Dated 7 MARCH. 2025

KELLEN HOMES LIMITED

SIGMA PRS INVESTMENTS (BENNETT STREET II) LIMITED

SIGMA PRS INVESTMENTS (BENNETT STREET) LIMITED

- and -

ICOSA WATER SERVICES LIMITED

AGREEMENT
under Section 104 of the
Water Industry Act 1991
relating to sewers at
Bennett Street, Manchester

THIS AGREEMENT is made the 7th day of MARCH Two thousand and twenty-~~four~~ five IWSL

BETWEEN

1. "The Developer" Kellen Homes Limited, whose registered number is 12807501 and whose registered office is at 1st Floor 103 Dalton Avenue, Birchwood Park, Warrington, United Kingdom, WA3 6YF.

2. "The Owner" (a) Sigma PRS Investments (Bennett Street II) Limited, whose registered number is 14304788 and whose registered office is at Floor 3, 1 St Ann Street, Manchester, M2 7LR in respect of that part of the Green Land registered under title numbers MAN419282 and MAN402383 and currently being registered under provisional title number MAN439018 (but excluding the land referred to in paragraph (b) following, the land currently being registered under provisional title number MAN439177 and the electricity substation currently being registered under title number MAN433047), (b) Sigma PRS Investments (Bennett Street) Limited, whose registered number is 14303304 and whose registered office is at Floor 3, 1 St Ann Street, Manchester, M2 7LR in respect of those parts of the Green Land currently being registered under provisional title numbers MAN436313 and MAN438095 and (c) Kellen Homes Limited, whose registered number is 12807501 and whose registered office is at 1st Floor 103 Dalton Avenue, Birchwood Park, Warrington, United Kingdom, WA3 6YF in respect of the remainder of the Green Land.

3. "The Undertaker" Icosa Water Services Limited, whose registered number is 10479916 and whose registered office is at Kingfisher Suite Wheelhouse, Bonds Mill Estate, Stonehouse, Gloucestershire, England, GL10 3RF.

WHEREAS

A. The Code makes provision in relation to the terms and conditions of an agreement between the parties for the adoption of Sewers and associated infrastructure in accordance with section 104 of the Act

B. This Adoption Agreement, together with its Schedules has been drafted to meet the requirements of the Code and is the only agreement between the parties in respect of the Works.

DEFINITIONS

In this Agreement the following words or phrases shall have the following meanings: -

1.1	Accessories	As defined in Section 219 of the Act
1.2	Act	The Water Industry Act 1991
1.3	CDM	Construction (Design and Management) Regulations 2015 as amended or replaced
1.4	Code	The Code for Adoption Agreements adopted by Ofwat and which came into effect on 13 November 2017, as amended from time to time;
1.5	Day	Any day provided that the first day of any period means the first working day (i.e. not Saturdays Sundays Bank or other Public Holidays) after receipt of any notice or submission
1.6	DCG	the Design and Construction Guidance published pursuant to the Code as

		Appendix C to the Sewerage Sector Guidance from time to time
1.7	Diverted Sewers	Sewer and Lateral Drains (if any) which the Developer proposes to construct to replace existing public Sewers and public Lateral Drains (if any)
1.8	Drawings	Subject to any alterations in accordance with S.2 of the First Schedule this expression shall mean those drawings calculations and other design or working drawings relating to the carrying out of the Works or any part or parts thereof listed in the technical approval certificate dated 8 February 2024 which is not annexed hereto.
1.9	Engineer	Andrew Davies of the Undertaker's Developer Services
1.10	Estate Roads	Roads or proposed roads which are or are intended to be maintained at public expense
1.11	Final Certificate	A certificate issued under paragraph S.12 of the First Schedule by the Undertaker to the Developer
1.12	Green Land	The land situate at Bennett Street, Manchester and which is shown edged green on the attached Layout Plan
1.13	Lateral Drains or Public Lateral Drains	As defined in Sections 219 and 106(1A) (b) (i) of the Act

1.14	Layout Plan	The plan or plans attached to this Agreement which shows the Site and the layout of the Works and numbered 22122/110/1 Rev L.
1.15	Maintenance Period	The period from the date of issue of the Provisional Certificate until the date of the Final Certificate
1.16	Period of Construction	2 years from the date hereof
1.17	Protected Strip	The strip of land being six metres wide shown coloured yellow (if any) on the Layout Plan and (unless the contrary shall be stipulated or be clear from the Drawings or the Layout Plan) the Protected Strip shall lie one half to each side of the centreline of those parts of the Works which are not being constructed within Estate Roads and/or public highways and any existing Sewers and any Diverted Sewers or Public Lateral Drains (other than any sewers or Lateral Drains which may be abandoned pursuant to this Agreement) as are shown on the Drawings or the Layout Plan and includes any part of the Protected Strip
1.18	Procedures	the document published pursuant to the Code as Appendix B to the Sewerage Sector Guidance from time to time


SECTION 104 & 38 NOTES
1. All adoptable drainage works to be designed and are to be constructed in accordance with current Design & Construction Guidance & local practices
2. All clay pipe work shall be Extra Strength Clayware to B.S. EN 295:1991 Part 1
3. All precast concrete pipework shall be to the sizes stated on the drawings in accordance with BS EN 1916:2002. All manholes and chambers shall be to BS EN 1917:2002
4. The Contractor may elect to use reinforced PVC pipes as covered by BS 4660:2000 & BS EN 1401-1 Structured wall pipe pipes to comply with WIS 04-01 up to and including 300mm ID (prior agreement with adopting authority) MAX. PIPE LENGTH TO BE 3.0m
5. All pipework inline to an External Outfall.
6. This drawing is to be read in conjunction with all other relevant drawings.
7. Houses drainage connections to sewers must be 150mm ID and unless otherwise installed in the typical house drawings.
8. Levels given on drg.out other than are inserting pipe levels.
9. Houses drainage runs to be kept clear of the edge of the plot they serve wherever possible.
10. The Contractor shall be responsible for ensuring that any existing invert levels indicated on drawings are correct before work commences.
11. The Contractor should satisfy himself as to the position and depth of any existing Statutory Undertakers plant which could affect his works before the works are commenced.
12. Road gully connections are to be 150mm ID connecting either directly to manholes shown, or to sewer runs using pre-formed junctions.
13. All connections to adoptable sewers shall be by manufactured junction pieces. Saddle connections will not be used.
14. All sewers for adoption with greater than 1.20 metres cover in roads or 0.9m metres cover in fields shall have a minimum of 150mm Ø ST4 concrete surround. Flexibility within the haunch zone by the provision of flexible or other approved joint filler frames in the concrete surround at each pipe joint.

