



Terms and Conditions for New Connections

Conditions A: Core Terms and Conditions

1. Definitions and Interpretation

1.1 Definitions

The following terms shall be defined as set out below.

- 1.1.1 "**Acceptance Form**" means the acceptance by You of the Tender in the form of acceptance set out in the Tender.
- 1.1.2 "**Accepted Design**" means the most recently dated and version controlled design pack for the Site accepted by the Adopting Authority, issued to the Contractor to allow the Adoptable Works to commence.
- 1.1.3 "**Adjoining Land**" means land owned by a person other than the Landowner, not being an adopted road, footpath or highway, where part of the Adoptable Works are to be undertaken which adjoins the Site.
- 1.1.4 "**Adjoining Owner**" means the owner of any freehold, heritable or leasehold interest in Adjoining Land (as applicable).
- 1.1.5 "**Adoptable Works**" means the Works and Your Works to the extent intended to form part of the Authority's System (together with all necessary works of reinstatement) (or any Section thereof).
- 1.1.6 "**Adoption**" means in the case of electricity works, gas works, water works, heat works and cooling works, which happens on the date of Completion of the Adoptable Works and in the case of wastewater works, on the date of the Final Completion Certificate pursuant to the relevant Asset Adoption Agreement and the terms "**Adopt**", "**Adopting**", "**Adopted**" and "**Vest**", "**Vesting**", "**Vested**" shall be construed accordingly.
- 1.1.7 "**Adopting Authority**" means the Network Operator that shall Adopt some or all of the Adoptable Works; and being whichever of the following is named in the Tender:
 - 1.1.7.1 in the case of electricity – LMEL,
 - 1.1.7.2 in the case of gas – LMGL,
 - 1.1.7.3 in the case of heat and/or cooling – LMHL,
 - 1.1.7.4 in the case of water – LMWL, or failing which the Incumbent Water Company as the case may be, and
 - 1.1.7.5 in the case of wastewater – LMWL, or failing which the Incumbent Wastewater Company, as the case may be.
- 1.1.8 "**Affiliate**" means any subsidiary of a party, any holding company of a party, and any subsidiary of any such holding company (where "subsidiary" and "holding company" shall have the meanings assigned to them under Section 1159 of the Companies Act 2006).
- 1.1.9 "**Applicable Law**" means any law which is legally binding in England and Wales and / or Scotland from time to time which is applicable to a party in relation to its obligations under this Contract, including but not limited to



any statute, bye-law, ordinance, regulation, order, consent(s), directive, standard, guideline, notification, instruction, regulatory policy, code (including any relevant industry code), guidance, administrative power, exercise of royal prerogative or common law or equity, and any ruling, directives, standards, policies or requirements of any Competent Authority which has jurisdiction in relation to a party to the Contract or the manner in which the activities contemplated by it are conducted.

1.1.10 **"Asset Adoption Agreement"** means the agreement under which the Adopting Authority agrees to acquire legal and beneficial title to the Adoptable Works in accordance with the terms and conditions stated therein.

1.1.11 **"Authority's System"** means:

1.1.11.1 in the case of electricity, the system Adopted by the Adopting Authority through which the Service is authorised by way of a licence under section 6(1)(c) 6(1)(c) of the Electricity Act 1989, including where applicable the electricity Meter,

1.1.11.2 in the case of gas, the system Adopted by the Adopting Authority through which the Service is authorised by way of a licence under Section 7 of the Gas Act 1986, including where applicable the gas Meter,

1.1.11.3 in the case of water, the system Adopted by the Adopting Authority through which the Service is authorised under the Instrument of Appointment, including the water Meter and the Lateral Drains,

1.1.11.4 in the case of wastewater, the system Adopted by the Adopting Authority through which the Service is authorised under the Instrument of Appointment; and

1.1.11.5 in the case of heat and/or cooling, the system Adopted by the Adopting Authority through which the Service is provided, including where applicable the heat Meter,

in each case, excluding the Consumer's Installation.

1.1.12 **"CDM"** means the Construction (Design and Management) Regulations 2015 or any amendment or replacement thereof.

1.1.13 **"Change"** means a Client Change, a Contractor Change or a Change in Law Change.

1.1.14 **"Change in Law"** means:

1.1.14.1 the coming into effect of any Applicable Law that is not in effect as at Commencement Date,

1.1.14.2 the modification, repeal or replacement of any Applicable Law after Commencement Date, or

1.1.14.3 a change to or clarification in the interpretation or application by any Competent Authority of any Applicable Law after Commencement Date.

- 1.1.15 **"Change in Law Change"** means a Variation that is required to comply with a Change in Law.
- 1.1.16 **"Client"** means the person, company or other entity with whom We have agreed to provide the Works and named as the "Customer" in the Tender who has the necessary legal ownership, rights or entitlement to develop the Site, and any legal successors in title to the Client and any assignee of the Client. **"You"** or **"Your"** and any cognate expressions shall be construed accordingly.
- 1.1.17 **"Client Change"** means a Variation that is initiated by You and which is not a Change in Law Change.
- 1.1.18 **"Client Defect"** means, in relation to Your Works:
- 1.1.18.1 any defect in plant, material or workmanship,
 - 1.1.18.2 any defect arising from Your act, neglect, default, or omission or by any third party working under Your instruction or on Your behalf, and
 - 1.1.18.3 any defect arising because Your Works fail to comply with the Contract,
 - 1.1.18.4 Your failure to maintain or secure Your Works, damage caused by you or a third party or by the carrying out of Your Works or works by others which impacts Your Works.
- 1.1.19 **"Client Defect Correction Period"** means in respect of Your Works, the period starting on the day of completion of Your Works and lasting until:
- 1.1.19.1 in respect of any Client Defect relating to the permanent reinstatement of a highway (as defined by the Highways Act 1980) where Your Works are carried out in England or Wales, twenty four (24) calendar months from the day of Adoption provided that in the case of any excavation deeper than one point five (1.5) meters, this period shall be extended to thirty six (36) calendar months from the day of Adoption,
 - 1.1.19.2 in respect of any Client Defect relating to the permanent reinstatement of a road (as defined by the Roads (Scotland) Act 1984) where Your Works are carried out in Scotland and the day of Adoption is before 1 October 2023, twenty-four (24) calendar months from the day of Adoption, provided that in the case of any excavation deeper than one point five (1.5) meters, this period shall be extended to thirty six (36) calendar months from the day of Adoption,
 - 1.1.19.3 in respect of any Client Defect relating to the permanent reinstatement of a road (as defined by the Roads (Scotland) Act 1984) where Your Works are carried out in Scotland and the day of Adoption is on or after 1 October 2023, seventy-two (72) calendar months from the day of Adoption and such period applies regardless of the depth of excavation,
 - 1.1.19.4 in respect to any other Client Defect, twenty four (24) calendar months from the day of Adoption,

and in respect of Clauses 1.1.19.1, 1.1.19.2 and 1.1.19.4, where Clause 6.14 applies, such period shall be extended to thirty six (36) calendar months from the date of reinstatement of any remedial works and in respect of Clause 1.1.19.3 where Clause 6.14 applies, such period shall be extended to seventy-two (72) calendar months from the date of reinstatement of any remedial works.

