shall have any responsibility or liability to you or anyone else however arising, whether direct or indirect, out of or in relation to your Project including (without limitation) the non-payment or delay in payment of the Award. Nothing in this Winner’s Agreement excludes or limits Nesta, its partners or Ofwat’s liability for death or personal injury caused by its negligence or fraudulent misrepresentation.
2. Ofwat shall have the benefit of and be entitled to enforce clauses:

* 4 (award use),
* 10 to 22 (Award Instalments and Project Milestones, Accountable Officer, Reduction and Recovery, Managing the Award), and
* 26 and onwards (Audit and Inspection, Liability, Variations, Dispute Resolution and Governing Law) of this Winner’s Agreement.

Except for the forgoing, no person who is not a party shall have any rights under or in connection with this Winner’s Agreement.

## Variations and amendments to this Winner’s Agreement

1. This Winner’s Agreement, including its Annexes, constitute the entire agreement between you and Nesta in respect of its subject matter. No variation or amendment of this Winner’s Agreement shall be effective unless agreed by Ofwat (acting reasonably) and made in writing and signed by Nesta and you.
2. You may not assign, transfer or novate your rights or obligations. Nesta may assign, transfer or novate any or all of its rights or obligations under this Winner’s Agreement to anyone else with approval from Ofwat (not to be unreasonably withheld or delayed).

## Dispute Resolution and Governing Law

1. Without prejudice to any other remedy Nesta or Ofwat may have under applicable law, in the event of any disagreement between you and Nesta and/or Ofwat (as appliable), then we shall each attempt in good faith to negotiate a resolution and such efforts shall involve the escalation of the dispute to an appropriately senior representative of you and Nesta and/or Ofwat (as applicable).
2. This Winner’s Agreement shall be governed by and interpreted in accordance with the laws of England and Wales and you hereby submit to the exclusive jurisdiction of the English courts.

Please read this Winner’s Agreement (including its Annexes) carefully and then sign where indicated below to confirm your acceptance of its terms. If you have any queries at all about this letter, please feel free to contact the delivery team at [waterinnovation@challengeworks.org](mailto:waterinnovation@challengeworks.org?subject=Re:%20Winner's%20Agreement%20Template).

Yours sincerely,

Date:

I have read and understand this Winner’s Agreement (including its Annexes) and accept them on behalf of company.

Name, Job Title

Date:

# Annex 1 – Water Breakthrough 4 Challenge Entrant Terms and Conditions

The Water Breakthrough Challenge Round 4 (the “Challenge”) is run by Challenge Works, part of Nesta (“Nesta”) in partnership with Arup and Isle Utilities (“Isle”) on behalf of the Water Services Regulation Authority (”Ofwat”). Please note that these terms and conditions apply at all stages of the Challenge, from its opening on 3 October 2022 through to when funded projects have concluded and an evaluation of the competition is completed.

The Challenge will have two streams of funding (each a “Stream”). The Catalyst Stream is open to entrants seeking funding of between £500,000 and £2 million, and between £5-10 million in total may be awarded under this Stream. The Transform Stream is open to entrants seeking funding of between £2 million and £10 million. Subject to certain conditions, Ofwat may approve entries seeking greater than £10 million. Approximately £30 million in total may be awarded under this Stream.

Full information about the Challenge (including each Stream) and what participating in it will involve is published on the Challenge website (<https://waterinnovation.challenges.org>). We draw your particular attention to the [Entrant Handbook](https://waterinnovation.challenges.org/breakthrough4/transform/" \l "materials) which forms part of and should be read alongside these terms and conditions.

In these terms and conditions “you” and “your” means the lead entrant that leads an entry submitted to the Challenge.

Please read these terms and conditions carefully before submitting an entry to the Challenge. By submitting an entry, you accept these terms and conditions on behalf of your organisation and agree to comply with them. By submitting an entry, you also confirm that you have authorisation to accept these terms and conditions on behalf of any partners, and other participants, identified within your entry, and you acknowledge that you are responsible for making sure that those partners and participants comply with these terms and conditions.