ALL PIPES TO HAVE CLASS 'D' BED AND SURROUND UNLESS SHOWN OTHERWISE ON SECTIONAL DRAWINGS
ALL CLAY PIPES TO BE EITHER STONEWARE OR VITRIFIED CLAY
ALL UPVC PIPES TO COMPLY WITH BS 4660/2000 & BS EN 1401-1
ALL MOISTURE CURED PIPES TO COMPLY WITH WIS 4-26-21
MAX. PIPE LENGTH TO BE 3.0m

FOUNDATIONS TO BE DESIGNED / CONSIDERED TO EQUITABLY ACCEPTANT THE PROPOSED NEW SECTION OF ADJACENT BOWDEN AND TRENCH IN ACCORDANCE WITH BS 5930:1999 SECTION 6

CONTRACTOR TO BE AWARE OF AND TAKE APPROPRIATE ACTION TO ENSURE EXCAVATIONS OR WORKS ADJACENT TO EXISTING STRUCTURES OR OTHER FEATURES (EXISTING SERVICES) DO NOT CAUSE ANY EXCAVATIONS WORKS UNDERTAKEN IN ACCORDANCE WITH THE DETAILS SHOWN ON THESE DRAWINGS IF CONTRACTOR IS UNSURE ABOUT ANY ASPECT OF THE WORKS HE SHOULD SEEK ADVICE BEFORE COMMENCING EXCAVATION WORKS.

THE ONLY SITE BENCH MARK TO BE USED SHALL BE ESTABLISHED TO TIE IN WITH THE EXISTING DRAINAGE AND WILL SET IT IN ACCORDANCE WITH LEVELS

ALL DRAGOUT CONNECTIONS FROM MAIN SEWER MANHOLES TO FIRST INSPECTION CHAMBER TO BE 150mm ID UNLESS INDICATED OTHERWISE

ALL ROAD GULLY CONNECTIONS TO BE 150mm ID

CONTRACTOR/CLIENT SHOULD NOTE THE EXISTENCE OF EXISTING BURIED PLANT AND ON SITE INSPECTION IN LOCATION BEFORE WORK COMMENCES CONTRACTOR MUST ALSO ENSURE THAT ALL WORKS ARE CARRIED OUT WITHOUT ANY DANGER TO PERSONS IN THE AREA IN ACCORDANCE WITH HSE AND POWER SUPPLY REGULATIONS TO SATISFACTION OF THE PRINCIPLE DESIGNER

TO DATE FOR ANY EXCAVATIONS IN THE AS CONSTRUCTED ROAD / FOOTPATH LEVELS IN RELATION TO THE DESIGN LEVELS. THE PROPOSED CONSTRUCTION LEVELS SHOULD BE CHECKED ON SITE BY THE SITE AGENT OR ENGINEER IN RELATION TO ANY BUILT ROAD LEVELS TO ENSURE COMPLIANCE WITH PART M OF THE BUILDING REGULATIONS

ALL EXISTING SERVICES TO BE LOCATED AT COMMENCEMENT IN ACCORDANCE WITH UNDERTAKERS REQUIREMENTS AND PROTECTED/REMOVED DURING THE WORKS

ALL STORAGE MANHOLES ON THE TRAFFIC SEWER WILL NEED TO BE CONCRETE BUNKEN AND CAN THEY ARE WATER RETAINING.

OUTSIDE OF NEW SEWERS TO BE LOCATED 1.5m MINIMUM FROM EXISTING BUILDINGS OUTSIDE OF MANHOLE CHAMBERS TO BE LOCATED 2.5m MINIMUM FROM EXISTING

THE ONLY SITE BENCH MARK TO BE USED SHALL BE ESTABLISHED TO TIE IN WITH THE EXISTING SEWERS AND WILL SET IT IN ACCORDANCE WITH LEVELS

ANY DISCREPANCIES WITH EXISTING SERVICES WILL OCCUR DUE TO THE SUBSTANTIAL RANGE AND DEPTH OF EXISTING SERVICES THEY CANNOT BE GUARANTEED

REFA WOULD ADVISE THE CLIENT TO EMPLOY A SUITABLY QUALIFIED COMPANY TO UNDERTAKE A SURVEY ALONG THE ROUTE OF THE CONNECTIONS TO ASCERTAIN THE EXISTENCE AND INTEGRITY OF ANY SERVICES AND ADVISE REFA OF ANY CHANGES WHICH MAY CLAIMS TO ABORTIVE DESIGN CHANGES NEED TO BE MADE.

DUE TO THE AGED FOR OFF SITE SEWERS WORKS IT IS STRONGLY ADVISED THAT THESE SHOULD BE CCTV SURVEYED BEFORE ANY CONSTRUCTION ON SITE TO ALLOW DETAILED CHANGES TO BE MADE.

REFA WILL NOT BE HELD RESPONSIBLE FOR ANY ABORTIVE WORKS IF THIS PROCEDURE IS NOT FOLLOWED

ALL EXISTING MANHOLE INVERT LEVELS ARE TO LOCATED AND SURVEYED PRIOR TO START ON SITE TO ENSURE THAT THEY ARE CORRECT AND ALSO TO ENSURE THAT LEVEL CLASHES ARE AVOIDED AND THAT SITE PROPOSED INVERT LEVELS ARE CORRECT. ANY DISCREPANCY TO BE REPORTED TO REFA PRIOR TO ANY REMEDIAL OR ANY DISASTER TO BE MADE TO DEMONSTRATE PROVE NECESSARY

CIVILS DESIGN RISK MANAGEMENT

Abnormal or unusual construction associated with the design in accordance with the drawing are:-

1. EXISTING SERVICES EXISTING ELECTRIC MAIN
2. WORKING ON EXISTING HIGHWAY HAS IMPACT ON THE MEMBERS OF PUBLIC MAY HAVE ACCESS
3. DANGER OF COLLAPSE TO ALL EXCAVATIONS - RISKS TO BE ASSESSED AND MANAGED BY CONTRACTOR IN ACCORDANCE WITH HSE GUIDANCE
4. WORKING ADJACENT TO EXISTING CULVERTED WATERCOURSE OR LINE FOUL SEWER (WHERE DISCARDED)
5. WORKING CLOSE TO EXISTING CULVERT
6. WORKING CLOSE TO EXISTING RAILWAY LINE

REFA Ltd has followed its Design Risk Management process for Hazard Identification and Risk reduction in developing the designs shown on this drawing. Abnormal or unusual risks may remain which cannot reasonably be avoided by the designer and which are required to be managed by competent persons engaged on work of this nature or type.

SECTION 104 PLAN KEY

- TITLE BOUNDARY
- S38 ROAD GULLY & CONNECTION
- S104 SURFACE WATER SEWER
- S104 FOUL WATER SEWER
- S104 SEWER EASEMENT
- EXISTING CULVERTED WATERCOURSE
- PROPOSED CULVERT DIVERSION
- EXISTING FOUL WATER SEWER
- EXISTING SURFACE WATER SEWER
- SURFACE WATER DRAGOUT PRIVATE
- FOUL WATER DRAGOUT PRIVATE
- CULVERT TO BE ABANDONED

SCALE IN METRES 0 5 10 20 50

BENCH MARK INFORMATION
All levels relate to O.S. Newlyn Datum. Established using network RTK. Survey plotted on a plane local grid, orientated to National Grid.