- 1.1.20 "**Client Notices**" means any notices that must be given by You to Us prior to the required date of commencement of the Works on Site or any part thereof in accordance with the Tender.
- 1.1.21 "**Commencement Date**" means the earlier of the date on which We (a) receive the Acceptance Form, or (b) begin performance of the Contract.
- 1.1.22 "**Commissioning**" means the taking of the steps necessary to put the Works into Service, and the terms "**Commission**", "**Energise**" and "**Energisation**" and other cognate expressions shall be construed accordingly.
- 1.1.23 "**Competent Authority**" means the Gas and Electricity Markets Authority ("**Ofgem**"), the Water Services Regulation Authority ("**Ofwat**"), and any court, local, national, or supranational agency or authority, inspectorate, minister, ministry, administrative or regulatory body, authority, official or public or statutory person having (in each case) jurisdiction over either or both of the parties, the Contract or the subject matter of the Contract.
- 1.1.24 "**Completion**" means the taking of steps necessary to finish the Adoptable Works in Service in accordance with the relevant Asset Adoption Agreement, and the terms "**Complete**", "**Completed**" and "**Completing**" shall be construed accordingly.
- 1.1.25 "**Conditions**" means these Terms and Conditions A: Core Conditions for New Connections, and only to the extent applicable:
- 1.1.25.1 Conditions B: Conditions for Water Connections,
 - 1.1.25.2 Conditions C: Conditions for Wastewater Connections; and
 - 1.1.25.3 Conditions D: Conditions for Heat and/or Cooling Connections.
- 1.1.26 "**Confidential Information**" means all know-how, processes, designs, software, programmes, source or object codes, databases, specifications, data, drawings, licence codes, security configuration, trade secrets, pricing, any and all other information made available by one party to the other or which a party has come into the possession of whether directly or indirectly, and the terms of the Contract.
- 1.1.27 "**Connections**" means all connections of the number, type, timing, nature and size being, or intending to be, connected to the Authority's System at the Site, as set out in the Tender.
- 1.1.28 "**Consent**" means any consent, authorisation, permission, licence, or similar thing necessary to perform the relevant activity, whatever that thing is called but excluding Land Rights.
- 1.1.29 "**Consumer**" means the person who consumes, or it is intended shall consume, Services, from the Authority's System.
- 1.1.30 "**Consumer's Installation**" means:

- 1.1.30.1 for gas and electricity, all equipment and apparatus not being, and not intended to form, part of the Authority's System nor the Works, being equipment and apparatus which the Consumer wishes to connect to the Authority's System,
 - 1.1.30.2 for water, heat and cooling, the shared or single Supply Pipes that run from the boundary of such Consumer's Premise to the internal stop tap and all stop taps and Meters along the length of the Supply Pipes and other water fittings; and
 - 1.1.30.3 for wastewater, the private drains, gutters, and pipes that run from a Consumer's Premise up to such Premise's boundary, but excluding Lateral Drains.
- 1.1.31 "**Contestable Works**" means works that can be undertaken by an approved contractor such as Us and as more particularly specified in the Tender.
- 1.1.32 "**Contract**" means the agreement between You and Us made up of the:
- 1.1.32.1 Conditions,
 - 1.1.32.2 Tender,
 - 1.1.32.3 Acceptance Form,
 - 1.1.32.4 all other schedules attached or referred to in the Tender, and
 - 1.1.32.5 any document incorporated by reference.
- 1.1.33 "**Contractor**" means the contractor named in the Tender, being either (1) Last Mile D&B (North & Scotland) Limited (company number SC234695), having its registered office at Fenick House, Lister Way, Hamilton International Technology Park, Glasgow, Scotland, G72 0FT, or (2) Last Mile D&B (Midlands & South) Limited (company number 06256696), having its registered office at Kingfisher Suite Wheelhouse, Bonds Mill Estate, Stonehouse, Gloucestershire, England, GL10 3RF, and "**We**" or "**Us**", or "**Our**" and any other cognate expressions shall be construed accordingly. If the entity named in the Tender is incorrect, the Contractor shall be deemed to be the entity identified above that is appropriate to the geographical location of the Site and the operational structure of the Last Mile Group, and the Contract shall be construed accordingly.
- 1.1.34 "**Contractor Change**" means a Variation that is initiated by Us and which is not a Change in Law Change.
- 1.1.35 "**Contractor Defect**" means, in relation to the Works:
- 1.1.35.1 any defect in the design,
 - 1.1.35.2 any defect in plant, material or workmanship,
 - 1.1.35.3 any defect arising from Our act, neglect, default, or omission or by any third party working under Our instruction on Our behalf, and
 - 1.1.35.4 any defect arising because the Works fail to comply with the Contract,
- but excluding any defect arising because of:

- 1.1.35.5 user abuse or improper operation by You or on Your behalf,
- 1.1.35.6 incorrect or misleading information provided by You or on Your behalf,
- 1.1.35.7 Your breach or default of obligations under this Contract,
- 1.1.35.8 Your failure to maintain, or secure the Works, or
- 1.1.35.9 damage caused by You or a third party or by the carrying out of Your Works or works by others which impact on the Works.
- 1.1.36 "**Contractor's Equipment**" means all appliances, equipment or things of whatsoever nature required for the carrying out of the Works but not forming part of the Works, excluding Plant.
- 1.1.37 "**Contract Price**" means the sum payable by You to Us for the execution of the Works (referred to as the "Contract Price" or "quotation" within the Tender).
- 1.1.38 "**Cost(s)**" means all expenses and costs incurred by Us (including overhead and financing charges allocable thereto) but does not include any allowance for profit.
- 1.1.39 "**Data Protection Legislation**" means all legislation and regulatory requirements in force from time to time relating to the processing, protection and handling of Personal Data and the privacy of electronic communications, including, without limitation, any data protection legislation from time to time in force in the United Kingdom including the UK GDPR, Data Protection Act 2018 or any successor legislation.
- 1.1.40 "**day**" means a calendar day.
- 1.1.41 "**Defect**" means a Contractor Defect or a Client Defect, as the case may be.
- 1.1.42 "**Documents**" means the documents and other information in any media produced by or on behalf of Us in connection with the Works.
- 1.1.43 "**Emergency**" means an Incumbent Emergency or Defect which causes or is likely to cause immediate damage to property or person, or any other circumstance designated as such by the Contractor, acting reasonably.
- 1.1.44 "**Encumbrances**" means any debt, assignment, option, encumbrance charge, security, adverse claim, lien, hire purchase, conditional sale or credit sale or any other interest or rights of any other person.
- 1.1.45 "**Final Completion Certificate**" means in respect of wastewater works, the final notice issued by LMAM to the Contractor that certifies the Adoptable Works as "Completed", subject to satisfaction of any notice issued by LMAM to the Contractor requiring corrective action.
- 1.1.46 "**Force Majeure Event**" means an exceptional event or circumstance which results in or causes failure of a party to perform some or all of its obligations under the Contract in whole or in part, including but not limited to:
 - 1.1.46.1 fire, flood, pandemic, endemic, earthquake, unusually severe weather, or elements of nature or acts of God,

1.1.46.2 war, hostilities (whether war to be declared or not), invasion, embargo, riot, civil disorder, rebellion, terrorism, revolution,

1.1.46.3 other causes beyond a party's control which, for the avoidance of doubt, shall not include any industrial dispute in respect of a party's personnel or any event or circumstance that is directly attributable to the actions or omissions of the party affected by it, and

directly affecting the Site and provided always that the event:

1.1.46.4 was unforeseeable at the date of the Tender and was not caused by, and is beyond the reasonable control of the party which invokes it, such party could not reasonably have provided against such event before entering into the Contract and which having arisen, such party could not reasonably have avoided or overcome such event, and which renders the party unable to comply totally or partially with its obligations under the Contract, and

1.1.46.5 is not directly attributable to the actions or omissions of the affected party or that party's failure to comply with any obligations under the Contract or any negligence of the affected party.