## Participating in the Challenge

1.1 When submitting an entry to the Challenge you must follow the entry process for the Stream(s) to which you wish to enter. Entries received by the relevant deadline will be assessed against the Eligibility Criteria for the relevant Stream as set out on the Challenge website (<https://waterinnovation.challenges.org>). Entries which do not meet the Eligibility Criteria shall not be accepted. The eligibility assessment will be conducted by Nesta with oversight from Ofwat. Ofwat reserves the right to refuse any entry that does not, in its assessment, meet the Eligibility Criteria.

1.2. The lead entrant of any entry must be an appointed ‘Water Company’ (a water and/or sewerage undertaker holding an appointment under Chapter 1 Part 2 of the Water Industry Act 1991 [the ‘Act’] see <https://www.ofwat.gov.uk/regulated-companies/ofwat-industry-overview/licences>). The lead entrant must comply with, and ensure that its partners and participants comply with, these terms and conditions.

1.3. At least 10% of the total cost of the project to which your entry relates must be funded from sources other than the Ofwat Innovation Fund (more information on this requirement is included in the [Entrant Handbook](https://waterinnovation.challenges.org/breakthrough4/transform/#materials)). Please note that Ofwat may request information to confirm that its entry complies with this requirement as part of the entry form.

1.4. Ofwat reserves the right to refuse acceptance of any entry, where the entry is inconsistent with these terms and conditions in Ofwat’s view.

1.5. An organisation (whether a Water Company or its partners or participants) is not eligible to enter or participate in the Challenge:

1.5.1 if it shares common ownership with Nesta, Arup and/or Isle, except where such a relationship is declared and measures taken to manage any risk of conflict have been approved by Ofwat; or

1.5.2 if any individual in its project team or any senior member of its staff is:

1. an employee of Nesta or Ofwat or an immediate family member of such employee, including any other relationship which may reasonably generate a conflict of interest;
2. an employee of Arup or Isle that is working or has worked on the research, design, administration, delivery and/or evaluation of any aspect of the Ofwat Innovation Fund, or any immediate family member of such employee; or
3. any other individual that is working or has worked on the research, design, administration, delivery and/or evaluation of the Ofwat Innovation Fund, or any immediate family member of such individual,

except where such a relationship is declared and measures taken to manage any risk of conflict have been approved by Ofwat.

1.6 You can submit more than one entry to the Challenge. Please consider the following when submitting any entries:

1.6.1 You may submit an entry or entries to either or both Streams, but each entry submitted must be for a different project;

1.6.2 You will not be permitted to switch Streams once you have submitted your entry;

1.6.3 If you enter the Transform Stream and are unsuccessful at stage 1, you are considered to have exited the Challenge altogether;

1.6.4 If you exit the Transform Stream at stage 1, you may enter the Catalyst stream if the entry meets all of the eligibility criteria. Your likelihood of success does not increase in the Catalyst Stream if you have previously entered the Transform Stream. Beyond standard feedback provided at the sole discretion of the Fund, no assistance can be provided by Ofwat or the delivery team to any entrant. Any feedback provided should be considered before a re-entry to Breakthrough 4.

1.6.5 Discovery finalists must notify the Fund of all entries to Breakthrough. Discovery finalists must fully and unconditionally withdraw from the Discovery competition in advance of applying to Breakthrough 4 competitions.

1.7 You must bear all the costs of entering and participating in the Challenge, including travel costs and other out of pocket expenses. Please note for the avoidance of doubt that you are responsible for all costs to enter regardless of the outcome of your entry.

1.8 Ofwat reserves the right (in its discretion) not to accept late entries or entries submitted in languages other than English. Neither Nesta nor Ofwat are responsible for, and Ofwat may in its discretion disregard, entries that are lost, incomplete, damaged or late due to computer, network or telecommunications failure based on third party telephone or data networks.

1.9 The contact details you provide will be used to contact you about the Challenge. All communications from you in relation to the Challenge must be in English. If you do not respond within 14 days, or if you withdraw or are disqualified from the Challenge for any reason, another entry may be selected in your place, but there is no requirement or obligation for this to happen.

1.10 When submitting an entry to the Challenge you will be asked to identify which Stream you wish to enter. Eligible entries will be assessed against the assessment criteria for the relevant Stream as set out within the [Entrant Handbook](https://waterinnovation.challenges.org/breakthrough4/transform/" \l "materials) in order to determine the winners of the Challenge awards. Ofwat’s decision on the selection of winner(s) and the amount of the Challenge awards (including in relation to queries on the assessment process) is final. Ofwat will receive recommendations from the Challenge judging panel which it will take into consideration when making its decisions. However, Ofwat is not bound by the judging panel’s recommendations, and all and any awards are at Ofwat’s sole discretion. For the avoidance of doubt, Ofwat may at its sole discretion decide not to award any funding in relation to the Challenge. Ofwat, may at its sole discretion, provide generalised or individual feedback to entrants or winners.