EXISTING SERVICES CROSSING THE SITE - REFER TO UTILITIES SURVEY FOR TYPE AND POSITIONS

IF THE CLIENT OR CONTRACTOR BEFORE EARTHWORKS COMMENCE ARE AWARE OF ANY ADDITIONAL EXISTING SERVICES NOT SHOWN ON THIS DRAWING PLEASE CONTACT REFA IMMEDIATELY AND BEFORE ANY WORKS COMMENCE OR PROCEED IF IN DOUBT ASK !!!

CONSENT REQUIRED FROM ENVIRONMENT AGENCY IN RESPECT OF PROPOSED NEW WARDRUDE & ANY WORKS WITHIN 8M OF CULVERTED WATERCOURSE

CULVERTED WATERCOURSE

SW NETWORK 1
SW NETWORK 2
SW NETWORK 3
SW NETWORK 4
SW NETWORK 5

THE S38/S278 AGREEMENT FOR THIS SCHEME IS ALSO ASSOCIATED WITH THE LATEST APPROVED REVISION OF THE FOLLOWING PLANS:-
ROAD AND DRAINAGE LAYOUT – DRGS: 22122/100/1, 22122/100/2
LONGITUDINAL SECTIONS – DRGS: 22122/100/3, 22122/100/4, 22122/100/5, 22122/100/6, 22122/100/7
ROAD LEVELS & CONTOURS – DRGS: 22122/101/1
TYPICAL ROAD CONSTRUCTION DETAILS – DRGS: 22122/113/1, 22122/113/2
KERBING & SURFACING – DRGS: 22122/110/1, 22122/110/2

Maple Industrial Estate

Bennett Street

Client
KELLEN HOMES LIMITED

Job title
BENNETT STREET MANCHESTER

Drawing title
S104 AGREEMENT PLAN

REFA
CONSULTING ENGINEERS
CIVIL · STRUCTURAL
GEOTECHNICAL · ENVIRONMENTAL

Date	Scale	Drawn
30.01.23	1:500	JF

DRAWING No 22122/110/1 Rev L

Drawing Stage	Drawing Status
Draft	Comments
Issued	Information
	Approved
	Tender
	Construction
	As Built

Rev	Revision details	Date
L	AREA OF UNTREATED LAND REMOVED	
K	ADDITIONAL DRAG OUT PROOF PLACED	
J	FFLS REVISED FOLLOWING CLIENTS COMMENTS	
I	LEVELS LATED FOLLOWING CLIENTS COMMENTS	
H	REPLANNING LAYOUT REV H	
G	AREA PAVETTE BOUNDARY UPDATED	
F	REVISED FOLLOWING CLIENTS COMMENTS	
E	REPLANNING LAYOUT REV E REVISED FOLLOWING ACC COMMENTS	
D	REVISED FOLLOWING CLIENTS COMMENTS	
C	TO RUNNING LAYOUT REV M, FFLS REVISED LINES REVISED, SEWER LAYOUT REVISED	
B	UPDATED TO PLANNING LAYOUT REV L REVISED TO LATEST SEWER LAYOUT	
A	TO LATEST DESIGN	

THIS DRAWING IS BASED ON PLANNING LAYOUT PROVIDED BY CLIENT
DRAWING NUMBER:- KH006A-100
REVISION:- U
CLIENT TO CONFIRM THE ABOVE LAYOUT IS CURRENT BEFORE USING THIS DRAWING FOR CONSTRUCTION PURPOSES

PLEASE NOTE THAT THIS DRAWING IS ISSUED FOR INFORMATION/TENDER PURPOSES ONLY UNTIL TECHNICAL APPROVAL HAS BEEN GRANTED. ANY WORK UNDERTAKEN PRIOR TO TECHNICAL APPROVAL BEING GRANTED IS AT THE CLIENTS RISK.

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A0 SHEET

1.19	Provisional Certificate	The certificate issued under S.8.1, S.8.3 or S.8.4 of the First Schedule
1.20	Sewerage Sector Guidance	The documents published from time to time by the sewerage undertakers whose areas are wholly or mainly in England and which have been accepted by Ofwat as meeting the requirements of the Code
1.21	Sewer or Sewers	As defined in Section 219 of the Act
1.22	Site	Shall comprise the Green Land registered at HM Land Registry under title numbers referred to in clause 7 on under in or through which the Works are proposed to be executed
1.23	Specification	The Civil Engineering Specification and other requirements specified by the DCG as amended by any Local Practices permitted under the DCG and subject to any further technical requirements agreed by the Undertaker and the Developer on matters dealt with by the preceding documentation

1.24	Undertaker's Rights	All rights exercised by the Developer and/or granted to the Developer by the Owner and/or the Adjoining Owner(s) in relation to the construction use maintenance alteration repair and replacement of the Works together with rights relating to discharges therefrom to any Watercourse and for the avoidance of doubt any covenants that the Developer is subject to shall have no effect on the Undertaker
1.25	Vesting Declaration	A written declaration signed on behalf of the Undertaker vesting the Works in itself as public Sewers or Public Lateral Drains
1.26	Watercourse	A watercourse as defined in Section 219 of the Act but also including a canal pond or lake
1.27	Works	Subject to any alteration in accordance with S.2 of the First Schedule this expression shall mean all those Works being Sewers Lateral Drains pumping stations and Accessories and shall include valve chambers overflow chambers outfall structures and (where appropriate) balancing facilities as shown on the Drawings and includes any part or parts of the Works
1.28	WRA	The Water Resources Act 1991

INTERPRETATION

1.1 This Agreement is made under Section 104 of the Act

1.2 The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies to the interpretation of the Act of Parliament

1.3 If there is more than one person 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

1.4 If there are no details shown against any one of the party definitions then this Agreement shall be interpreted as if there was no such party

1.5 In the event of there being separate parties defined as "the Developer" and "the Owner" then:

1.5.1 the obligations in Clause 2.1 of the Agreement and S.21 of the First Schedule relating to matters of title or conveyancing shall be obligations of the Owner and not of the Developer; and

1.5.2 in the event of default by the Developer in respect of any matter under this Agreement the obligations of the Developer shall also become obligations of the Owner and at the Undertaker's discretion may be enforced against either the Developer or the Owner until this Agreement is replaced by a further agreement entered into by the Owner and/or a different Developer provided that these obligations shall only apply to that part of the Green Land that they own

1.6 The provisions of this Agreement are personal to the parties hereto save on the reconstruction or amalgamation of the Developer or on the appointment of another person as Undertaker for the area including the Site under the Act

1.7 This Agreement shall be governed in all respects by English Law

AGREEMENT

2.1 The provisions in the First Schedule shall apply in respect of the Works and all other matters therein contained as though the same had been set out in full in this Agreement

