



NORTHUMBRIAN WATER LIMITED

DATED

2010

NORTHUMBRIAN WATER LIMITED

and

DEVELOPER

and

SELF LAY ORGANISATION

and

OWNER

and

ADJOINING OWNER

and

SURETY

SELF LAY AGREEMENT

relating to Water Mains and where applicable Communication Pipes
at in the County of

Northumbrian Water Ltd
Legal Affairs
Abbey Road
Pity Me
Durham
DH1 5FJ

THIS AGREEMENT is made the
BETWEEN

day of

20

(1) **NORTHUMBRIAN WATER LTD** whose registered office is at Abbey Road, Pity Me, Durham, DH1 5FJ (Company registration no. 2366703) ("**the Undertaker**"), being the Undertaker in whom the Self Lay Works will be vested;

(2) whose registered office is at (Company registration no.....) ("**the Developer**"), being the party intending to carry out the Development;

(3) whose registered office is at (Company registration no.....) ("**the SLO**"), being the party undertaking the Self Lay Works on behalf of the Developer;

(4) whose registered office is at (Company registration no.....) ("**the Owner**"), being the owner of the Site (if not the Developer);

(5) whose registered office is at (Company registration no.....) ("**the Adjoining Owner**"), being the owner of land adjoining the Site, in which Self Lay Works are also to be undertaken;

(6) whose registered office is at (Company registration no.....) ("**the Surety**"), being the party providing security for the Self Lay Works and the payments to be paid to the Undertaker.

(NOTE: IF A PARTY IS NOT APPLICABLE DO NOT DELETE BUT INSERT "NONE")

IT IS AGREED as follows:-

1 Interpretation

1.1 The following terms, as defined below, are specific to this Agreement:

Construction Period	* months from the Start Date
Deposit	£* being the security required in respect of the proper construction of the Self Lay Works, including the Service Pipe Deposit
Developer's Payment	the actual costs incurred by the Undertaker in providing the Undertaker's Works which at the date of this Agreement is estimated to be £*
Development	the development to be carried out by the Developer on the Site under planning permission reference no.....comprising * premises
Drawing(s)	the Layout Plan and such other drawings and calculations relating to the Self Lay Works numbered: * (NB. not to be annexed to this Agreement)
Estimated Asset Value	£*
Inspection Fee	£*, in respect of the Undertaker's inspection and supervision of the Self Lay Works.
Layout Plan	plan number *, annexed hereto, showing the Site, the Adjoining Land and the layout of the Self Lay Works.
Service Pipe Deposit	£* , being the security required in respect of the proper construction of the Service Pipes.
Site	land at.....shown edged green on the Layout Plan
Undertaker's Works	the items listed in Schedule 2, which must be completed prior to signing.
Water Mains Phasing Programme	the programme, approved as part of the design of the Self Lay Works, which is listed in Schedule 1.

1.2 The following general terms, as defined below, shall also apply throughout this Agreement:

Act	Water Industry Act 1991
Adjoining Land	land adjoining the Site, shown edged brown on the Layout Plan, in the ownership of a person other than the Developer or the Owner where part of the Self Lay Works are to be undertaken.
Asset Value	the "discounted offset amount" calculated in accordance with section 51C of the Act.
Bond Amount	a sum equal to the Deposit.
Charges Scheme	The Charges Scheme made by the Undertaker under section 143 of the Act.
Code of Practice	the Code of Practice for the Self Laying of Water Mains and Service Pipes published by WRC plc.
Connection Charges	the connection charges, as published by the Undertaker, which are applicable at the time when a Service Pipe Connection is made as part of the Self Lay Works and/or in respect of any Service Pipe Connections to be made by the Undertaker.
Costs Schedule	The chargeable items payable by the SLO to the Undertaker in respect of the Self Lay Works as set out in Schedule 3. Notwithstanding the fact that indicative (ie. current at the date of the Agreement) charges are set out in Schedule 3, the charges shall be payable at the rate prevailing at the date of the Self Lay Works as set out in the Charges' Scheme or as otherwise published by the Undertaker.