1.1.47 **"Incumbent Emergency"** means an event designated as such by the Upstream Network Operator or a Competent Authority and/or falling, without limitation, within the provisions of any of the following: (i) the Security and Emergency Measures (Water and Sewerage Undertakers) Direction 1998; (ii) the Security and Emergency Measures (Water Undertakers) Direction 2006; (iii) advice and guidance issued under the provisions of s.208 of the Water Industry Act 1991 and/or the Civil Contingencies Act 2004 or a national security event (iv) the Electricity Supply Emergency Code (v) the National Emergency Co-ordinator Safety Case, the Network Gas Supply Emergency Procedure T/PM/E/1 or Section Q of the Uniform Network Code.

1.1.48 **"Incumbent Wastewater Company"** has the meaning given to it in Conditions C.

1.1.49 **"Incumbent Water Company"** has the meaning given to it in Conditions B.

1.1.50 **"Insolvency Event"** means in relation to a party, means that party:

1.1.50.1 is dissolved;

1.1.50.2 becomes insolvent or is unable to pay its debts as they fall due (within the meanings given to that phrase in section 123(1) and section 123(2) of the Insolvency Act 1986 or under any Applicable Law);

1.1.50.3 makes a general assignment, arrangement or composition with or for the benefit of its creditors other than pursuant to a bona fide solvent consolidation, amalgamation, merger or refinancing;

1.1.50.4 has an order granted in respect of it for its winding-up or liquidation;

1.1.50.5 has a resolution passed for its winding-up, official management or liquidation, other than pursuant to a bona fide consolidation, amalgamation, merger or refinancing;

1.1.50.6 becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official for it or for all or substantially all its assets; or

1.1.50.7 has a party in favour of which security has been granted take possession of all or substantially all its assets or has an order granted for distress, execution, attachment, sequestration or other equivalent legal process against all or substantially all its assets;

provided that in the case of subparagraphs 1.1.50.4, 1.1.50.6 and 1.1.50.7 above such process is not dismissed, discharged, stayed or restrained, in each case within ten (10) Working Days.

- 1.1.51 “**IP Rights**” means all intellectual and industrial property of any kind whatsoever including patents, utility models, trademarks, trade and business names, logos, domain names, copyright, moral rights, know-how, rights to prevent passing off or unfair competition, database rights, rights in designs and all other intellectual property rights in each case whether registered or unregistered and including applications or rights to apply for them anywhere in the world, together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions of the same.
- 1.1.52 “**LMWL**” means Last Mile Water Limited, a company incorporated in England and Wales with company number 10479916 and having its registered office at Sophia House, 28 Cathedral Road, Cardiff, CF11 9LJ and its successors and assignees.
- 1.1.53 “**Landowner**” means the owner of the land at the Project.
- 1.1.54 “**Land Rights**” means such rights, titles, and interests (free from Encumbrances) in, under or over land as a Network Operator or Network Operators may require including wayleaves, easements, servitudes, leaseholds and freehold transfers and dispositions and on terms required by a Network Operator or Network Operators.
- 1.1.55 “**Land Transfer**” means the transfer of whole or part of Your interest in the Site to a third party prior to Substantial Completion of the Works, but excluding the transfer of that part or those parts of the Site in respect of which the Works have been Adopted by the Adopting Authority.
- 1.1.56 “**Last Mile Group**” means Last Mile Infrastructure (Holdings) Limited and its subsidiary undertakings from time to time (including, for the avoidance of doubt the Contractor).
- 1.1.57 “**Lateral Drains**” means those pipes located outside the Consumer's Premise boundary that carry wastewater from the Consumer's Premise to a public sewer or water course (as more particularly described in section 219 of the Water Industry Act 1991).
- 1.1.58 “**LMAM**” means Last Mile Asset Management Limited, a company registered in Scotland under registered number SC546822 and having its registered office at Fenick House, Lister Way, Hamilton International Technology Park, Glasgow, G72 0FT and its successors and assignees.
- 1.1.59 “**LMEL**” means Last Mile Electricity Limited, a company incorporated in Scotland under company number SC234694 and having its registered office



at Fenick House, Lister Way, Hamilton International Technology Park, Glasgow, United Kingdom G72 0FT and its successors and assignees.

- 1.1.60 “**LMGL**” means Last Mile Gas Limited, a company incorporated in Scotland under company number SC303150 and having its registered office at Fenick House, Lister Way, Hamilton International Technology Park, Glasgow, United Kingdom G72 0FT and its successors and assignees.
- 1.1.61 “**LMHL**” means Last Mile Heat Limited, a company incorporated in England and Wales under company number 13387039 and having its registered office at Kingfisher Suite, Wheelhouse, Bonds Mill Estate, Stonehouse, Gloucestershire, United Kingdom, GL10 3RF and its successors and assignees.
- 1.1.62 “**Losses**” means all losses, damages, liabilities, proceedings, claims, actions, awards, judgments, assessments, fines, penalties, charges, fees, costs and expenses (including legal costs and expenses) and other payments however suffered or characterised, including all interest thereon.
- 1.1.63 “**Meter**” means the electricity meter, gas meter, water meter or heat meter (as applicable) of the type specified by LMAM and procured by the Contractor.
- 1.1.64 “**Network Operator**” means (as applicable):
- 1.1.64.1 a person licenced under section 7 of the Gas Act 1986,
 - 1.1.64.2 a person licenced under section 6(b) of the Electricity Act 1989,
 - 1.1.64.3 a person appointed under the provisions of the Water Industry Act 1991,
 - 1.1.64.4 a person appointed under the provisions of the Water Industry (Scotland) Act 2002, and
 - 1.1.64.5 a person operating a network for the distribution and supply of heat and/or cooling, and
 - 1.1.64.6 which for the avoidance of doubt includes an Upstream Network Operator and/or the Adopting Authority where the context requires.
- 1.1.65 “**NJUG**” means the National Joint Utilities Group guidelines on the positioning of underground utilities apparatus for new development sites and in existing roads and streets.
- 1.1.66 “**Non-Contestable Works**” means works that lawfully can only be carried out by or on behalf of the Upstream Network Operator.
- 1.1.67 “**Normal Working Hours**” means between 08:00hrs and 17:00hrs on Mondays to Fridays (inclusive) which are Working Days.
- 1.1.68 “**Notified Sum**” means:
- 1.1.68.1 the sum applied for in the request for payment; or
 - 1.1.68.2 if one is given, the sum contained in the Payment Notice.