2.2 In respect of any part of the Works to be constructed in the Green Land the Owner (if any) hereby consents to the exercise by the Developer of its rights under this Agreement and acknowledges that the Undertaker shall be entitled to carry out the Undertaker's Rights following issue of the Vesting Declaration in addition to statutory rights that are exercised by the Undertaker pursuant to the Act

2.3 The Developer hereby confirms that the title of the Owner have been examined and establishes that the parts of the Site where the Works are to be constructed are in their ownership at the date of this Agreement

2.4 The Owner acknowledges that the Works during and after their construction and until the issue of the Vesting Declaration belong to the Developer

3. The Developer shall immediately upon completion of the Works (but without delaying whilst outfall connections to public Sewers or other Works are completed) forward to the Undertaker accurate 'as constructed' Drawings of the Works (including any agreed variations to the original Drawings)

4. No statutory or common law rights and powers of the Undertaker or the Developer shall be affected by this Agreement

5. Nothing in this Agreement is intended to confer on any third party (whether referred to herein by name class description or otherwise) any benefit or right to enforce a provision contained in this Agreement

6. All parties hereby consent to the supply to any person acting reasonably who may request it, including but not be limited to any lender or purchaser of land to be drained by means of the Works, a copy or summary of this Agreement

7. The Owner is the freehold owner of part of the Green Land including the area where the Works shall be constructed and is currently registered at HM Land Registry under title numbers GM872465, MAN419282, and MAN402383 (but excluding the electricity substation currently being registered under provisional title number MAN433047), but in respect of which there are outstanding applications to register transfers such that part of Sigma PRS Investments (Bennett Street II) Limited's title is being registered under provisional title number MAN439018, Sigma PRS Investments (Bennett Street) Limited's title is being registered under provisional title numbers, MAN436313 and MAN438095 , and part of Kellen Homes Limited's title is being registered under provisional title MAN439177

8.1 The Developer has sufficient rights in the Green Land to enable the Works to be carried out and to permit the use repair maintenance and discharge therefrom and into any Watercourse prior to the date of the Vesting Declaration and to enable a valid and effectual declaration to be made in respect of the Works

8.2 The Developer and the Owner hereby acknowledge that the Undertaker shall be entitled to carry out the Undertaker's Rights following issue of the Vesting Declaration

9. The Developer and the Undertaker undertake and warrant that they will

carry out their respective obligations under this Agreement in accordance with the Sewerage Sector Guidance and, for the avoidance of doubt, the Procedures

10. In the event of a conflict between this Agreement and the Sewerage Sector Guidance the provisions of this Agreement shall prevail and have effect

EXECUTED by the parties hereto on the day and year first before written

Executed as a deed by **Icosa Water Services Limited** acting by ..... ROB BRADLEY....., a Director in the presence of: ..... Witness Signature Witness Name: ..... Witness Address: ..... Witness Occupation: LICENSING ADMINISTRATOR.	..... Director
Executed as a deed by **Kellen Homes Limited** acting by a Director in the presence of: ..... Witness Signature Witness Name: ..... Witness Address: ..... Witness Occupation: PERSONAL ASSISTANT	..... Director
Executed as a deed by **SIGMA PRS INVESTMENTS (BENNETTS STREET II) LIMITED** acting by a Director in the presence of: ..... Witness Signature Witness Name:	..... Director

Witness Address: [redacted] Witness Occupation: [redacted]	
Executed as a deed by **SIGMA PRS INVESTMENTS (BENNETT STREET) LIMITED** acting by a Director in the presence of: [redacted] ..... Witness Signature Witness Name: [redacted] Witness Address: [redacted] Witness Occupation: [redacted]	[redacted] Director

FIRST SCHEDULE
(being provisions applicable to the Works)

Construction of Works

S.1 If the Developer proceeds with the Works it shall at its own expense properly construct and complete them in accordance with the Drawings and the Specification (and which Drawings and Specification shall be deemed to be part of this Agreement) or as varied by virtue of the powers contained in S.2 of this Schedule and the statutory provisions for the time being relating to new Sewers and to the reasonable satisfaction of the Undertaker in the positions and to the extent shown within the Drawings and indicated by coloured lines and symbols as to foul and surface water sewers in accordance with Appendix VII of the DCG

Minor Variations

S.2 The Developer shall not vary the Works nor make any additional connections not shown on the Drawings without first obtaining the Undertaker's written consent (such consent not to be unreasonably withheld or delayed).

Consent to Discharge

S.3.1 In the case of a discharge from any part of the Works to controlled waters as defined by the WRA the Developer shall:

S.3.1.1 before commencement of any Works make application for and obtain any necessary consent to such discharge from the relevant pollution control authority and if appropriate the relevant land drainage authority and comply with the conditions relating to their consent provided however that the Developer shall not agree to conditions without the prior approval of the Undertaker (which

approval shall not be unreasonably withheld or delayed) and shall if required by the Undertaker appeal against the same or any of them within the period provided within the WRA for the lodging of an appeal and

S.3.1.2 transfer the consent to discharge referred to in S.3.1.1 to the Undertaker immediately prior to the issue of the Vesting Declaration

S.3.2 If any part of the Works is intended to discharge into any Watercourse which is owned by or comprises part of the undertaking of a Navigation Authority (as defined in the WRA) (otherwise than a natural Watercourse and whether the same is navigable or not) the Developer shall before the commencement of any of the Works which would drain to such Watercourse obtain the consent of the Navigation Authority to such discharge but shall not agree to any conditions relative to such consent without the prior approval of the Undertaker (such approval not to be unreasonably withheld or delayed).

S.3.3 In the case of a discharge to an estuary or coastal waters the Developer shall before the commencement of any of the Works obtain the requisite consents or approvals

S.3.4 If the Works are to discharge to land (including any Watercourse) owned by any of the Undertakings listed in Schedule 13 Part 1 of the Act the conditions referred to in S.3.2 above shall (so far as the context admits) apply to the Works

Notification of Intended Commencement

S.4 The Developer shall give the Undertaker at least seven Days' written notice of the date on which it intends to commence the Works and shall with such notice submit to the Undertaker for

inspection such plans Drawings and other design or working Drawings not previously submitted to the Undertaker and which relate to the carrying out of the Works as the Undertaker may require and shall not commence construction until

S.4.1 the Developer has completed this Agreement (unless otherwise agreed with the Undertaker) and supplied to the Undertaker a copy of the relevant form relating to the registration of the Site for CDM purposes and

S.4.2 the Site has been inspected by the Undertaker (which the Undertaker agrees to perform within fourteen Days of the receipt of the notice under S.4 above)

S.4.3 Notwithstanding S.4.2, the Developer may commence Works following the expiry of such fourteen Day period if the Undertaker has failed to carry out the inspection specified in S4.2 within that period

Period of Construction

S.5 The Developer shall construct and complete the works within the Period of Construction and all parts of the Works including all outfalls and all connections to existing public Sewers shall be completed and in working order before any foul or surface water drainage is discharged from any building or property served by the Works provided always that if the Developer shall fail to construct and complete the Works within the Period of Construction the Developer shall comply with any revised standards for any part of the Works which have been notified to the Developer in writing by the Undertaker (acting reasonably).