Days	working days, excluding Saturdays, Sundays, Bank Holidays and public holidays.
Defects	includes damage to the Self Lay Works.
Defects Liability Period	12 months from the date when the Water Main was satisfactorily commissioned and connected to the public water supply network or in the case of a Service Pipe 12 months from the date of the Service Pipe Connection or compliance with clause 9.2, whichever is the later.
Infrastructure Charge	the Infrastructure Charge payable to the Undertaker under section 146 of the Act in respect of any new connection to the Water Main or any other water main [or public sewer] vested in the Undertaker.
Protected Strip	a strip of land 3 metres measured horizontally on either side from the centreline of the Water Main (or any other water main [or public sewer] vested in the Undertaker) or such other distance or distances as may reasonably be specified by the Undertaker and which is shown coloured yellow on the layout plan.
Self Lay Works	the construction of the Water Main to serve the Development on the Site together with accessories as defined in the Act and all necessary works of reinstatement to the land or to any Street in which the Self Lay Works are constructed and the laying of the Service Pipes and the Service Pipe Connections to be made by the SLO.
Service Pipe	such part of any service pipe (up to and including 63mm diameter) supplying water to any house or building on the Site (including the meter, meter box, surface box, marker and other apparatus) which is to be vested in the Undertaker, shown as the Communication Pipe on Figure 1 of the Code of Practice.
Service Pipe Connection	The connection of a Service Pipe to the Water Main or to any other water main vested in the Undertaker.
Service Pipes Construction Programme	the programme to be provided under clause 8.1, including any subsequent variation agreed in writing pursuant to clause 9.
SLO	If no party is expressly named in this Agreement as the SLO, the Developer.
Specification	the Code of Practice, current at the time this Agreement is made, together with any Addenda thereto issued by the Undertaker and together with the Drawing(s).
Start Date	the date agreed in writing that the Self Lay Works shall commence pursuant to clause 3.4.
Street Works Legislation	New Roads and Street Works Act 1991, Traffic Management Act 2004 and any other Act governing the carrying out of Street Works in a Street. ("Street", "Street Authority" and "Street Works" shall be defined accordingly.)
Water Main	the water main (including accessories as defined in the Act) to be constructed by the SLO as part of the Self Lay Works along the route shown approximately on the Layout Plan by red lines
Water Industry Registration Scheme	The Registration Scheme operated by Lloyds Register EMEA on behalf of Water UK and its members, which certifies the competence of companies undertaking self lay works.

- 1.3 This Agreement made in pursuance of Section 51A of the Act sets out the entire agreement and understanding between the parties in relation to the Self Lay Works.
- 1.4 If no details are shown for any of the parties (other than the Undertaker and Developer who are mandatory) it shall be assumed there is no such party
- 1.5 This Agreement is personal to the parties save as provided for in clause 15 or:
- 1.5.1 on the solvent reconstruction or amalgamation of any of the parties; or
- 1.5.2 on the appointment under the Act of another person as the water undertaker for the area including the Site.

- 1.6 If more than one person is named as one of the parties then any covenants agreements liabilities or statements made by that party shall be deemed to be made by those persons jointly and severally.
- 1.7 References to gender shall include either gender or a corporate identity and the singular shall include the plural.
- 1.8 References to any term set out in clauses 1.1 and 1.2 shall, with the Undertaker's written consent, include any part or parts thereof and any variation thereof agreed in accordance with clause 11.
- 1.9 References to an Act of Parliament include any statutory modification or re-enactment thereof for the time being in force and all regulations, orders and codes of practice made under that Act of Parliament and any modification or replacement thereof.
- 1.10 The Interpretation Act 1978 shall apply for the purposes of interpretation of this Agreement as it applies to the interpretation of an Act of Parliament
- 1.11 In the event of any conflict or ambiguity, the Code of Practice shall prevail over individual clauses set out below and the Drawing(s) shall prevail over the Code of Practice.

2. Preliminary Requirements

2. Prior to this Agreement being completed or, if later, as soon as reasonably practicable thereafter and in any event before the Self Lay Works are commenced:
 - 2.1 the Self Lay Works shall have been designed either by the SLO or the Developer (such design to have been approved in writing by the Undertaker) or by the Undertaker;
 - 2.2 any phasing of the Self Lay Works (other than the Service Pipes Construction Programme) shall have been agreed between the SLO or the Developer and the Undertaker;
 - 2.3 if no party is expressly named in this Agreement as the SLO or if the party named as the SLO intends to sub-contract any of the Self Lay Works to another person, the Developer or the SLO (as the case may be) shall have notified the Undertaker in writing of all contractors and sub-contractors, each of whom must be accredited either under the Water Industry Registration Scheme or by the Undertaker and must remain duly accredited for the duration of the Self Lay Works and this Agreement, who is or will be appointed to undertake the Self Lay Works Provided That no more than one person acting as SLO may be named as a party to this Agreement, such person shall be the principal contractor or sub-contractor responsible for the management and supervision of the Self Lay Works and such party shall not be entitled under any circumstances to sub-contract any aspect of the management and supervision of the Self Lay Works;
 - 2.4 any charges payable to the Undertaker in respect of the design of the Self Lay Works or the approval of such design shall have been paid by the SLO to the Undertaker;
 - 2.5 the Undertaker shall have notified the SLO in writing of the estimated cost of the Undertaker's Works (Schedule 2) or, if nothing is specified in Schedule 2, that there are no Undertaker's Works; and
 - 2.6 the Undertaker shall have notified the SLO of the Estimated Asset Value.