- 1.1.69 “**Off-Site Works**” means those parts of the Works that are to be carried out on land not forming part of the Site and out with Our or Your ownership or control as detailed in the Tender. “**Off-Site**” shall be construed accordingly.
- 1.1.70 “**Plant**” means machinery, apparatus, equipment, materials, articles, and things of all kinds to be provided under the Contract and incorporated or to be incorporated into the Works.
- 1.1.71 “**Point of Connection (PoC)**” means the point (or points) at which the Works shall be directly connected to the Upstream Network Operator’s network or indirectly via the Authority’s System.
- 1.1.72 “**Premise**” means buildings or parts of buildings and land within the curtilage of those buildings at the Site to which the Adopting Authority provides or will provide a Service.
- 1.1.73 “**Programme**” means the estimated schedule agreed by the parties for the completion of the Works.
- 1.1.74 “**Project**” as set out in the Tender, including the Connections.
- 1.1.75 “**Records**” means all records relating to Your Works.
- 1.1.76 “**Reportable Incident**” means as specified in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, “RIDDOR”.
- 1.1.77 “**RPO**” means a person seeking in good faith to perform its contractual obligations even if it is uneconomic to do so, and in so doing and in the general conduct of its undertaking exercising the degree of skill, care and diligence which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged in the same type of works as the Works or Your Works (as applicable) and under the same or similar circumstances and conditions (and includes complying with Applicable Law and internationally accepted standards of best practice).
- 1.1.78 “**Section**” means the parts or phases into which the Works may be divided as provided in the Programme or otherwise as agreed between the parties.
- 1.1.79 “**Service**” means in relation to the Authority’s System, means:
- 1.1.79.1 the distribution of electricity,
 - 1.1.79.2 the conveyance of gas,
 - 1.1.79.3 the supply of water services,
 - 1.1.79.4 the supply of wastewater services, and
 - 1.1.79.5 the supply of ground source heat and/or the availability of ambient heat energy.
- 1.1.80 “**Site**” means the site detailed in the Accepted Design.
- 1.1.81 “**Substantial Completion**” means intimation by Us to You that the Works (or Section thereof) is substantially complete and capable of use, as more particularly described in Clause 5.5.
- 1.1.82 “**Supply Pipe**” means the water, heating and/or cooling pipe from the boundary of the Premise to the stop tap inside the Consumer’s Premise.

- 1.1.83 “**Tender**” means Our priced offer to You set out in the document entitled either “Letter of Offer” or “Proposal” for the execution of the Works (including a plan and indicative layout of the Works).
- 1.1.84 “**Termination Costs**” means the outstanding balance of the Contract Price in addition to any other Costs incurred by Us because of such termination including, but not limited to, sales, design, mobilisation costs, financial charges, the value of any Plant, materials and tools ordered or paid for by Us in respect of the Works, demobilisation and the removal of Contractor’s Equipment, and any consequential labour costs incurred by Us. You shall repay to Us the amount of any rebates paid by or allowed for in the Contract Price by Us, and for the avoidance of doubt shall also include all invoices issued by Us and that are unpaid which shall become immediately due and payable.
- 1.1.85 “**Time for Completion**” means the estimated period for completion of the Works (or any Section thereof) as stated in the Programme (or as extended under the terms of the Contract).
- 1.1.86 “**Total Contract Price**” means the total value of the Works, as set out in the Tender.
- 1.1.87 “**UK GDPR**” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 1.1.88 “**Upstream Network Operator**” means the Network Operator who owns the network or the heat network to which the Works shall be connected at the Point of Connection.
- 1.1.89 “**Variation**” means any alteration of the Works whether by way of addition, modification or reduction.
- 1.1.90 “**Variation Notice**” means an intimation or communication in writing provided by one party to the other relating to a Change setting out in as much detail as reasonably possible the reasons for the Variation, the required changes, expected amendments to the Works and anticipated timescales to effect the relevant Variation.
- 1.1.91 “**Warranty or Warranties**” means any guarantee issued by a manufacturer or supplier of a good or service supplied to You or any of Your subcontractors in the delivery of Your Works which promises to repair or replace the good supplied or re-execute the service provided.
- 1.1.92 “**Working Days**” means a day other than a Saturday, Sunday or a bank or public holiday in England and Wales or Scotland (as appropriate given the location of the Site).
- 1.1.93 “**Works**” means the work that is Our responsibility to design, construct, install and Commission as detailed in the Tender to be carried out by Us in accordance with the Contract subject to the assumptions and exclusions in the Tender including any agreed Variation.
- 1.1.94 “**Your Works**” means any works and/or activities for which You are responsible as detailed in the Tender. For the avoidance of doubt, any works and/or activities not indicated in the Tender as Works are deemed to be Your Works.

1.2 Interpretation



In the Contract, unless otherwise stated:

- 1.2.1 References to “Clauses” are to clauses of these Conditions.
 - 1.2.2 Headings used shall not affect its interpretation.
 - 1.2.3 References to the plural include the singular and vice versa and references to one gender include the other genders.
 - 1.2.4 Words of inclusion, example or particularisation shall be without limitation.
 - 1.2.5 Reference to any statute, statutory provision, enactment, order, regulation, guidance, technical document, deed, or other similar instrument shall be construed as reference to any such document as amended, replaced, supplemented, consolidated, or re-enacted.
 - 1.2.6 Wherever in the Contract the giving of notice or consent is required, unless otherwise specified such notice or consent shall be in writing. References to “written” or “in writing” shall mean hand-written, type-written or printed and include communications by post and email (unless otherwise stated) but exclude fax.
 - 1.2.7 Any offer made by Us and any agreement to perform the Works shall be governed only by this Contract to the entire exclusion of all other terms or conditions.
 - 1.2.8 Reference to any document includes a reference to it as varied, supplemented, assigned or novated from time to time.
 - 1.2.9 References to people include legal and natural people, firms, unincorporated associations (whether or not with separate legal personality).
- 1.3 In the event of any inconsistency or discrepancy between or within the Contract, the conflict should be resolved according to the following descending order of priority:
- 1.3.1.1 these Conditions,
 - 1.3.1.2 Tender,
 - 1.3.1.3 Acceptance Form,
 - 1.3.1.4 all other schedules attached or referred to in the Tender, then
 - 1.3.1.5 any document incorporated by reference.
- 1.4 The documents forming the Contract are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies they shall be explained and adjusted by Us by way of issuing to You an appropriate notice in writing.

2. Basis of Our Tender and Assumptions

- 2.1 The Contract is based on the assumptions, exclusions and the conditions precedent contained in the Tender and any variation of these assumptions, exclusions or conditions precedent shall be deemed to be a Variation.
- 2.2 The Tender is open for acceptance as provided for in the Tender unless a longer period is agreed by Us. We reserve the right to amend or withdraw the Tender at



any time prior to the Commencement Date. The Contract shall commence on the Commencement Date.

3. Our Obligations

- 3.1 We shall design, perform and complete the Works in accordance with the Contract, Applicable Law and to the standard of an RPO and shall (subject to any provision in the Contract) provide supervision, labour, materials, Plant, transport, and temporary works necessary for this obligation.
- 3.2 We shall:
 - 3.2.1 liaise with the Upstream Network Operator for the purpose of coordinating any Non-Contestable Works,
 - 3.2.2 comply with such reasonable site rules regarding conduct on the Site,
 - 3.2.3 submit to You during the progress of the Works within such reasonable times as You may require such Documents as may be specified in the Tender; and
 - 3.2.4 comply with Our obligations under the CDM Regulations in respect of the Works.
- 3.3 You acknowledge that certain works and/or activities are not part of Our obligations under the Contract, including without limitation, works and/or activities:
 - 3.3.1 specifically excluded in the Tender,
 - 3.3.2 which must lawfully be undertaken by a Network Operator, except where We are expressly permitted to do so by the relevant Network Operator, or
 - 3.3.3 forming part of Your Works.