Building over

S.6 The Developer shall not build plant or place anything over or within three metres measured horizontally from the centre line of any Sewer or Lateral Drain which are to be included in the Vesting Declaration (or such other distance as may be reasonably specified by the Undertaker) without the written consent of the Undertaker (such consent not to be unreasonably withheld or delayed) provided that consent shall be deemed to be refused if consent is not given within ten Days provided also that this condition shall not apply to anything shown on the Drawings or the Layout Plan within the Protected Strip

Backfilling

S.7.1 The Developer shall notify the Undertaker before covering up any part of the Works

S.7.2 Upon receiving such notice the Undertaker shall if it thinks fit arrange with the Developer to inspect the Works and such inspection being on reasonable notice to the Developer

S.7.3 If the Developer fails to give notice under S.7.1 or fails to comply with arrangements under S.7.2 it shall be liable for the proper and reasonable cost of reopening the Works even if the same are found to comply with this Agreement

S.7.4 Provided notice is given under S.7.1 if the Undertaker fails to comply with arrangements under S.7.2 (unless prevented from so doing because of circumstances beyond its control) the Developer may cover in the Works

S.7.4.1 Without prejudice to S.7.1 to S.7.4 inclusive the Developer shall at any time if reasonably requested to do so by the Undertaker in writing open up the Works for inspection

S.7.4.2 If the Developer fails to comply with such request within any time limit specified by the Undertaker the Undertaker may open up the Works and then if any part of the Works are found not to comply with the terms of this Agreement the Developer shall repay to the Undertaker on demand all reasonable and proper costs the Undertaker incurs in opening up and re-covering the Works but in any other case and provided due notice has been given the costs of opening up the Works shall be borne by the Undertaker

S.7.5 For the avoidance of doubt the provisions of S.10 (relating to access to the Works) are to be read in conjunction with this paragraph

Provisional and Final Certificates

S.8.1 If following inspection of the Works pursuant to the Procedures, the Undertaker is of the opinion that the Works have been completed (including all outstanding remedial works) in accordance with this Agreement it shall within 7 Days of the inspection issue a certificate to the Developer to that effect

S.8.2 The Works shall be deemed completed when:

S.8.2.1 they have been substantially constructed in accordance with this Agreement; and

S.8.2.2 a majority of the premises within the Green Land and intended to be served by the Works are occupied; and

S.8.2.3 all necessary connections or other things have been made or done whereby such occupied premises may be properly drained; and

S.8.2.4 the Developer has supplied to the Undertaker two full sets of 'as constructed' Drawings and sections showing the completed Works and Sewers by lines colours and symbols in accordance with Appendix VII of the DCG and

S.8.3 If requested by the Developer the Undertaker may at its reasonable discretion issue one or more certificates in respect of any substantial part or parts of the Works that have been completed to its satisfaction

S.8.4 The Undertaker may issue a Provisional Certificate when it considers it appropriate or if requested to do so by the Developer

S.8.5 The Undertaker may issue a Provisional Certificate subject to the removal of any temporary works (if applicable) which must be discharged before the Works are vested as public Sewers

S.8.6 Where in a certificate issued under S.8.1 the Undertaker identifies in writing to the Developer remedial work required to be carried out so that the Works comply with the requirements of this Agreement and by the expiry of six months from the date on which the Developer receives the remedial works' notice the Developer has failed to carry out such remedial work

S.8.6.1 the Undertaker may issue notice to complete the Works within a reasonable period, not exceeding six months specifying the areas of non-compliance with the requirements of this Agreement

S.8.6.2 the costs of such work shall be borne by the Developer

S.8.6.3 The Developer will confirm in writing once the works have been completed

S.8.6.4 S.8.6.5 following the giving of such notice to the Developer the Undertaker may carry out the necessary remedial works and the Developer shall be liable for the reasonable and proper costs so incurred by the Undertaker

Maintenance Period

S.9 During the Maintenance Period the Developer shall at its own expense maintain repair and otherwise keep the Works in good working order and repair to the reasonable satisfaction of the Undertaker unless the Undertaker shall declare that any required maintenance and/or repair is an emergency in which case the Developer shall carry out the said maintenance and/or repair immediately

Access to the Works and consequences of inspections

S.10.1 The Developer shall arrange for the Undertaker to have access to the 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 on the Site for the purpose of carrying out inspections under this Agreement

S.10.2 Following an inspection under this agreement, the Undertaker may make recommendations to the Developer as to the design or construction of the Works but no such recommendations shall affect the obligations of the Developer under this agreement or limit the rights of the Undertaker under S.8.1 and S.12.1 or otherwise

Undertaker's Right to Repair

S.11 If at any time before the issue of the Final Certificate the Developer shall fail to construct and maintain the Works in accordance with this Agreement the Undertaker shall (as agent of the Developer) be entitled at its reasonable discretion to construct complete make good and maintain such part or parts of the Works as may be necessary in the opinion of the Undertaker after first giving not less than ten days notice in writing to the Developer (unless the Undertaker declares that any required construction and/or maintenance is an emergency in which case the Undertaker may carry out the said construction and/or maintenance immediately) and the Developer shall upon demand pay to the Undertaker the reasonable and proper cost thereof including the necessary cost of the preparation and service of such notices and of necessary administration as certified by the Undertaker including professional fees and other expenses reasonably and properly incurred

Final Certificate

S.12.1 The Undertaker shall (subject to the Developer complying with the terms of this Agreement and to the terms of the proviso immediately below) following a final inspection arranged in accordance with the Procedures within twelve months of the date of the Provisional Certificate or if later the date on which defects notified by the Undertaker under S8.6 have been remedied issue a Final Certificate but the Undertaker shall not be required to issue such a certificate until the Developer has proved to the Undertaker that it owns or has sufficient rights in the Site to enable

the vesting of the Works to take place and the Undertaker is satisfied that:

S.12.1.1 the Works have been constructed and completed in accordance with the Drawings and the Specification to its reasonable satisfaction and have been maintained by the Developer during the Maintenance Period and any defects or damage arising or work required in connection with the Works during that period and prior to the date of the Final Certificate have been made good by the Developer to the reasonable satisfaction of the Undertaker and that

S.12.1.2 (a) no building or structure save as permitted in S.6 of this Schedule has been erected within the Protected Strip or on or over land within three metres of any part of the Works not falling within the Protected Strip (or such other distance as may be reasonably specified by the Undertaker in respect thereof) measured horizontally from the centreline of any such Works without the written consent of the Undertaker and (b) access to any part of the Works with or without vehicles plant or equipment is not obstructed and that

S.12.1.3 where any part of the Works is shown in the Drawings discharging to an existing public Sewer that part of the Works has been connected properly and directly and in the manner shown in the Drawings to a Sewer having the status of a public Sewer and that

S.12.1.4 where any part of the Works is shown in the Drawings discharging to a Watercourse that part does discharge properly and directly to the Watercourse in the manner shown in the Drawings and in accordance with any necessary consents or approvals and that