3. SLO Obligations

- 3.1 The SLO shall not commence any part of the Self Lay Works until this Agreement has been completed, the Inspection Fee has been paid to the Undertaker by either the SLO or the Developer and the estimated amount of the Developer's Payment as set out in clause 1.1 has been paid to the Undertaker by the Developer. (For the avoidance of doubt if the Self Lay Works are commenced before the Start Date the Undertaker shall not be under any obligation to pay an Asset Value for that part of the Self Lay Works.)
- 3.2 Before the Self Lay Works commence on site, the SLO MUST ensure that a pre-construction site meeting is held with the Undertaker (the SLO having given at least 5 Days notice to the Undertaker) in order to agree the Start Date (which date shall be confirmed in writing by the Undertaker) and the method of construction of the Self Lay Works.
- 3.3 The SLO shall give the Undertaker at least 15 Days notice in writing of its intention (when the construction of the Self Lay Works has ceased for more than 10 Days) to recommence such construction.
- 3.4 The SLO shall not make any Service Pipe Connections which the Undertaker has notified the SLO that it will make.
- 3.5 Where appropriate, the SLO shall pay to the Undertaker the charges (including Infrastructure Charges) due in respect of the Self Lay Works as set out in the Costs Schedule, which notwithstanding the fact that indicative (ie. current at the date of the Agreement) charges are set out in Schedule 3, shall be payable at the rate (as set out in the Charges' Scheme or as otherwise published by the Undertaker) prevailing at the date of the relevant part of the Self Lay Works.
- 3.6 The SLO shall properly construct and complete the Self Lay Works in accordance with the Specification and this Agreement within the Construction Period and to the satisfaction of the Undertaker.
- 3.7 The SLO shall arrange for the Undertaker to have access to the Self Lay Works and the Site at all reasonable times and in particular shall, at its own cost, provide all relevant plant, equipment (including safety equipment) signing, guarding, lighting and personnel whilst the Undertaker is inspecting the Self Lay Works on the Site.
- 3.8 The SLO shall apply to the Undertaker to connect the Water Main to the Undertaker's public water supply system by giving not less than 10 Days written notice before such connection is required.
- 3.9 In carrying out the Self Lay Works in a highway maintainable or a highway which has been declared to be prospectively maintainable at the public expense, the SLO shall:
 - 3.9.1 obtain a Street Works licence in its own name from the Street Authority for the Street;
 - 3.9.2 comply fully with the Street Works Legislation and make all payments due under the Street Works Legislation; and
 - 3.9.3 in particular, but without prejudice to the generality of the foregoing, comply fully with the requirements of the Street Works Legislation regarding the supervision of the Self Lay Works by a qualified supervisor and the presence on site of a trained operative to the extent that such provisions are for the time being in force.
- 3.10 In carrying out the Self Lay Works, the SLO shall ensure that all construction operations are carried out in such a way as to avoid danger to the public and minimise disturbance to the general public and to any access to any premises or use of any public highway or private road.

- 3.11 Subject to clauses 3.12 and 3.13, during the Defects Liability Period the Undertaker may carry out any maintenance of or repair any Defect in the Self Lay Works or, at its discretion, may by written notice require the SLO to remedy any Defect (to a reasonable timescale determined by the Undertaker) or make good the Self Lay Works.
- 3.12 Insofar as any part of the Self Lay Works involve work in a Street, then notwithstanding any other term of this Agreement the SLO shall continue to be liable to execute any work which forms part of the temporary or permanent reinstatement for the duration of the permanent guarantee period (within the meaning of S1.2.1 of the Specification for the Reinstatement of Openings in Highways approved in June 1992 under the Street Works Legislation) PROVIDED THAT after any part of the Self Lay Works affected by any such work has become vested in the Undertaker the Undertaker may by giving the SLO not less than 5 Days notice in writing require the SLO to carry out any such work within such time as may be specified and if the SLO fails to carry out any such work within the time specified or if the circumstances constitute an emergency, the Undertaker shall be entitled to carry out such works after giving reasonable notice (taking into account the urgency of the work) to the SLO.
- 3.13 The SLO shall reimburse the Undertaker for all such proper and reasonable costs as may be incurred by the Undertaker under clauses 3.11 and 3.12.
- 3.14 In addition to the Inspection Fee, the SLO shall pay to the Undertaker such further sum or sums as may be required upon receipt of an invoice from the Undertaker in the event that further site inspections are required beyond those originally agreed as being part of the Inspection Fee.
- 3.15 The SLO shall pay any payment payable to the Undertaker under this Agreement within 20 Days of receipt of an invoice.
- 3.16 The SLO shall not carry out any activities which may affect any of the Undertaker's existing public water mains or the water therein unless such activities shall have been previously agreed in writing by the Undertaker.