1.11 In consultation with Nesta, Ofwat may vary the form or substance of the Challenge and/or either Stream (including deadlines and event dates) as it deems appropriate in the circumstances to ensure the Challenge objectives, as set out within the [Entrant Handbook](https://waterinnovation.challenges.org/breakthrough4/transform/#materials), are achieved. Ofwat may suspend or withdraw the Challenge and/or either Stream if it considers that the Challenge or the Stream will no longer achieve its objectives.

1.12 Nesta, in consultation with Ofwat, reserves the right to vary these terms and conditions at any time. Variations will take effect from the date they are posted on the Challenge website so please check regularly to see the current version.

## Challenge Awards

2.1 The payment of any funds awarded through the Challenge shall be settled in accordance with an agreed settlement mechanism. Neither Nesta, Ofwat nor any of their respective partners in the Challenge shall have any responsibility or liability to anyone, however, arising for the non-payment or delay in payment of any funds awarded through the Challenge.

2.2 Funding will be awarded in pounds sterling and the recipient is responsible for payment of tax and other charges.

2.3 If you are selected as a winner of the Challenge, you will be required to enter into a Challenge award agreement before funds will be awarded. Any funds awarded by the Challenge must only be used to fund the project described in your entry. Such usage must comply with the terms of the Challenge award agreement and must promote the objectives of the Challenge as described on the Challenge website. You must comply with all reasonable monitoring requirements specified by Ofwat, either directly or in conjunction with Nesta, to verify the proper use of such funds, and you consent to the sharing of all monitoring information between Nesta and Ofwat and with any third party Ofwat or Nesta (with the approval of Ofwat) may in future appoint in respect of the monitoring of the Challenge. Nesta and Ofwat reserves the right to include terms within the Challenge award agreement which may impose additional conditions on the release of funds during the course of the project if either Nesta or Ofwat, in their sole opinion, form the view that (i) the Challenge has not resulted or will not result in sufficient public benefit in line with Nesta’s charitable objects or the objectives of the Challenge and/or (ii) if such conditions are required or are appropriate according to Ofwat’s discretion in light of other legal or regulatory requirements.

2.4 If you fail to comply with any of the provisions of a Challenge award agreement, Ofwat reserves the right to refuse your entry to future competitions at its own discretion.

## Your promise to us

3.1 To participate in the Challenge, you must:

* satisfy the relevant eligibility criteria and ensure that all information submitted by you is true, accurate and complete;
* submit a proposal which is your own original idea and not copied from anyone else;
* have, or will obtain, all authorisations, consents and permissions, including any relevant legal or regulatory requirements, necessary to submit your entry, carry out your proposal and comply with these terms and conditions;
* ensure that your entry will not infringe any intellectual property or other third party rights or breach any contractual obligation. You may be disqualified if we receive notice that your entry infringes any third party rights;
* act lawfully, ethically and in good faith and comply with these terms and conditions, any Challenge award agreement, the Settlement Agreement, Water Company licences, any other rules of the Challenge and any relevant laws, regulations, guidelines and codes of practice;
* comply with all reasonable instructions while participating in the Challenge, including in relation to health & safety and security.

3.2 You must:

* at the time of submitting an entry to the Challenge and at any other point during the Challenge, declare and procure that your partners and participants declare any actual or potential conflict of interest with Nesta, Ofwat, Arup, Isle and/or the Challenge judges, and provide Nesta and Ofwat with all information reasonably requested in relation to such conflict;
* take reasonable steps and ensure that your partners and participants take reasonable steps, to manage any such conflict including (without limitation) by implementing such measures as Nesta or Ofwat may reasonably require. Where a conflict cannot be avoided and/or where Ofwat determines (in its sole discretion) that a conflict cannot be appropriately managed you may be disqualified from participating in the Challenge.