4. Your Obligations

- 4.1 You shall perform and complete Your obligations under the Contract to the standard of an RPO and in accordance with:
 - 4.1.1 the Contract,
 - 4.1.2 Applicable Law (including any Change in Law). This includes Your CDM obligations as the “client” in relation to the Works. You warrant to Us that You shall during the execution of the Works act as “client” and have, amongst other responsibilities, responsibility for making suitable arrangements for the management of the Site. Where You appoint a third party to act as “client” for the purposes of the CDM You shall procure and warrant that You have procured that such third party shall act as the sole “client” for those purposes and You indemnify Us against all Losses incurred by Us as a result of Your breach of this Clause 4.1.2,
 - 4.1.3 all Land Rights,
 - 4.1.4 any practices, policies, processes, procedures, instructions, directions, approvals, permits, decisions, systems and methods of working, standards and other similar things that are implemented by the Network Operator or Competent Authority and (i) which are relevant and applicable to Your



Works or any other obligations under the Contract; and (ii) are provided by Us to You from time to time, and

- 4.1.5 NJUG.
- 4.2 You warrant that in carrying out Your Works You:
 - 4.2.1 shall have the requisite skills, knowledge, experience and organisational capability and capacity to comply with the Contract,
 - 4.2.2 shall remain, always, fully responsible for the acts, omissions, neglect or default of Your employees, subcontractors, or appointed representatives,
 - 4.2.3 shall maintain true and accurate Records, and
 - 4.2.4 shall ensure Your Works conform entirely with the Accepted Design.
- 4.3 You shall in carrying out Your Works:
 - 4.3.1 ensure that all materials, goods and equipment shall be provided in accordance with the Contract, shall be of the quality specified and condition suitable for the purpose of Your Works,
 - 4.3.2 ensure that Your Works are carried out promptly and within any specified timescales under the Contract, any Applicable Law, Land Rights or Consent and to not delay or disrupt the Works, or otherwise in timely and diligent manner and without damaging, disrupting or adversely affecting the quality of, any of the Services,
 - 4.3.3 be responsible for and meet the cost of maintaining the health and safety standards and requirements to the standard of an RPO,
 - 4.3.4 notify any other person or body reasonably likely to be affected in advance and provide copies of risk assessments, method statements, drawings, plans or any other information as they may reasonably request,
 - 4.3.5 be responsible for the location, identification, surface marking and protection of other plant for the duration; and
 - 4.3.6 be responsible for any damage to other plant including the costs associated with all necessary liaison with the relevant utility or plant owner to replace or repair any such damage.
- 4.4 To the extent it is necessary to perform the Works or Your Works, You shall procure, at Your cost, that a contract for the supply of gas, electricity, water, wastewater and heat has been entered into relative to the Site and grant to Us the right to use such temporary and/or permanent services for the duration of the Works and until Adoption.
- 4.5 Insofar as it relates to or is likely to impact the Works and/or the Adoptable Works, You shall notify Us immediately of any Reportable Incident or Emergency, and in an Emergency, on a best endeavours basis, provide immediate free access to every part of Your Works as is reasonably required, for so long as the Reportable Incident or Emergency persists.
- 4.6 You shall be responsible for gaining access to and possession of the Site as is required for the parties to meet their obligations under the Contract and without limiting the above shall provide the Client Notices not less than: (i) twenty (20)

Working Days (if no period is specified in the Tender); or (ii) the period of notice required in the Tender, prior to the required commencement of the Works (and each part thereof) and give Us access to the Site on the dates required by Us during Normal Working Hours to carry out the Works. You shall provide such roads and other means of access to the Site as may be required by Us.

- 4.7 You shall before the commencement of the Works obtain (or procure that there are obtained) all Consents which may be required for the carrying out and Commissioning of the Adoptable Works on the Site and shall confirm to Us in writing (or provide evidence of the same to Us on request) when the same have been obtained and the terms of such Consents, to the extent relevant to and/or for the benefit of the Adopting Authority and/or where the Adopting Authority is to be a party to any Consent, shall be subject to LMAM's approval. We shall procure any Consents necessary for the construction, installation, commissioning, execution, and operation of any Off-Site Works. Consents obtained under this Clause 4.7 must be maintained in force for as long as they are required by Applicable Law.
- 4.8 To secure Adoption, You must ensure that the Land Rights are granted to the relevant Network Operator(s). If You are not the Landowner or there is Adjoining Land, You must procure that the Landowner and/or the Adjoining Owner grants and/or consents (to the extent required) the Land Rights. Land Rights must be granted free of charge and before the Adoptable Works are Commissioned and, as such, it is Your responsibility to proactively cooperate with the Network Operator(s) to ensure the Land Rights are granted on time. You must ensure (or if You are not the Landowner, procure) that any transfer, disposition or lease of any part of the Site is subject to the requirement of this Clause 4.8. You acknowledge that failure to comply with this Clause 4.8 may result in a delay to Commissioning. We acknowledge the potential complexity of Land Rights for different types of works and shall provide any and all reasonable support and guidance that You may require in relation to these legal aspects.
- 4.9 You shall ensure:
- 4.9.1 that access and egress from the Site or part of the Site is clear and free of all obstructions (e.g., scaffolding is removed, and clear of vehicles and equipment) and any other impediment that may interfere with Our ability to carry out and complete the Works and not allow any surplus materials or rubbish to build up either on Site or at any other area being used,
 - 4.9.2 that the Site or part of the Site where Works are to be carried out is at all times in a clean condition and is safe and suitable for the execution of the Works,
 - 4.9.3 unobstructed access is given to the Site to the relevant Network Operator(s) (together with their contractors) to allow those parties to carry out their statutory rights or obligations, or inspections,
 - 4.9.4 that a ground investigation survey is undertaken by a suitably qualified structural or geotechnical engineer to confirm that the ground conditions on Site are suitable for the proposed Works prior to construction commencing,
 - 4.9.5 the Works can be carried out:
 - 4.9.5.1 during Normal Working Hours,
 - 4.9.5.2 in so far as possible, on consecutive Working Days, and