4. Further Obligations on the part of the Developer and Owner

- 4.1 The Developer shall pay to the Undertaker on completion of this Agreement the estimated amount of the Developer's Payment as set out in clause 1.1 and in addition, in the event that there is no Surety as a party to this Agreement, the Deposit, as security in respect of the proper construction of the Self Lay Works and any other payments payable to the Undertaker under the terms of this Agreement.
- 4.2 Throughout the term of this Agreement, the Developer warrants that it has and will retain sufficient rights in the Site and any Adjoining Land to enable the Self Lay Works to be constructed and to permit their use repair and maintenance prior to the date when the Self Lay Works are vested in the Undertaker.
- 4.3 Insofar as the Site is in the freehold ownership of a party named as the Owner or there is Adjoining Land, the Developer warrants that it has examined the title of such Owner or the Adjoining Owner, as the case maybe, and that such person has an unencumbered title to such part of the Site or the Adjoining Land, as the case maybe, where the Self Lay Works are to be constructed.
- 4.4 The Developer and the Owner acknowledge that until the issue of the vesting declaration in respect of the Water Main pursuant to clause 8.2 or the vesting of any Service Pipe pursuant to clause 9.1, the Water Main or Service Pipes, as the case may be, shall belong to the SLO.

- 4.5 The Developer and the Owner shall not build or place, or permit to be built or placed, any building, structure, erection, plant, machinery or apparatus and shall not plant, or permit to be planted, any tree on, over or within any Protected Strip without the written consent of the Undertaker PROVIDED THAT this condition shall not apply to anything shown on the Drawing(s) or the Layout Plan within a Protected Strip or to the apparatus of any electricity, gas, sewerage or telecommunications undertaker provided that any such electricity, gas, sewerage or telecommunications apparatus does not obstruct future access to any part of the Self Lay Works.
- 4.6 Before the Water Main is vested in the Undertaker, or later at the discretion of the Undertaker, the Developer shall pay to the Undertaker the balance of the Developer's Payment upon receipt of an invoice from the Undertaker giving a breakdown of the actual costs that have been or will be incurred in respect of the Undertaker's Works in a format similar to that set out in Schedule 2 PROVIDED THAT if the estimated amount of the Developer's Payment paid under clause 3.1 exceeds the actual Developer's Payment then the Undertaker shall pay the difference between such amounts to the Developer when the Asset Value is paid but PROVIDED ALSO THAT if the estimated amount of the Developer's Payment paid under clause 3.1 is less than the actual Developer's Payment, either the Developer shall pay the shortfall to the Undertaker within 20 Days of receipt of an invoice from the Undertaker or the Undertaker shall deduct the amount owing to it from the Asset Value.
- 4.7 Before the Self Lay Works are vested in the Undertaker, the Developer shall at the Undertaker's request execute or secure the execution (at no cost to the Undertaker) of:
- 4.7.1 a Transfer to the Undertaker (if so required by the Undertaker) vesting in the Undertaker the title absolute free from any covenant, easement, exception or reservation or other encumbrance of the land forming the sites of pumping stations that form part of the Self Lay Works together with all rights necessary to gain access thereto with vehicles and the Transfer deed shall contain the following agreement and declaration:
- "It is hereby agreed and declared that this Transfer of the Property shall not vest in [Undertaker's name] any pumping station or accessories thereto on, over or under the Property provided however that the same may vest in [Undertaker's name] as part of any vesting of water mains within the [Site] and until such time the obligations of the Transferor in any Agreement by virtue of Section 51A of the Water Industry Act 1991 shall remain unimpaired and fully enforceable"
- 4.7.2 a Deed of Grant of Easement (if so required by the Undertaker) in the standard form of the Undertaker (annexed hereto) in relation to the Self Lay Works except in respect of any Service Pipes or any part of the Self Lay Works within a Street.