3.3 Ofwat, in consultation with Nesta, reserves the right at its sole discretion to disqualify you from the Challenge if you or your partners do not comply with these terms and conditions, if you or your partners behave in a way which is misleading, disruptive, inappropriate or potentially dangerous, if you or your partners fail to participate fully or do anything to damage the reputation of Nesta, Ofwat or Nesta’s partners. For the avoidance of doubt, nothing in this clause is intended to prevent or otherwise hinder reasonable criticism, observation or feedback of any kind. Ofwat, in consultation with Nesta, reserves the right to require repayment of any funding awarded to you and/or your partners through the Challenge if you and/or your partners fail to comply with these terms and conditions and/or the terms of any Challenge award agreement and/or the terms of the Settlement Agreement.

## Intellectual property

4.1 In these terms and conditions:

“Background IPR” is IPR, which exists prior to the submission of the entry to the Challenge.

"Background IPR Principles" are the principles that will be used to determine any royalties and/or other remuneration payable for any licence granted to a Water Company under clause 4.4.2 which principles will be as detailed in your entry and/or as may otherwise be agreed between you and Ofwat.

“Foreground IPR” is all IPR that is created through a project funded by the Challenge.

"General Background IPR" is any and all Background IPR that is not Specific Background IPR.

“IPR” shall mean any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trademarks, service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all entries (or rights to enter) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Specific Background IPR" is Background IPR which has been specifically identified in your entry and which Ofwat has agreed shall constitute Specific Background IPR under clause 4.4.2, as may be amended from time to time in accordance with clause 4.4.3.

4.2 Each participant shall retain all rights in and to its Background IPR. Where necessary an appropriate form of licence should be granted to all participants in any project, which is the subject of a bid, for the sole purpose of the project, in order to enable it to go ahead.

4.3 With regards to the ownership of Foreground IPR, where a project funded through the Challenge involves more than one participant, then any jointly created IPR should be shared proportionately as agreed by the project participants, however where any IPR is created independently by one of the project participants then it should be owned by the participant who created it, rather than by all the project participants.

4.4 Catalyst Stream, Default and Transform Stream, Default (where applicable):

4.4.1 You and your partners

4.4.1.1 hereby grant to all appointed Water Companies (whether currently existing or existing in the future) a non-exclusive, perpetual, sub-licensable, irrevocable, royalty-free licence:

4.4.1.1.1 to use your respective Foreground IPR for any purpose related to their operations as a Water Company; and

4.4.1.1.2 to use your respective General Background IPR solely to the extent necessary for them to receive the benefit of the licence granted at clause 4.4.1.1.1 above subject to sufficient justification as to how the use of General Background IPR relates to the project or if the use is beneficial to customers; and

4.4.1.2 if a Water Company (whether currently existing or existing in the future) requests in writing a licence of Specific Background IPR, shall grant to that Water Company on written terms a non-exclusive, irrevocable, sub-licensable licence to use and access the relevant party's Specific Background IPR to the extent necessary and useful for the sole purpose of enabling the relevant Water Company to benefit from the licence granted at clause 4.4.1.1.1 above, subject to the agreement of appropriate royalties and/or other appropriate form of remuneration (you and your partners acting reasonably in good faith) which are fair, reasonable and non-discriminatory taking into consideration:

4.4.1.2.1 the Background IPR Principles;

4.4.1.2.2 that the royalties and/or remuneration must reasonably be considered as standard in the relevant market, subject always to clause 4.4.1.2.4;

4.4.1.2.3 that the royalties and/or remuneration must be no less favourable than those offered by you or your partners to any third parties, subject always to clause 4.4.1.2.4;

4.4.1.2.4 that any royalties and/or remuneration must be proportional to the funding received from the Stream to the development of the relevant Foreground IPR; and

4.4.1.2.5 that the Foreground IPR generated from the Challenge (and therefore the Background IPR required to use that Foreground IPR) should at all times be primarily used for the benefit of the customers of all Water Companies and present value for money for those customers, and

4.4.1.3 acknowledge and agree that if the General Background IPR, Specific Background IPR or Foreground IPR contains any third party IPR you must ensure that such third party IPR is licensed on the same basis as set out in clauses 4.4.1.1 and 4.4.1.2.