- 4.9.5.3 if through no fault of Our own this is denied or We arrive at the Site, but the visit must be aborted because You are not able to allow the Works (or Section thereof) to proceed, You shall pay Us Costs incurred by Us. Costs may include an “aborted visit” fee at the rate set out in the Tender,
- 4.9.6 the safe loading, unloading, and distribution to the required points of use on Site, safe and secure storage at the Site of all plant, tools, equipment, and materials (including Contractor’s Equipment and Plant) and make such safe and secure storage area available to Us prior to Us carrying out any connection, servicing or metering activity connected with the Works. Security for all Plant and Contractor’s Equipment delivered to Site shall rest solely with You,
- 4.9.7 You provide all necessary information to Us relating to or affecting the Works and shall inform Us as soon as You become aware of any circumstances that may affect completion of Your Works,
- 4.9.8 meter reading facilities are provided by You in a position acceptable to Us, and
- 4.9.9 that any buildings to be connected to the Works as stated in the Tender are connected, and that any buildings are constructed to accommodate such materials and equipment as are necessary for the Adopting Authority to serve those buildings when they are connected. You must ensure (or if You are not the Landowner, procure) that any transfer, disposition or lease of any part of the Site to a different Landowner is subject to the requirements of this Clause 4.9.9,
- and a breach of this Clause 4.9 will be deemed to be a Variation.
- 4.10 If at any time before Adoption, You shall fail to perform Your Works in accordance with the Contract, We shall be entitled at Our entire discretion to perform such parts of Your Works as may be necessary to fulfil the performance of Your obligations in accordance with the Contract and recover all Losses suffered or incurred as a result of your failure from You.
- 4.11 You hereby agree to (and shall use all reasonable endeavours to procure that any necessary third party shall), promptly execute and deliver such documents, do all such acts or things and grant all such additional rights (at Your sole cost and expense) as may reasonably be required by Us for the purpose of Commissioning or any other agreement entered into by Us in relation to Adoption of the Works.
- 4.12 You shall ensure that all Warranties that You are entitled to or are entitled to obtain are obtained and that upon Commissioning those Warranties are capable of being assigned to the Adopting Authority. At Our request, you will assign such Warranties to the Adopting Authority. Prior to Commissioning You shall, at Our request, enforce against suppliers or manufacturers any such Warranties or other rights as You may have against suppliers or a manufacturer in respect of Your Works (or any part thereof).
- 4.13 Notwithstanding Clause 4.12, You shall assist Us, LMAM and/or the Adopting Authority in the enforcement of any Warranty against the grantor, or any other rights they may have against a manufacturer, supplier or contractor when requested to do so by Us or LMAM.
- 4.14 You warrant and guarantee that Your Works (including, for the avoidance of doubt, any substation building, equipment housing, pumping stations, treatment works

and associated engineering works) adopted by the relevant Adopting Authority against structural faults for a period of ten years from the date of handover and acceptance.

5. Starting and Completion

- 5.1 Within a reasonable period after receipt of the Acceptance Form, We shall seek to agree a Programme specifying the Time for Completion.
- 5.2 Notwithstanding Clause 5.1, You acknowledge, and it is agreed that any dates or times cited in the Programme (if applicable) or anywhere else and the timing and sequencing for completion of the Works shall be approximate only. Time for performance by Us shall not be of the essence. Unless otherwise expressly agreed by Us, and subject to the extension of time in accordance with Clause 5.3, We shall endeavour to complete the Works within the Time for Completion and if no Programme has been agreed, within a reasonable period. The times specified may be extended by the effective period(s) of delay for which We are not responsible, and by those grounds listed at Clause 5.3.
- 5.3 Notwithstanding anything to the contrary, We shall be entitled to an extension of time to the Time for Completion upon any of the grounds below:
- 5.3.1 pursuant to Clause 10 or in respect of any event that is treated as a Variation or deemed to be a Variation under this Contract,
 - 5.3.2 restrictions caused by nature including but not limited to Sites of Special Scientific Interest, Tree Preservation Orders and the discovery of fossils and antiquities at the Site or any such other notice, order, classification, or intimation issued by a Competent Authority,
 - 5.3.3 suspension of the Works by Us pursuant to Clause 9,
 - 5.3.4 any impediment, prevention, delay, or default, whether by act or omission, by You or Your contractors, consultants or agents, including a delay in the provision of Land Rights,
 - 5.3.5 adverse weather conditions,
 - 5.3.6 strike, lockout, or local combination of workmen affecting any of the trades employed upon the Works save where such events arise upon the Site or concern Our employees and do not arise out of or in connection with a national labour dispute,
 - 5.3.7 a Force Majeure Event,
 - 5.3.8 delay due to an act or omission of a third party including a Network Operator, or
 - 5.3.9 a breach of Your Obligations under Clause 4,
 - 5.3.10 any failure or delay in the performance of works and/or activities which are not part of Our obligations, including those set out in Clause 3.3.
- 5.4 We shall take reasonable steps (if required) to overcome or minimise actual or anticipated delay. We may consult with You on what steps (if any) should so be taken and shall thereafter comply with such reasonable instructions which You give to overcome or minimise actual or anticipated delay. If compliance with any such instruction to overcome or minimise actual or anticipated delay shall cause Us to



incur Costs and We are entitled to an extension of time, the amount thereof shall be added to the Contract Price.

- 5.5 Substantial Completion of the Works (or any Section thereof) shall occur when the Works (or Section thereof) are of satisfactory quality and free from Contractor Defects, save for any minor items of incomplete work or minor Contractor Defects the existence, completion, or rectification of which would not prevent or interfere with the full use and enjoyment of the Works (or Section thereof), in accordance with the Contract.
- 5.6 Unless otherwise agreed in writing, the Contract Price is based upon the exclusion of any liquidated damages or general damages for delayed completion or otherwise. We have no liability to You for any delay to Substantial Completion, completion of the Works or otherwise.

6. Adoption, Title, Risk and Defects

Adoption

- 6.1 You agree and acknowledge:
- 6.1.1 neither You nor a third-party end user shall ever own the Adoptable Works,
 - 6.1.2 legal and beneficial title of the Adoptable Works shall ultimately pass to or vest in the Adopting Authority on Commissioning, and
 - 6.1.3 the Adoptable Works will not be Commissioned unless and until We have received permission to do so from the Adopting Authority.
- 6.2 You undertake and warrant that You shall, at Your cost:
- 6.2.1 perform any necessary obligations without limitation, and
 - 6.2.2 procure that any relevant third party performs any necessary obligation without limitation,
- to enable:
- 6.2.3 Us to comply with Our obligations contained within the Asset Adoption Agreement for the Adoption of the Adoptable Works, and
 - 6.2.4 the Adopting Authority to obtain legal and beneficial title to the Adoptable Works on Commissioning with full title guarantee free from any Encumbrances.

Title

- 6.3 Without prejudice to Clause 6.1, You acknowledge and agree that title to the Adoptable Works shall vest in Us and We shall retain title and ownership until such title vests in the Adopting Authority on Commissioning. So we can ensure Adoption by the Adopting Authority, You must ensure that all rights, title and interests in any part or materials incorporated into the Adoptable Works shall be transferred to and vested in Us automatically upon incorporation into the Adoptable Works. You will not claim ownership of any such parts or materials or allow anyone else to do so.

Risk

- 6.4 At all times prior to Adoption, and notwithstanding Clause 6.3, risk of loss or damage to the Works or Your Works, howsoever caused, shall be at Your risk (save to the

extent any such loss or damage is caused by Our negligence or breach). At all times prior to Adoption, if any part of the Works shall suffer such loss or damage, You shall be responsible on demand to Us for the cost of Our reinstatement or making good such loss or damage. Notwithstanding Clause 4.10, You shall be responsible for loss or damage to Your Works, including all plant, tools, equipment and materials required for Your Works, until they are Adopted and You shall reinstate or make good such loss or damage at Your cost and will indemnify Us from and against all Losses suffered or incurred by Us resulting from the use of Your Works.

Defects

6.5 Other than expressly set out in the Contract, Our liability for Contractor Defects and various other warranties in respect of the Works is a matter between Us and the Adopting Authority and not You or another third-party end user.

6.6 Subject to the provisions of this Clause 6 and Clause 17, We confirm that the Works shall be free from Contractor Defects.