5. Adjoining Land

- 5.1 If the SLO is to construct any part of the Self Lay Works in any Adjoining Land then the Adjoining Owner shall be a party to this Agreement for the sole purpose of acknowledging and consenting to the arrangements herein expressed between the SLO, Developer and the Undertaker and agreeing to the covenants set out in this clause. (For the avoidance of doubt the Adjoining Owner shall have no liability under the provisions of this Agreement in relation to the construction and future maintenance or repair of the Self Lay Works.)
- 5.2 The Adjoining Owner hereby consents and agrees to the arrangements contained within this Agreement as far as they relate to the Adjoining Land and to the adoption of the Self Lay Works into the Undertaker's public water supply system and acknowledges that the Undertaker shall be entitled to carry out its statutory rights under the Act in respect of the Adjoining Land following the vesting of the Self Lay Works.

- 5.3 The Adjoining Owner acknowledges that the Self Lay Works belong to the SLO until they become vested in the Undertaker and agrees to give the same covenant as set out in clause 4.5 in respect of the Adjoining Land.

6 Inspection of Self Lay Works

- 6.1 During the progress of the Self Lay Works, the Defects Liability Period and the permanent guarantee period provided for in clause 3.12 of this Agreement, the SLO and the Developer shall give to the Undertaker and any person or persons duly authorised by him access to every part of the Self Lay Works and, insofar as it is practicable to do so and necessary to confirm the quality and specification of materials which are to be used for the Self Lay Works, to all workshops and places where work is being prepared or from which materials and machinery are being obtained for the Self Lay Works and permit them or him to inspect the same and all materials used or intended for use therein and to take samples of materials used or proposed to be used in connection with the Self Lay Works and to carry out tests as he may deem necessary.
- 6.2 The Undertaker may by notice in writing require the removal or proper re-execution of any work which in respect of materials or workmanship is in its opinion faulty or not in accordance with the Specification or the Street Works Legislation and the SLO shall forthwith comply with any such requirement.
- 6.3 The SLO shall, if so requested by the Undertaker, open up for inspection any part of the Self Lay Works which may have been covered up and if the SLO fails to comply with any such requirement the Undertaker may itself open up the relevant part of the Self Lay Works PROVIDED THAT:
- 6.3.1 in the event of any part of the Self Lay Works being found to be defective, the cost of such opening up and of rectification of any defects and the reinstatement (including reasonable administrative costs and incidental expenses) shall be borne by the SLO; or
- 6.3.2 in the event that no part of the Self Lay Works is found to be defective, the cost of such opening up and reinstatement shall be borne by the Undertaker unless the reason the Undertaker required the Self Lay Works to be opened up was because that part of the Self Lay Works had commenced before the Start Date, notice had not been given in accordance with clause 3.2 or the Undertaker was not previously allowed access in accordance with clause 6.1, in which case the relevant costs (including reasonable administrative costs and incidental expenses) shall be borne by the SLO.

7. Default by the SLO and/or the Developer

- 7.1 In the event of default (at the sole determination of the Undertaker) of any obligations under this Agreement by the SLO, the Developer (if a separate party to the SLO) shall become jointly and severally liable for the SLO's obligations.
- 7.2 In the event of default (at the sole determination of the Undertaker) of any obligations under this Agreement by the Developer, the Owner (if a separate party to the Developer) shall become jointly and severally liable for the Developer's (including, under clause 7.1, the SLO's) obligations.
- 7.3 In the event of a failure by the SLO to carry out and maintain the Self Lay Works or any part thereof in accordance with the provisions of this Agreement or (once having commenced the Self Lay Works) diligently to proceed with the same within the Construction Period or in the event that the SLO shall fail to comply with any obligation of a utility executing Street Works under the Street Works Legislation or in the event of the SLO ceasing to be accredited before the Self Lay Works have been adopted, the Undertaker may take over the construction of and/or remedy, reconstruct, maintain and complete such part or parts of the Self Lay Works as the Undertaker deems appropriate by giving the Developer and the SLO

at least 10 Days notice in writing (or such notice (if any) as shall be reasonable in the case of an emergency of which the Undertaker shall be the sole judge) of its intention to do so and recover the costs and expenses incurred in carrying out any such work (including reasonable administrative costs and incidental expenses) from the SLO (or, in default, the Developer or the Surety or the Deposit) without prejudice to any other rights the Undertaker may have.

7.4 Furthermore, in the event of the Undertaker carrying out and/or maintaining the Self Lay Works pursuant to clause 7.3, the Undertaker shall be entitled to enter upon and temporarily occupy by its servants, contractors, agents or workmen so much of the Site as may be required for the purposes of carrying out such work and for that purpose may expel the SLO and/or any other party from that part of the Site where the Self Lay Works are being undertaken.