4.4.2 If you or any of your partners wish for any Background IPR to be treated as Specific Background IPR for the purposes of the Challenge, you must notify Nesta by clearly stating this in your entry. Background IPR may only be designated as Specific Background IPR where Ofwat has agreed in writing to such designation. Specific Background IPR must be necessary or useful for the progression and/or furtherance of the project, or where the designation is regarded as beneficial to customers by Ofwat.

4.4.3 If, from time to time throughout the duration of the project, you or one your partners intends to introduce additional Background IPR to the project which did not exist at the time of submitting your entry that it wishes to designate as Specific Background IPR, you must notify Nesta as soon as possible and prior to introducing the said Background IPR to the project. Ofwat may, at its sole discretion, consent in writing to such Background IPR being designated as Specific Background IPR. The introduction of any additional Specific Background IPR must be strictly as necessary or useful for the progression and/or furtherance of the project. For the avoidance of doubt, unless and until Ofwat have provided their consent under this clause 4.4.3, the relevant Background IPR shall not be treated as Specific Background IPR.

4.4.4 If you our one of your partners are unable to agree fair, reasonable and non-discriminatory royalties and/or other remuneration for a licence of Specific Background IPR with a Water Company in accordance with clause 4.4.1.2 within 1 month after receipt of the written request from the relevant Water Company, you must refer (or you must procure that any relevant partner refers) the matter to an independent expert (an "Expert") for determination ("Expert Determination") in accordance with clause 4.4.5. Each party shall bear its own costs in relation to any Expert Determination.

4.4.5 In the event of any Expert Determination, you (or the relevant partner) and the Water Company shall agree on the appointment of an independent expert and shall agree with the expert their terms of reference. If you (or the relevant partner) is unable to agree on the appointment of an Expert with the Water Company within 7 days, either party shall be entitled to request that Ofwat appoint an Expert. The Expert shall act as an expert and not as an arbitrator in determining whether any proposed licence terms are fair, reasonable and non-discriminatory taking into account those considerations detailed in clauses 4.4.1.2.1 – 4.4.1.2.5 above. The Expert's written decision on the matters referred to them shall be final and binding in the absence of any manifest error or fraud. You or your partner (as relevant) shall act reasonably and co-operate with the Water Company and the Expert to give effect to the provisions of this clause 4.4.5 and otherwise do nothing to hinder or prevent the Expert from reaching their determination.

4.4.6 In addition to the monitoring obligations set out in clause 2.3 for winners of the Challenge, you are also required to disclose through the monitoring reporting process, how to access any foreground IPR generated.

4.4.7 For the avoidance of doubt, this clause 4.4 will not apply to the Catalyst Stream, Alternative, or the Transform Stream, Alternative.

4.5 Catalyst Stream, Alternative and Transform Stream, Alternative (where applicable):Requests for alternative IPR arrangements will be considered on a case-by-case basis. Where entries to the Challenge propose alternative IPR arrangements, your entry must clearly show how the project will benefit all customers of Water Companies and any alternative arrangements do not result in additional costs to customers but instead contribute to net savings (including to the cost of access to Background IPR) than would have been available absent the award.

4.6 It is important that the benefits of the Challenge flow back to those customers funding it, and ensure strong alignment between the customer needs and priorities of the sector and the focus of innovation. In order to ensure this, the default for IPR arising as a result of the Challenge shall be treated in accordance with this clause 4 unless any alternative arrangements are agreed by Ofwat's consent at its sole discretion, in writing in a Challenge award letter.

4.7 To the extent that an entrant or any of its partners receive any royalties:

4.7.1 Foreground IPR will be made available royalty-free to the appointed Water Companies by all project participants (water companies, business retailers and other third parties).

4.7.2 Foreground IPR royalties earned by appointed Water Companies and water retailers in all sectors in England and Wales, which for the avoidance of doubt shall include the water sector in England and Wales, will be shared with Water Company customers (in proportion to the funds that customers have contributed to the project). This includes where there are joint bids.

4.7.3 Foreground IPR royalties earned by other third parties (i.e. those other than the appointed Water Companies and business retailers) in other sectors in England and Wales, do not need to be shared with Water Company customers.

4.7.4 All project participants may retain royalties earned outside England and Wales.

4.8 You shall (and shall procure that your partners shall) provide all reasonable assistance to Nesta, Ofwat and any Water Companies (as relevant) in doing all such acts or things as may be necessary or desirable to give effect to this clause 4, including (without limitation) the execution of any documentation.