6.7 The following shall apply in respect of Contractor Defects identified prior to Commissioning of the Works (or a Section thereof):

6.7.1 You must give Us a reasonable opportunity to remedy a Contractor Defect,

6.7.2 if You suspect a Contractor Defect, You shall notify Us of that in writing and request that We search for the Contractor Defect. You shall provide reasonable and substantiated grounds for the request,

6.7.3 We shall undertake the search within a reasonable timeframe,

6.7.4 if no Contractor Defect is found, You shall reimburse Us the reasonable Costs incurred by Us in undertaking the search,

6.7.5 if a Contractor Defect is found, We shall consult with You on the scope of remedial activity required and shall carry out such activity, within a reasonable timeframe, to remedy the Contractor Defect at Our cost,

6.7.6 if a Contractor Defect is not remedied by Us within a reasonable timeframe, then You may, on giving Us reasonable notice, elect to correct the Contractor Defect. In such circumstances We shall only be liable to You for the reasonable costs You incur in remedying same, and

6.7.7 in this Clause 6.7 “reasonable timeframe” shall be a timeframe agreed between the parties acting reasonably in the circumstances, which shall, in the event of an Emergency, be as quickly as is reasonably practicable.

6.8 Notwithstanding any other provision of this Contract, You agree that Our liability to You for Contractor Defects shall expire on the earlier of:

6.8.1 twelve (12) months after the date of Substantial Completion, or

6.8.2 Commissioning,

and no claims may be commenced against Us after such date in respect of any Contractor Defects.

6.9 Where We require to rectify a defect in the Works arising because of:

6.9.1 user abuse or improper operation,



- 6.9.2 incorrect or misleading information provided by You or on Your behalf,
 - 6.9.3 Your breach or default of obligations under this Contract,
 - 6.9.4 Your failure to maintain, or secure the Works,
 - 6.9.5 damage caused by You or by the carrying out of Your Works,
- then You must reimburse Us the Losses we reasonably incur in rectifying the defect

Client Defects

- 6.10 Subject to the provisions of Clauses 6.11 to 6.15, You confirm that Your Works shall be free from Client Defects.
- 6.11 Where any Client Defect is found, or You have reason to believe a Client Defect may be found, You shall immediately notify Us.
- 6.12 During the Client Defect Correction Period, We shall be entitled to inspect Your Works on the number of occasions We consider necessary.
- 6.13 You at Your own expense shall, if required by Us to do so, uncover or disassemble Your Works to search for any Client Defect, provide materials or samples for tests as required, and thereafter, to re-cover or re-assemble Your Works.
- 6.14 If We are not satisfied that Your Works have been carried out, in accordance with the Contract We shall consult with You on the scope of remedial activity required and timetable for such remedial activity and You shall carry out such activity, within the timetable agreed (if any) or otherwise within a reasonable timeframe, to remedy the Client Defect at Your cost.
- 6.15 Where:
 - 6.15.1 You fail to perform any of Your obligations under Clauses 6.11 to 6.14, or
 - 6.15.2 any remedial works are not carried out in accordance with the matters agreed pursuant to Clause 6.14,We shall have the right to perform Your obligations under Clauses 6.11 to 6.14 and in doing so, may recover any associated Losses from You.
- 6.16 The following shall apply in respect of Defects identified following the Commissioning of the Adoptable Works (or a Section thereof):
 - 6.16.1 pursuant to Clause 6.12, the Adoptable Works shall be the property of the Adopting Authority. You acknowledge that any activity required to remedy a Defect shall be subject to their approval, instruction, direction, or control,
 - 6.16.2 the Adopting Authority's decision in relation to any aspects of the Adoptable Works, including without limitation any Defect, shall be final, and
 - 6.16.3 You acknowledge that the Adopting Authority may elect to not approve or otherwise not proceed with the remedy of a Defect.
- 6.17 Whether pre-or-post Commissioning, You shall grant to Us and the Adopting Authority such access to the Site as may reasonably be required for the purpose of searching and/or remedying Defects.

6.18 Where You incur reasonable costs in rectifying a Client Defect which has been caused by a breach by Us of our obligations under this Contract then We shall reimburse You for any such reasonable costs incurred in rectifying the Client Defect.

7. Land Transactions

7.1 You warrant that pursuant to the Contract You have granted to Us the exclusive right to do the Works and the Adopting Authority has the exclusive right to Adopt the Adoptable Works.

7.2 You shall take all steps necessary to ensure that any Land Transfer in respect of the Site gives effect to Clause 7.1, including, without limitation, ensuring any land transfer document or other relevant instrument or contract (an "**Instrument**") in respect of a Land Transfer includes an express provision:

7.2.1 acknowledging the rights under Clause 7.1,

7.2.2 that the future successor is deemed to accept Your rights and obligations under the Contract (insofar as they relate to the land subject to the Land Transfer) provided such acceptance shall not modify Your rights and obligations in respect of any land which contains part of the Works, but which is not included in the Land Transfer, and

7.2.3 if a future successor subsequently makes a Land Transfer to another person (as a "**subsequent party**") the future successor shall make express provision in any Instrument between it and the subsequent party to give effect to Clause 7.1.

7.3 You agree that a Land Transfer shall not:

7.3.1 prejudice Our or Your accrued rights under the Contract. Those provisions of the Contract which are by their nature intended to continue shall continue to apply, and

7.3.2 require the reperformance of any obligation which has already been performed.

7.4 In the event You or a future successor breach this Clause 7, We reserve the right to either (at Our option):

7.4.1 amend the Contract Price, and / or

7.4.2 terminate the Contract with immediate effect in accordance with Clause 14. For the avoidance of doubt, Termination Costs shall be payable.

8. Contract Price and Payment

8.1 You shall pay the Contract Price and any other further sums to be paid by You under the Contract in accordance with this Clause 8.

8.2 We may increase the Total Contract Price:

8.2.1 on an annual basis with effect from each anniversary of receipt of the Acceptance Form, in line with the percentage increases in the BCIS General Building Cost Index in the preceding twelve (12) month period, and the first such increase shall take effect on the first anniversary of the Acceptance Form,



- 8.2.2 in the event that the monthly movement in market indices (relating to, without limitation, metals, plastics and oil) exceeds the average monthly movement in the BCIS General Building Cost Index in the previous twelve (12) month period, with such increase being equal to the differential percentage increase in rates and prices forming part of the Works,
 - 8.2.3 in the event the assumptions and exclusions contained in Our Tender following commencement of the Works reveals additional Costs are payable in accordance with the Tender,
 - 8.2.4 in the circumstances outlined in Clause 5.4,
 - 8.2.5 because of Your failure or delay in performing Your obligations under the Contract in respect to the Works, and/or
 - 8.2.6 pursuant to Clause 7,
 - 8.2.7 pursuant to Clause 10 or in respect of any event that is treated as a Variation or deemed to be a Variation under this Contract,
 - 8.2.8 in respect of any failure or delay in the performance of works and/or activities which are not part of Our obligations, including those set out in Clause 3.3; and/or
 - 8.2.9 any other circumstances set out elsewhere in the Contract which may result in a change to the Contract Price or additional Costs.
- 8.3 Payment of the Contract Price shall be required as follows:
- 8.3.1 in accordance with the Tender,
 - or
 - 8.3.2 where no payments or specific dates are set out in the Tender, at intervals We consider appropriate for the amounts due under the Contract.
- 8.4 Invoices issued by Us shall include amounts for:
- 8.4.1 delivery and installation at the Site of Plant and equipment,
 - 8.4.2 cost of connection to existing utility mains,
 - 8.4.3 Plant or equipment, and
 - 8.4.4 materials delivered to Site to accommodate programmed Works or in relation to materials held Off-Site,
- and an invoice issued by Us shall constitute a request for payment.
- 8.5 Any sum payable pursuant to Clause 8.3 shall fall due for payment on the day after the date We request payment ("**Due Date**").
- 8.6 The final date for payment is thirty (30) days after the Due Date ("**Final Date for Payment**").
- 8.7 Not later than five (5) days after the Due Date You may issue a notice (the "**Payment Notice**") to Us in which You specify the amount considered due in respect of the request for payment, and the basis on which the amount was calculated in



accordance with the Contract. If You do not provide a notice under this Clause 8.7, the amount in Our invoice is deemed to be the Notified Sum.