7.5 Without prejudice to clause 7.3, in the event of the SLO failing to fulfil any obligation under this Agreement not mentioned in clause 3 or the Developer, Owner or Adjoining Owner failing to fulfil any of their obligations under this Agreement, the Undertaker may give 10 Days notice in writing (or such notice (if any) as shall be reasonable in the case of emergency of which the Undertaker shall be the sole judge) to the SLO and the Developer specifying the default and the date by which such default is to be remedied and if not remedied by such date, the Undertaker may either:

7.5.1 call upon the Surety to pay on demand such amount or amounts (including reasonable administrative costs and incidental expenses) as may from time to time be certified by the Undertaker as necessary to fulfil such of the SLO's, Developer's, Owner's or Adjoining Owner's obligations, as the case may be PROVIDED THAT such liability shall not exceed the Bond Amount; or

7.5.2 use the Deposit to fulfil any such obligations.

7.6 The Surety shall not be released from its liability under this Agreement until either:

7.6.1 the expiration of the Defects Liability Period; or

7.6.2 payment to the Undertaker of the full amount of the Bond Amount, whichever is the earliest;

PROVIDED THAT on the expiration of the Defects Liability Period in respect of the Water Main, the Undertaker shall (without prejudice to the Surety's ongoing liability in respect of Service Pipes (limited to the Service Pipe Deposit) release the Surety from its liability under this Agreement in respect of the Water Main; and

PROVIDED ALSO that the Undertaker may at any time prior to the end of the Defects Liability Period in respect of the Service Pipes at its sole discretion (after receipt of an application from the SLO) release part or all of the Service Pipe Deposit by giving written notice to the Surety, SLO and the Developer.

7.7 For the avoidance of doubt, the Surety shall not be discharged or released from its obligations by any determination or disclaimer of this Agreement or by any arrangement between the SLO and the Undertaker or by any alteration in the SLO's obligations or by the execution of any variation to the Self Lay Works authorised under this Agreement or by any forbearance whether as to payment, performance, time or otherwise whether made with or without the assent of the Surety.

7.8 If the amount demanded from the Surety under clause 7.3 or 7.5.1 exceeds the amount required by the Undertaker to fulfil the SLO's, the Developer's, the Owner's or the Adjoining Owner's obligations, as the case may be under this Agreement, the Undertaker shall repay to the Surety such excess amount at the end of the Defects Liability Period in respect of the Service Pipes.

7.9 Alternatively, if the Developer has paid a Deposit and the Deposit is not required by the Undertaker or exceeds the amount required by the Undertaker to fulfil the SLO's, the Developer's, the Owner's or the Adjoining Owner's obligations, as the case may be, under this Agreement, the Undertaker shall:

7.9.1 at the end of the Defects Liability Period in respect of the Water Main, repay the Deposit or such unused part thereof (less the Service Pipe Deposit) together with interest thereon; and

7.9.2 at the end of the Defects Liability Period in respect of the Service Pipes, release the Service Pipe Deposit or such unused part thereof together with interest thereon;

PROVIDED THAT the Undertaker may at any time prior to the end of the Defects Liability Period in respect of the Service Pipes at its sole discretion (after receipt of an application from the SLO) partially release and return part or all of the Service Pipe Deposit together with interest thereon.

7.10 This clause shall survive the termination or disclaimer of the Agreement

8. Vesting of the Water Main and Payment of the Asset Value

8.1 The Undertaker shall be under no obligation to connect and commission the Water Main to the Undertaker's existing water distribution network or to pay the Asset Value unless in the Undertaker's sole determination:

8.1.1 the Self Lay Works, other than the Service Pipes, have been properly constructed to the Undertaker's reasonable satisfaction in accordance with the Specification; and

8.1.2 the requirements of section 1.9 of the Code of Practice have been fulfilled;

8.1.3 the Undertaker is reasonably satisfied Service Pipe Connections will be made to the Water Main within a reasonable period after the satisfactory commissioning of the Water Main and its connection to the public water supply network to avoid the risk that the quality of the water in the Water Main or the public water supply network might become impaired; or

8.1.4 connection of the Water Main to the Undertaker's public water supply network is likely to compromise the integrity of that network and/or the quality of the water to be supplied by the Undertaker to any customer; or

8.1.5 the Developer has failed to secure the transfer of such land or the grant of such a Deed of Easement as is specified in clause 4.7; or

8.1.6 there is any dispute between the Developer, the SLO, the Owner or an Adjoining Owner (or any combination thereof) or with any third party concerning the Self Lay Works.