## Use of personal information

5.1 Please see Nesta’s Challenge Privacy Policy (<https://waterinnovation.challenges.org/privacy-policy/>) and Ofwat’s Challenge Privacy Notice (<https://www.ofwat.gov.uk/publication/privacy-policy/>) for information about how we will use personal information obtained for the purposes of participating in the Challenge.

## Publicity

6.1 Ofwat, Nesta and Nesta’s partners may carry out publicity and promotion for the Challenge and publish research and evaluation in relation to the Challenge. You agree, and you confirm that your partners agree, to the use of each of your organisation names and a summary of your proposal in promotion and publications in any media and online and to participate in any other publicity reasonably required by Nesta or Ofwat in connection with the Challenge. Before publication, any concerns you have about the confidentiality of your entry will be considered. You should specifically draw any such concerns to the attention of Nesta within the terms of your entry. Nesta may ask you and your partners to support and/or participate in promotional activities related to the Challenge on reasonable notice.

6.2 Any public statements made by you or your partners in relation to the Challenge must acknowledge the support of Ofwat, Nesta and their partners and must be approved in advance by Nesta, in consultation with Ofwat. For the avoidance of doubt, you and your partners will not announce Ofwat’s decision on the outcome of your Challenge entry without the prior written approval of Nesta, in consultation with Ofwat.

6.3 In this clause “FOIA” means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown body in relation to such legislation; and “EIR” means the Environmental Information Regulations 2004. You and your partners acknowledge that Ofwat is subject to the requirements of the FOIA and the EIR and may be required under the FOIA and the EIR to disclose information concerning you, your partners, your project and participation in the Challenge (including commercially sensitive information) without consulting or obtaining your (and/or your partners) prior consent. In these circumstances Ofwat shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give you and/ or your partners’ advance notice, or failing that, to draw the disclosure to you and/or your partners’ attention after any such disclosure. Ofwat shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIR.

## Limitation of Liability

7.1 To the extent permitted by applicable law, Nesta and Ofwat exclude all liability for any direct or indirect loss or liability, costs, claims, taxes, charges or expenses arising from your participation in the Challenge or your reliance on statements made or advice given by Ofwat, Nesta or Nesta’s partners. If you submit any materials or items as part of your entry to the Challenge, this is at your own risk. Neither Nesta nor Ofwat give any undertakings to keep safely, maintain or return any materials or items.

7.2 Without prejudice to Clause 7.1, each of Nesta and Ofwat’s maximum liability to you in connection with the Challenge (if any) is limited to £500. Nothing in these terms and conditions excludes or limits our liability for death or personal injury caused by our negligence or fraudulent misrepresentation.

## Governing Law and Jurisdiction

8.1 These terms and conditions shall be governed by and interpreted in accordance with the laws of England and Wales and you hereby submit to the exclusive jurisdiction of the English courts.

# Annex 2 – The Project

[Your full entry submission, including any attachments, will be included in Annex 2 in the final version for signing]

# Annex 3 – Reporting Requirements

To support the monitoring of your project, and evaluation of the Water Breakthrough Challenge and Ofwat Innovation fund, we will collect data from you regularly. The questions below are a guide for the level of reporting that will be required; questions may be subject to change.

We will collect data from you:

* At project initiation (Baseline Report)
* Quarterly during delivery (Quarterly Reports and Annual Additional Report)
* At project completion (Final Report)

We may also ask you to report on the impact of your initiative after project completion.

We may also ask you to meet with us quarterly after completing the below reports.

The monitoring focuses on 4 key facets:

* **Inputs**- The resources required to achieve the programme objectives (this includes programme, expenditure and costs, risks, including any approvals and consents required, and project partners).
* **Outputs**- The direct result of the activity, e.g. technological progress, or increased knowledge (this includes lessons learnt and any changes in approach)
* **Outcomes**- The changes or benefits that result, generally to the direct beneficiaries of the programme e.g. benefits to the environment resulting from the innovation (these are different for each project and will be based on the SMART outcomes included in the original entry)​
* **Impact**- The final, wider changes that result from the programme (these are different for each project and will be based on the impacts included in the original entry)