S.12.1.5 the Developer has complied with all requirements of the Undertaker in pursuance of Clause 2 of the Agreement and S.3

S.19 and S.21 of this Schedule

S.12.2 The Undertaker shall not be obliged to issue a Final Certificate while:

S.12.2.1 any dispute exists between the Developer and any third party concerning the Works; or

S.12.2.2 any connection remains whereby surface water or groundwater may enter a foul water Sewer or foul water may enter a surface water Sewer

S.12.3 In order that a Final Certificate may be issued in respect of the Works:

S.12.3.1 the Developer shall previously supply to the Undertaker the relevant section (relating to drainage) of the CDM Heath and Safety File

S.12.3.2 the Undertaker shall within twenty-one Days after any inspection of the Works made during the Maintenance Period advise the Developer in writing of any defects or damage arising or work required in connection with the Works needing rectification or completion before the issue of the said Final Certificate provided however that:

S.12.3.2.1 if the said plans and sections or records provided by virtue of S.8.2.4 do not adequately and accurately show the Works to the reasonable satisfaction of the Undertaker it may require the Developer to provide at the Developer's own cost corrected plans and sections or records (as the case may be);

S.12.3.2.2 the Undertaker shall be under no duty to issue the Final Certificate until it is satisfied that the Developer has complied with S.12.3.1

S.12.4 Notwithstanding the provisions of this paragraph the Undertaker shall not be obliged to issue the Final Certificate until all intervening private Sewers which link the Works to the receiving public sewerage system are themselves public Sewers

S.12.5 For the avoidance of doubt the provisions of this Schedule in relation to maintenance or repair of the Works whether by the Developer or otherwise shall apply until the issue of the Final Certificate even though such issuing may be delayed by the preceding sub-paragraph

S.12.6 Where following a notice given under S.8.3 no remedial works are identified under S.8.6, the Undertaker shall effect vesting under S.13 within twelve months from the date of the Provisional Certificate, subject to the fulfilment of the other requirements of this S.12

Vesting

S.13 The Undertaker shall within seven Days after the issue of the Final Certificate issue a certificate of vesting of the Works in itself in circumstances where the Final Certificate does not itself vest the Sewers in the Undertaker

No Duty to Developer

S.14 Nothing in this Agreement shall imply any obligation on the part of the Undertaker to the Developer or to any other person to ensure that the Works or any part or parts of the same are properly constructed

Indemnity to Undertaker by Developer

S.15.1 The Developer indemnifies the Undertaker against all actions costs claims and demands which may be made against them jointly or separately in connection with the construction and completion of the Works and those matters referred to in Clauses 2 and 10 and Paragraph S.21.1.1 of the First Schedule of this Agreement provided that the said actions costs claims or demands shall have arisen not later than the vesting of the Works in the Undertaker unless those actions costs claims or demands relate to the ownership of the Site.

S.15.2 In respect of any claim received by the Undertaker under S.15.1 of this Schedule, the Undertaker shall:

S15.2.1 Forthwith notify the Developer in writing upon the receipt of any such proper acceptance of actions costs claims and demands hereinbefore referred to stating in reasonable detail the nature of the claim accompanied by a copy of any demand letter acceptance letter or other document concerning any claim;

S.15.2.2 Keep the Developer fully informed at all times after receipt of any such actions costs claims and demands;

S.15.2.3 Take into account any reasonable comments made by the Developer; and

S.15.2.4 In the event that the Undertaker considers any of the claims it receives to be valid, the Undertaker shall notify the Developer within a reasonable time of the receipt of such claim and the Undertaker and the Developer shall thereafter refer the claim to be determined by an independent valuer drawn from a list of independent valuers as agreed by the Undertaker and the Developer. The said valuer's decision shall be final and binding on

the Undertaker and the Developer.

S.15.3 The Developer shall not be liable to indemnify the Undertaker pursuant to S.15.1 of this Schedule if the claim is in respect of the Undertaker, its employees, agents or contractors or any works of alteration carried out to the Works by the Undertaker or any party other than the Developer or their contractor after the issue of the Final Certificate and nothing in S.15 of this Schedule shall relieve the Undertaker of its duty to mitigate all or any claims.

Bankruptcy etc of Developer

S.16 If the Developer shall fail to perform any of the conditions contained in this Agreement to be performed or observed by the Developer or shall be adjudicated bankrupt or shall go into receivership or 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 Developer for such non-performance or non-observance by notice in writing to the Developer terminate this Agreement and upon such notice being served this Agreement shall immediately terminate but without prejudice however to the obligations of the Developer to the Undertaker under S.20 and S.21 of this Schedule and of the rights of the Undertaker under S.11 of this Schedule

Disputes

S.17.1 All questions, disputes, claims or differences which may arise at any time in relation to this Agreement (the distance or distances specified in S.6 and S.12.1.2 of this Schedule and the decision of

the Undertaker in S.8.3 of this Schedule excepted or the costs of any work carried out pursuant to S.11 of this Schedule also excepted) shall be resolved in accordance with the procedures set out in the Third Schedule

S.17.2 Failing resolution of the dispute, claim or proceeding under this clause S.18 and the Third Schedule, the matter may be referred to the exclusive jurisdiction of the English Courts

Notices and contact information

S.18.1 Any notice to be served on or Drawings to be supplied or submitted to the Undertaker shall be delivered or posted to the Undertaker's registered office or other address as may be notified from time to time and any notices to be served on the Developer may be delivered or posted by pre-paid letter to its last known address (or being a limited company to its registered office or to its last known registered or head office) or place of business.

S.18.2 For the purposes of day to day operations and contract management, the Parties nominate their respective representatives named in the Third Schedule as the persons to be contacted.

Fees

S.19.1 The Developer shall on demand pay to the Undertaker:

S.19.1.1 any fees arising from CCTV or other internal resurveys associated sewer cleansing and Site visits essential to check sub-standard work;

S.19.1.2 any inspection fees in respect of Lateral Drains that are proposed

for adoption and which were not constructed at the same time as the Sewers in the Green Land;

S.19.1.3 VAT upon any payments referred to in this Agreement if the same is properly payable thereon

Maintenance Arrangements and VAT

S.20.1 At the request of the Undertaker the Developer shall before the Works are vested in the Undertaker execute or secure the execution (at no cost to the Undertaker whether by way of consideration costs or disbursements whether such costs or disbursements be incurred by the Undertaker or by any other party) of a deed of grant of easement incorporating the rights and covenants contained in the Third Schedule hereto in the event that the Undertaker considers it reasonably necessary and appropriate for the future protection of the Works and any discharges therefrom to any Watercourse which is not to be vested in the Undertaker.