8.2 Notwithstanding the satisfactory commissioning of the Water Main and its connection to the Undertaker's public water supply network, the Water Main shall not be formally vested in the Undertaker unless the requirements of clause 8.1 have been met in full and any defects notified to the SLO have been rectified in accordance with the Specification whereupon the Undertaker shall supply to the SLO and the Developer a vesting declaration (in the form annexed hereto) providing written confirmation of the vesting and the date of commencement of the Defects Liability Period.

8.3 Thereupon, the Undertaker shall pay to the Developer the Asset Value (or part thereof) within 20 Days of the receipt of an invoice from the Developer.

9. Vesting of Service Pipes

- 9.1 Subject to the SLO and Developer complying with their respective obligations in respect of the Service Pipes, including clauses 3, 4 and 9.2, all Service Pipes which are connected to the Water Main or any other water main vested in the Undertaker in accordance with the Service Pipe Construction Programme shall upon the making of such Service Pipe Connections vest immediately in the Undertaker PROVIDED THAT the Undertaker may refuse to vest any Service Pipes which the Undertaker considers have not been satisfactorily constructed in accordance with the Specification or if any Defects in connection therewith have not been made good to the satisfaction of the Undertaker.
- 9.2 Immediately upon the making of any Service Pipe Connection, the SLO shall provide in writing to the Undertaker the meter serial number, meter size, meter location, full postal address of the property served by the Service Pipe and, if available, the name and address of the owner and occupier of the property and the date that that person became (or will become) the owner and/or occupier, together with any other information specified by the Undertaker in respect of the Service Pipe. (For the avoidance of doubt, the Service Pipe shall not vest in the Undertaker under clause 9.1 until this information has been provided to, and received by, the Undertaker.)
- 9.3 If the SLO has not already provided the name and address of the owner or occupier of the property, the Developer shall provide such information and the date that that person became (or will become) the owner and/or occupier in writing to the Undertaker as soon as reasonably practicable and, in any event, within 5 Working Days of the commencement of their ownership and/or occupation. Pending receipt of such information, the Developer shall remain liable to the Undertaker for payment of the water and sewerage charges due in respect of the property.
- 9.4 Nothing herein shall affect the liability of any party or any other person to pay the Undertaker's Infrastructure Charges in accordance with the Undertaker's Charges Scheme.

10 Indemnity

- 10 The Developer agrees to indemnify the Undertaker in respect of:
- 10.1 all actions charges claims costs demands and expenses properly payable or incurred which may be made against them jointly or separately in connection with or arising out of the construction and completion of the Self Lay Works;
- 10.2 all sums payable to secure a transfer of land or grant of a Deed of Easement in the Undertaker's standard form in relation to the Water Main (including, where applicable, valuation and legal fees);
- 10.3 liability of every kind for breach of any Act, regulation, code of practice, byelaw or other requirement which applies to the Self Lay Works
- 10.4 any acts performed by the Undertaker on behalf of the SLO pursuant to clause 7.

11 Variation

11. Without prejudice to the provisions of clause 3 hereof the Undertaker may require (acting reasonably), or at the request of the SLO, may permit the Self Lay Works to be constructed otherwise than in strict conformity with the Specification and the phasing programmes set out in Schedule 1 PROVIDED THAT:
- 11.1 before making any request for a variation, the SLO shall give a minimum of 5 Days notice to the Developer and the Undertaker so that a meeting can be arranged to discuss the proposal.

- 11.2 in the event that the Self Lay Works take longer to construct than the Construction Period the Undertaker shall have the right to review and vary the Specification, the phasing programmes set out in Schedule 1, the Developer's Payment and the Undertaker's Works;
- 11.3 any variation (other than a variation required by the Undertaker to provide water supply services to any other site or premises) shall be undertaken at the SLO's expense;
- 11.4 the SLO shall not make any variation without the Undertaker's prior consent in writing;
- 11.5 nothing in this clause shall permit or authorise any breach of the Specification; and
- 11.6 every variation shall be agreed in writing by all parties and shall be annexed to this Agreement.

12 Disputes

- 12.1 All questions, disputes, or differences (other than those that fall to be dealt with by the Water Services Regulation Authority under the Act or the Code of Practice) which may arise at any time in relation to this Agreement shall be referred in the first instance to a senior manager of those parties who will attempt in good faith to resolve any issue but failing resolution within 10 Days may be referred with the agreement of those parties to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 12.2 If the parties in dispute do not agree upon mediation within 5 Days of such a reference or have not settled the dispute by mediation within 2 months of the initiation of the mediation, the dispute shall be referred to the decision of a single arbitrator mutually agreed upon or, failing such agreement within 10 Days, to be appointed by the President for the time being of the Chartered Institute of Arbitrators on the application of any of the parties in dispute and such arbitration shall be carried out in accordance with and subject to the applicable provisions of the Arbitration Act 1996.