## Baseline Report

1. Has your project changed from your original entry in relation to scope, approach or outcomes?
   1. Significant change (change in focus/outcomes or significant change in approach/method of project or significant change to programme/timeline)
   2. Other changes (e.gs skills sets/technology etc.) - narrative to explain

Inputs

1. Please complete the spending profile template provided.
2. Please report on project programme:
   1. Which project milestone are you current in?
   2. What date will this project milestone be completed?
   3. What is the cost of this milestone?
   4. Projected percentage completion over the next quarter
   5. Have there been any changes to the project programme or milestones not set out in your original entry or in the previous quarterly report? For example, change in dates or scope of milestones, change in project partners, changes to funding or additional sources of funding. If yes, please provide detail.
3. Are there any critical risks which may impact the project in the next 2 quarters? (y/n)
   1. If yes, please provide further information such as likelihood, impact, mitigation and residual risk after mitigation (using the same methodology as the entries risk register).
   2. Is the project exposed to any new, significant risks not already identified in your project risk register?
   3. If yes, please provide a narrative, including likelihood, impact, mitigation and residual risk after mitigation (using the same methodology as the entries risk register) alternatively please provide an updated risk register highlighting any new risks.
4. Please report on the project expenditure and costs:
   1. Budget actual spend to date (if applicable)
   2. Percentage of total budget spent
   3. Budget forecast to date
   4. Budget forecast for next quarter
   5. Total budget remaining
5. Please detail any deviations and provide supporting information

Outputs

1. What stage of innovation project stage is the project at?
   1. Stage of innovation project stage now
   2. Projected innovation project stage over the next quarter
2. For each of the below, is the project able to meet the original objectives and benefits set out in your original entry. If no or if there are any deviation from original please provide further narrative:
   1. Plan for implementation and dissemination of enablers should include SMART objectives (Question 2.2.4- stage 2)
   2. Plan of how the entry is intending to provide benefits, address water sector wide needs, or be used to improve operations across numerous geographies, businesses, and scenarios. (question 2.3.3)

Outcomes

1. Please provide all of your project outcomes (set out as SMART objectives)

Impact

1. Please provide your project’s intended wider impacts and benefits (both direct and indirect)

Challenge Evaluation

1. What is your opinion of the Water Breakthrough Challenge?
2. Is there any feedback you wish to share with Ofwat or the delivery partners regarding the Water Breakthrough Challenge?

## Quarterly Report

1. Has your project changed in relation to scope, approach or outcomes?
   1. Significant change (change in focus/outcomes or significant change in approach/method of project or significant change to programme/timeline)
   2. Other changes (e.gs skills sets/technology etc.) - narrative to explain

Inputs

1. Please report on project progress:
   1. Which project milestone are you current in?
   2. What date will this project milestone be completed?
   3. What is the cost of this milestone?
   4. Percentage total project completion to date
   5. Forecast percentage total project completion to date
   6. Projected percentage completion over the next quarter
2. Are you meeting all of the tasks set out for this quarter?
   1. If no, please provide further information
3. Have there been any changes to the project programme or milestones not set out in your original entry or in the previous quarterly report? (for example, change in dates or scope of milestones, change in project partners, changes to funding or additional sources of funding) (y/n- if yes please provide narrative).
4. Are there any critical risks which may impact the project in the next 2 quarters?
   1. If yes, please provide further information such as likelihood, impact, mitigation and residual risk after mitigation (using the same methodology as the entries risk register).
5. Is the project exposed to any new, significant risks not already identified in your project risk register?
6. If yes, please provide a narrative, including likelihood, impact, mitigation and residual risk after mitigation (using the same methodology as the entries risk register) alternatively please provide an updated risk register highlighting any new risks.
7. Please report on the project expenditure and costs:
   1. Budget actual spend to date
   2. Percentage of total budget spent
   3. Budget forecast to date
   4. Budget forecast for next quarter
   5. Total budget remaining
8. Please detail any deviations and provide supporting information

Outputs

1. What stage of innovation project stage is the project at?
   1. Stage of innovation project stage now
   2. Projected innovation project stage over the next quarter
2. For each of the below, is the project able to meet the original objectives and benefits set out in your baseline report. If no or if there are any deviation from original please provide further narrative
   1. Plan for implementation and dissemination of enablers should include SMART objectives (Question 2.2.4- stage 2)
   2. Plan of how the entry is intending to provide benefits, address water sector wide needs, or be used to improve operations across numerous geographies, businesses, and scenarios. (question 2.3.3)
3. Have you identified any key insights or lessons at this stage?
4. What have you learnt over the last quarter which will inform your plans for the remainder of the project?
5. What has worked better than expected?
6. What problems/barriers/challenges have you encountered and how have you addressed them?