S.20.2 The Undertaker hereby agrees to pay to the Developer an amount equal to any Value Added Tax ("VAT") to which the Developer becomes properly accountable by virtue of those Works to be vested in the Undertaker (if and insofar as such vesting is a 'supply' for VAT purposes) provided however that the Developer shall have submitted to the Undertaker a VAT-only invoice in respect of the same and a copy of the Vesting Declaration issued to it by virtue of S.13

SECOND SCHEDULE

(Provisions applying to Diverted sewers or public Lateral Drains under Clause 7 of the Agreement: Optional Clauses)

Diverted Sewers

1. The Developer shall construct the Diverted Sewers in accordance with the provisions of the First Schedule of this Agreement

2. Prior to the commencement of the construction of the Diverted Sewers the Developer shall provide a method statement for approval by the Engineer

3. Upon issue of the Provisional Certificate for the Diverted Sewers in accordance with S.8 of the First Schedule the Diverted Sewers shall in pursuance of the powers conferred on the Undertaker by the Act vest in the Undertaker as public Sewers or public Lateral Drains PROVIDED THAT the diversion of flows from the existing public Sewers or public Lateral Drains into the Diverted Sewers shall not be permitted until the necessary and relevant provisions of this Agreement have been complied with and the decision of the Undertaker in this respect shall be final and conclusive

4. Until the issue of the Final Certificate for the Diverted Sewers in accordance with S.8 of the First Schedule if the Developer fails to carry out the provisions of S.9 of the First Schedule then the Undertaker may carry out those provisions in place of the Developer

5. S.8.2.2 and S.8.2.3 and the references to vesting in S.13 of the First Schedule shall not apply to the Diverted Sewers

6. Until the issue of the Final Certificate if by reason or in consequence of the construction or failure of the Diverted Sewers

or any subsidence resulting from any of those Works any damage shall be caused to any land or property or there is any interruption in any service provided by the Undertaker the Developer shall repay the cost reasonably and properly incurred by the Undertaker in making good such damage or restoring the service and shall:

6.1 make reasonable compensation to the Undertaker for any loss sustained by it; and

6.2 indemnify the Undertaker against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the Undertaker by reason or in consequence of any such damage or interruption. In respect of any claim received by the Undertaker, the Undertaker shall:

6.2.1 Forthwith notify the Developer in writing upon the receipt of any such proper acceptance of actions costs claims and demands hereinbefore referred to stating in reasonable detail the nature of the claim accompanied by a copy of any demand letter acceptance letter or other document concerning any claim;

6.2.2 Keep the Developer fully informed at all times after receipt of any such actions costs claims and demands;

6.2.3 Take into account any reasonable comments made by the Developer; and

6.2.4 In the event that the Undertaker considers any of the claims it receives to be valid, the Undertaker shall notify the Developer within a reasonable time of the receipt of such claim and the Undertaker and the Developer shall thereafter refer the claim to be determined by an independent valuer drawn from a list of independent valuers as agreed by the Undertaker and the

Developer. The said valuer's decision shall be final and binding on the Undertaker and the Developer.

6.3 The Developer shall not be liable to indemnify the Undertaker pursuant to 7.2 of this Schedule if the claim is in respect of the Undertaker, its employees, agents or contractors or any works of alteration carried out to the Works by the Undertaker or any party other than the Developer or their contractor after the issue of the Final Certificate and nothing in 7.2 of this Schedule shall relieve the Undertaker of its duty to mitigate all or any claims.

7. The use of the existing public Sewers or public Lateral Drains that are being replaced by the Diverted Sewers shall be abandoned in accordance with the method statement referred to in paragraph 2 hereof and discontinued and prohibited in accordance with Section 116 of the Act upon issue of the Provisional Certificate

THIRD SCHEDULE

Rights and Covenants to be Incorporated in a Deed of Grant of Easement

Definitions

"the Undertaker"	means X Ltd and its successors in title
"the Apparatus"	means the foul and/or surface water Sewers Lateral Drains and any accessories thereto as defined by Section 219 of the Water Industry Act 1991 as are within the Protected Strip defined below
"the Protected Strip"	means that strip of land being [6] metres wide shown on the plan (being the plan annexed hereto and numbered .....) and thereon coloured yellow and (unless the contrary shall be stipulated or be clear from the plan) the Protected Strip shall lie one half to each side of the centreline of the Apparatus
"the Dominant Tenement"	means the undertaking of the Undertaker within its area as particularised in the Undertaker's "Instrument of Appointment" as a Sewerage Undertaker and taking effect under the Water Act 1989 and the properties and rights forming part thereof

Rights

Subject to the Undertaker making good so far as is reasonably practicable or paying proper compensation for any damage not made good and to the Undertaker indemnifying the Grantor from and against all rates taxes impositions and outgoings of an annual or recurring nature claims demands proceedings damages losses costs charges and expenses arising out of the exercise of the Rights the Grantor hereby grants with full title guarantee the

following perpetual rights ("the Rights") to the Undertaker for the benefit of the Dominant Tenement and each and every part thereof:

(a) The right of having retaining using inspecting the condition of reconstructing replacing relaying altering enlarging maintaining cleansing repairing conducting and managing the Apparatus in through under over or upon the Protected Strip (being the servient tenement) together with the right of having and enjoying the free flow and passage of water with or without other matter of any kind whatsoever through and by means of the Apparatus as existing from time to time in through under over or upon the Protected Strip and to discharge from the Apparatus into any canal pond lake or Watercourse (as defined in section 219(1) of the Water Industry Act 1991) within or adjacent to the Protected Strip in compliance with the terms of any statutory consent granted in relation thereto and to increase or decrease such discharge and for such discharge to flow along and within the said canal pond lake or Watercourse and the right at any time to take samples of such discharge

(b) For the purposes hereof and in particular for the purposes mentioned in Paragraph (a) of this Schedule (and for similar purposes in relation to any connected length of pipes or works incidental thereto) the right at any reasonable time and at any reasonable times in the day or night-time with or without vehicles plant machinery servants contractors and others and all necessary materials to enter upon and pass and re-pass along the Protected Strip by a route within the same or by such (if any) other convenient route from a public highway as the Undertaker shall with the approval of the Grantor (which shall not be unreasonably withheld or delayed) from time to time require doing and occasioning no unreasonable damage thereto or to the Grantor's adjoining land. The Undertaker shall make good any damage thereto or to the Grantor's adjoining land.