13 VAT

- 13. In the event that the SLO, Developer or the Undertaker shall be liable to account to HMRC for Value Added Tax in respect of the performance of any of its obligations hereunder which shall constitute a taxable supply to the SLO, Developer or Undertaker then the SLO, Developer or the Undertaker (as the case maybe) shall be entitled to charge and forthwith be paid the amount of such tax upon production of a tax invoice

14 Service

- 14.1 All documents specified under this Agreement shall be delivered either by first class pre-paid post, e-mail or by personal delivery to the address of the party for whom such document is intended as stated at the head of this Agreement or such other address as may be notified in writing for that purpose.
- 14.2 Any documents so delivered shall be deemed to be received in the case of a letter sent by first class pre-paid post 2 Days after posting and in the case of an e-mail on proof of receipt. The contact name, address, telephone number and E-mail address of any parties may be altered at any time during the term of the Agreement by written notification to the other parties.

15 Contracts (Rights of Third Parties) Act 1999

15. This Agreement does not confer any benefit upon, nor create any right enforceable by any third party, but shall be enforceable by an owner or occupier for the time being of any premises connected or to be connected with the Self Lay Works.

16 Warranties

16. Nothing in this Agreement shall imply any obligation on the part of the Undertaker to any party to this Agreement to ensure that the Self Lay Works or any part or parts of the same are properly constructed.

17 Termination

17. If notwithstanding the application of the provisions of clause 7 of this Agreement any outstanding Defects or maintenance issues in respect of the Self Lay Works remain unresolved or the SLO or the Developer shall be adjudicated bankrupt or shall go into receivership, liquidation voluntarily or otherwise, or shall execute a deed of assignment or arrangement for the benefit of, or otherwise compound with, its creditors (except for the purpose of re-construction or amalgamation) the Undertaker may without prejudice to its other rights remedies and powers against the SLO and the Developer by notice in writing to the SLO, Developer and Surety terminate this Agreement and upon such notice being served this Agreement shall immediately terminate but such termination shall not affect any liabilities which have accrued prior to the date of termination and shall be without prejudice to the Surety's obligations to the Undertaker.

18 English Law

18. The provisions of this Agreement shall be governed by and interpreted in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.

19 Waiver of Rights

19. No failure or delay on the part of any party to exercise any of its rights under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any such rights preclude any other or further exercise thereof. Any waiver by any party of any breach by another of any of its obligations under this Agreement shall not affect the rights of the waiving party in the event of any further or additional breach of breaches.

20 Void Provisions

20. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions hereof and the remainder of the affected provision. The parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

SIGNED on behalf of the parties the day and year first before written

Signed on behalf of [**the Undertaker**]*

By:

Authorised Person

Signed on behalf of [**the Developer**]*

By:

Authorised Person

Signed on behalf of [**the SLO**]*

By:

Authorised Person

Signed on behalf of [**the Owner**]*

By:

Authorised Person

Signed on behalf of [**the Adjoining Owner**]*

By:

Authorised Person

Signed on behalf of [**the Surety**]*

By:

Authorised Person

(NB. The Agreement cannot be signed by an agent acting on behalf of any party.)

SCHEDULE 1

Water Main Phasing Programmes

(previously approved as part of the design of the Self Lay Works)

*** insert programme**

SCHEDULE 2

(The Undertaker's Works)

1. Construction of any other water main and any associated infrastructure and accessories from to as shown on Drawing no.*
2. Diversion of an existing water main from to as shown on Drawing no*
3. Reinforcements (including those made pursuant to section 51A(7)(a) of the Act), namely:from to as shown on Drawing no*
4. Sampling of the Water Main
5. Any Mains Connection(s)

[This Schedule must be completed. If none, specify none.]

Schedule 3

Costs Schedule (for information)

Item	Description	Costs
1.	Inspection Fee	
2.	Extra Site visit	
3.	Commissioning and Connection to Public Water Supply Network	
4.	Water sampling and quality analysis	
5.	Each additional sample	
6.	Connection Charges in respect of Service Pipe Connections (Undertaker to fit meter)	
7.	Connection Charges in respect of Service Pipe Connections (SLO to fit meter)	
8.	Water Infrastructure Charge	
9.	Sewerage Infrastructure Charge	