Challenge Evaluation

1. What is your opinion of the Water Breakthrough Challenge?
2. Is there any feedback you wish to share with Ofwat or the delivery partners regarding the Water Breakthrough Challenge?

## Additional Annual Report

These questions will be asked in addition to the quarterly questions on an annual basis.

Outcomes

Note: Project outcomes have been provided project by project basis based on the response to question 1.3.3. in the entry.

1. Are these outcomes still achievable for this project? If no what are your updated project outcomes?
2. What have you achieved during this project so far that works towards your final outcomes?  For example, reflections may include details of publications, engagement activities, sharing/use of shared data/intellectual property, awards/recognition, influence on policy, new products and processes.

Impacts

Note: Intended wider impacts and benefits (both direct and indirect) are to be provided on a project-by-project basis based on the response to question 1.3.5.in the entry.

1. Are these impacts still achievable for this project? If no what are your updated project impacts?
2. What have you achieved during this project so far that works towards your impacts?  For example, behaviour change, new research/innovation tools and methods, key lessons learnt

## Final Report

Inputs

1. At completion what percentage of your original budget have you spent?
2. Did your project plan evolve over the course of the project, and what factors contributed to this?
3. Where the approaches used in the project more innovative than existing practice? How was this measured?
4. Did any of your risks set out in your risk register materialise? If so, were your mitigation approaches affective? Were there any key learnings from this?

Outputs

1. What where the key findings from your project?
2. What innovation project stage did your project achieve at completion?
3. Have you implemented your plan for scale up and/or roll out?
4. Has this plan for scale up and/or roll out changed since your original entry? If so please provide details
5. Have you deployed your plan for implementation and dissemination? Have there been any lessons learnt from this process?
6. Tell us about your partnership arrangements and how they have encouraged new ways of working or thinking? What have you learnt from this experience?
7. What are your key next steps or recommendations based on the outcomes of your project?
8. What benefits have you achieved?
9. What contributed to or hindered the achievement of these benefits?
10. In achieving your benefits, did this challenge any assumptions you originally made when developing them?
11. Were the project benefits achieved in a timely fashion? If not what where the barriers or challenges to hold back this programme?

Outcomes:

1. To what extent have you achieved the outcomes/benefits? for customers, society and/or the environment that you outlined in your entry?
2. Did you achieve these outcomes in the way you expected in your original proposal? If not, what approach did you use?
3. Were the project outcomes dependent on your context, and how might this effect the replication of impact in other situations?

Impact

1. To what extent have you achieved your expected impact?
2. Have your expectations for long term impact changed? If they differ, what explanation might there be for this?
3. Have you quantified any benefit? Please provide further details including any methodologies use.

We have two standard options for Annex 4 – one for projects that are fairly sequential and one where they are not. As default, we have proposed a ‘Version for entries with sequential phases’, but if you feel the second template 'Version for entries with non-sequential phases' is more appropriate please do complete this below with relevant detailed milestones and we will review it to ensure it is in line with your entry.

# Annex 4 *–* Award Instalments and Project Milestones *[Version for entries with sequential phases]*

(may be updated from time to time with the written approval of Ofwat)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Phase budget including financial contribution (£) | Award Instalment (£) | Project Milestone | Expected completion date |
| 1 |  |  |  |  |
| 2 |  |  |  |  |
| 3 |  |  |  |  |
| 4 |  |  |  |  |
| 5 |  |  |  |  |
| Total |  |  |  | |

# Annex 4 – Award Instalments and Project Milestones *[Version for entries with non-sequential phases]*

(may be updated from time to time with the written approval of Ofwat)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Phase | Phase Budget Including financial contribution (GBP £) | Award Instalment (GBP £) | Project Milestones to be achieved to unlock award instalment | Phase Name | Expected Start Date |
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|  |  |  |  | Project Closure |  |
| **Total** |  |  |  |  |  |

Detailed Project Milestone Description

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| --- | --- |
| Project Milestone # | Project Milestone |
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