(c) The right of erecting on or near the Protected Strip and maintaining any necessary markers indicating the Protected Strip or the position of the

Apparatus provided the same are not erected in such a position as to unreasonably affect the beneficial use of the Protected Strip

(d) The right in exercising the Rights to make all necessary excavations and to tip soil on land immediately adjoining such excavations as shall be necessary or desirable in relation to the exercise of the Rights

(e) The right of fencing or severing off such part of the Protected Strip from the adjoining and adjacent land of the Grantor as shall be necessary and for so long as may be necessary during the exercise of the Rights

(f) The right of support for the Apparatus from the subjacent and adjacent land and soil including minerals of the Grantor

(g) The right to remove all or any trees and shrubs growing in the Protected Strip and any walls hedges and fences thereon

Covenants

The Grantor to the intent that the burden of this covenant may run with the Protected Strip and so as to bind (so far as practicable) the same into whosesoever hands the same may come and every part thereof and to benefit and protect the Apparatus and the Dominant Tenement and each and every part thereof capable of being so benefited or protected but not so as to render the Grantor personally liable for any breach of covenant committed after the Grantor has parted with all interest in the land in respect of which such breach shall occur hereby covenants with the Undertaker to observe and perform the following covenants:

1. Not to use or permit or knowingly suffer to be used the Protected Strip or any adjoining or adjacent land of the Grantor for any purpose that may:

1.1 endanger injure or damage the Apparatus or render access thereto more difficult or expensive

1.2 adversely affect the quality of water or other matter therein or free flow and passage thereof or means of communication along or through the same

2. Without prejudice to the generality of the foregoing:-

2.1 not to erect construct or place any building wall or other structure or erection or any work of any kind whether permanent or temporary PROVIDED ALWAYS that this covenant shall not be deemed to prevent the erection of boundary or other fences which are of an easily-removable character

2.2 not to withdraw support from the Apparatus or from the Protected Strip

2.3 not to undertake or cause or permit to be undertaken any piling or percussive Works within the Protected Strip

2.4 not to alter the ground levels within the Protected Strip

2.5 not to plant or cause or permit to be planted any trees or shrubs in the Protected Strip

2.6 not to construct or lay or cause or permit construction or laying of any street road pipe duct or cable across the Apparatus at an angle of less than forty-five degrees formed by the Apparatus and the street road pipe duct or cable provided that this prohibition shall not apply to an existing street road pipe duct or cable

3. To advise any tenant for the time being of the Protected Strip of the existence of the Apparatus and of this Deed and its contents insofar as the same relate to the tenant's occupancy and enjoyment of the Protected Strip

4. The Undertaker shall have the benefit of the right to enforce these Rights and Covenants pursuant to The Contracts (Rights of Third Parties) Act 1999

5. Notwithstanding the earlier exercise of the Rights or earlier enforcement of the Covenants the Apparatus shall not vest in the Undertaker until it has issued a Vesting Declaration vesting the Apparatus in itself pursuant to Section 102 of the Water Industry Act 1991

FOURTH SCHEDULE

Dispute Resolution Procedure

		Name	Position	Email/Phone
Owner	(1) Representative	Rory Keys	Regional Investment and Acquisitions Director	[redacted]
	(2) Senior Representative	Jason Berry	Regional Managing Director	[redacted]
Undertaker	(1) Representative	David Palmer	Developer Services Manager	[redacted]
	(2) Senior Representative	Gareth King	Associate Director	
Developer	(1) Representative	Andy Brown	Head of Engineering	
	(2) Senior Representative	Stephen Green	Technical Director	

General Principles

1.1 Paragraph references are to references in this Schedule unless stated otherwise

1.2 The procedure set out in this Schedule (the "Dispute Resolution Procedure") shall apply to any dispute, claim or difference ("Dispute") between the Parties arising out of or relating to this Agreement

1.3 This Dispute Resolution Procedure sets out the intention of the Parties to act in a collaborative manner and in a spirit of partnership in seeking to resolve disputes at the earliest stage possible. It is therefore accepted by the Parties that this procedure shall only apply after the application of the redress procedures set out in the Sewerage Sector Guidance. For the avoidance of doubt, any monies recovered by the Developer pursuant to these procedures shall be deducted from any sums awarded under the Dispute Resolution Procedure or in court proceedings subsequent to the operation of this procedure where those monies relate to the same set of circumstances giving rise to the dispute being dealt with under the Dispute Resolution Procedure

1.4 Unless otherwise agreed, all negotiations connected with the Dispute shall be in confidence and without prejudice to the rights of the Parties in any future proceedings. If at any point the Parties reach agreement on the resolution of a Dispute or any part of a Dispute, it shall be set out in writing and signed by the authorised representatives of both Parties. Such resolution shall from that point on be binding on the Parties and may be referred to as evidence of their agreement

1.5 Changes to the details of the Parties authorised representatives must be notified, in writing to all Parties within 48 hours of any change taking effect

Notice

2.1 If a dispute ("Dispute") arises, the Party who wishes to raise it ("the Claiming Party") must give notice ("a Dispute Notice") to the other Party or Parties ("the Responding Party") as soon as reasonably possible after becoming aware of the circumstances giving rise to the Dispute

2.2 The Dispute Notice must specify in reasonable detail:

(a) the relevant facts giving rise to the Dispute;

(b) any contractual obligation or other applicable legal duty which the Claiming Party asserts has been or will be breached; and

(c) the remedy or action requested by the Claiming Party

Negotiation

3.1 If a Dispute arises between the Parties at any time, such Dispute shall first be referred to the Parties' Representatives named in this Schedule. The Parties' Representatives shall meet without prejudice within 10 Days' of receipt of the Dispute Notice by the Responding Party and they shall attempt in good faith to resolve such Dispute

3.2 Any decision jointly made by the Representatives shall be final and binding unless the Parties otherwise agree, once it has been recorded in writing and signed by each Representative in accordance with paragraph 1.4

3.3 Subject to paragraph 3.1, if the Representatives have failed to resolve any Dispute within 20 Days' of receipt of the Dispute Notice by the Responding Party, the dispute shall be referred to the Parties' Senior Representatives who shall within 10 Days' of the Dispute being referred to them, meet without prejudice and attempt in good faith to resolve such Dispute

3.4 Any decision jointly made by the Senior Representatives shall be final and binding unless the Parties otherwise agree, once it has been recorded in writing and signed by each Senior Representative in accordance with paragraph 1.4

Mediation

4.1 If the Dispute cannot be resolved by negotiation, the Dispute shall be referred to Mediation pursuant to the procedure set out below unless any Party, acting reasonably, considers that the Dispute is not suitable for mediation

4.2 For the avoidance of doubt, nothing in this Schedule shall be taken to exclude or limit the rights of any Party to make such applications (including but not limited to applications as to costs) as it sees fit in any proceedings, relating to the conduct of the other Party and in particular, any decision made under paragraph 4.1 above

4.3 The procedure for mediation and consequential provisions relating to mediation are as follows:

(a) a neutral mediator ("the Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Days after a request from one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party may apply to the Centre for Effective Dispute Resolution and Mediation (CEDR) to appoint a Mediator and the mediation shall be conducted in accordance with the rules and procedures of the CEDR. If the CEDR is unable or unwilling to nominate a Mediator then any Party may (subject to obtaining the consent of the other(s)) approach an alternative reputable mediation body;

(b) the Parties shall within 10 Days of the Mediator's appointment meet with the Mediator to discuss and agree a programme for the exchange of all relevant information and the procedure to be adopted for the mediation. Either Party may ask the Mediator to give guidance on a suitable programme for information exchange and/or mediation procedure

4.4 If Mediation fails to achieve a resolution of the dispute or any part of it, any Party may ask the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Dispute without the prior written consent of the other(s)