- 8.8 Subject to Clause 8.9 You must pay Us the Notified Sum on or before the Final Date for Payment.
- 8.9 If You intend to pay less than the Notified Sum You must notify Us not later than seven (7) days before the Final Date for Payment stating the amount considered to be due and the basis on which that sum is calculated ("**Pay Less Notice**"). Any Pay Less Notice must be notified to Us in writing.
- 8.10 Where a Pay Less Notice is given, You shall pay the sum stated in the Pay Less Notice to Us on or before the Final Date for Payment.
- 8.11 If payment of any sum due under the Contract remains unpaid following the Final Date for Payment, We shall be entitled to receive interest on the amount unpaid during the period of such delay until payment is made in full. Interest shall be at the rate of four per cent (4%) per annum above the base rate of the Bank of England from time to time during the period of delay. We shall be entitled to interest without formal notice and without prejudice to any other right or remedy.
- 8.12 The Contract Price does not include VAT which shall be payable in addition thereto at the appropriate rate upon receipt of a valid VAT invoice.
- 8.13 Pass-Through Costs
- 8.13.1 Without prejudice to any other right to adjust the Contract Price under this Contract, You acknowledge and agree that any costs, charges, losses or other sums incurred or notified to Us by:
- 8.13.1.1 any Upstream Network Operator, Adopting Authority, Incumbent Water Company, Incumbent Wastewater Company, or any other statutory undertaker;
- 8.13.1.2 any Competent Authority; or
- 8.13.1.3 any third party exercising public or statutory powers (including, without limitation, any highways authority in connection with traffic management measures), which were not included or reasonably foreseeable within the Tender assumptions, shall constitute pass-through costs recoverable in full from You.
- 8.13.2 For the avoidance of doubt, the following shall each constitute a Variation for the purposes of Clause 10:
- 8.13.2.1 any increase in, or introduction of, costs or charges applied by an Upstream Network Operator, Adopting Authority, or Incumbent;
- 8.13.2.2 any reduction to the asset value (including any reduction to Income Offset or other allowances) payable by the Adopting Authority;
- 8.13.2.3 any traffic management, permitting, licensing, supervision, inspection, or other statutory costs; and
- 8.13.2.4 any other costs arising from changes in design requirements, technical standards, network reinforcement, or any other matter beyond Our reasonable control.



- 8.13.3 Upon becoming aware of any pass-through cost or other matter constituting a Variation under Clause 8.13.2, We may immediately issue an invoice for the amount due, and such amount shall be treated as a Notified Sum for the purposes of Clause 8.
- 8.13.4 You shall pay any invoice issued pursuant to Clause 8.13.3 on the Due Date, without the need for a Variation Notice or any prior approval, and Your consent to the Variation shall be deemed for the purposes of Clause 10.
- 8.13.5 We shall provide reasonable supporting information or evidence of the pass-through cost on an open-book basis, but You acknowledge that liability for such costs rests solely with You.

9. Suspension

- 9.1 If You fail to pay an amount due (which is not the subject of a Pay Less Notice) by the Final Date for Payment of such sum, We may (after giving not less than 7 (seven) days' written notice to You) suspend performance of the Works until the date of payment of such outstanding amount. If we exercise this right, You must reimburse Us the Losses we reasonably incur.

10. Changes

- 10.1 Where a Change is required during the operation of the Contract this Clause 10 shall apply.

Notice Procedure

- 10.2 Where:
 - 10.2.1 a Client Change is needed, You shall serve a Variation Notice on Us,
 - 10.2.2 a Contractor Change is needed, We shall serve a Variation Notice on You, and
 - 10.2.3 a Change in Law Change is needed, either party may serve a Variation Notice on the other.
- 10.3 As soon as reasonably practicable of submitting or receiving a Variation Notice (as the case may be) We shall notify You in writing of:
 - 10.3.1 any matter which could impact on the provision of the Works and the scope of Variations required,
 - 10.3.2 any matter which could impact on the Contract Price,
 - 10.3.3 any matter which could impact or effect on the timescales for Substantial Completion,
 - 10.3.4 whether (in Our opinion) relief from compliance with any obligations under the Contract may be required,
 - 10.3.5 whether the Change is, in any event, within Our ability to perform, and
 - 10.3.6 any other relevant and consequential matters and/or amendments (not being a Variation or adjustment to the Contract Price) that may be required to the terms of the Contract to give effect to the Change,

(a "**Variation Impact Notice**").

Change Procedure

- 10.4 As soon as reasonably practicable, and in any event within twenty (20) Working Days of receipt of a Variation Notice in respect of a Contractor Change, You shall either confirm or reject the Variation Notice in writing or, in the case of a Client Change, You may withdraw the relevant Variation Notice within twenty (20) Working Days of submitting the Variation Notice.
- 10.5 Where You reject or withdraw a Variation Notice (as applicable) within the timescales in Clause 10.4:
- 10.5.1 You shall provide reasonable, written grounds for doing so (such written reply not to be unreasonably delayed or withheld), and
- 10.5.2 The parties shall within twenty (20) Working Days of notice of such withdrawal or rejection, use reasonable endeavours to agree how to proceed, including (as appropriate) arranging reasonably necessary meetings and Site visits as may be required to agree a Variation Notice.
- 10.6 Where:
- 10.6.1 You do not reject or withdraw a Variation Notice (as applicable) within the timescales in Clause 10.4, and
- 10.6.2 implementing the Change is within Our ability, then
- 10.6.3 We shall implement the Change and Your consent shall be deemed to have been given to the Change and the Contract shall be varied as set out in the Variation Impact Notice.
- 10.7 Notwithstanding any other terms to the contrary, from time to time the nature of the Works may dictate a need to progress a Client Change or a Contractor Change without a Variation Notice. Your consent shall be deemed in such cases and the Contract Price amended accordingly. We shall use reasonable endeavours to:
- 10.7.1 keep such instances to a minimum,
- 10.7.2 ensure, where practicable, one of Your representatives are made aware of and involved in (verbally) any such Change, and
- 10.7.3 retrospectively issue a Variation Notice to You (for information only).
- 10.8 The process in Clauses 10.4 to 10.7 (inclusive) shall not apply to a Change in Law Change or to a deemed Variation (or any event that is treated as a Variation pursuant to Clause 10.13) and We shall implement such Variations without the need for consent.
- 10.9 We shall notify You if, in Our opinion, a Client Change is likely to prejudice or prevent Us from or in fulfilling any of Our obligations under the Contract. If You decide to proceed, any Variation shall be carried out by Us at Your risk and cost.
- 10.10 Notwithstanding any other terms to the contrary, it is acknowledged by You and Us that any Change in Law may result in the Works no longer being lawfully permitted and / or determined by You to be installed on the Site. It is also acknowledged by You that the Contract Price is based on the scope of the Works, type and number of Connections as set out in the Tender. It is therefore expressly agreed by You that, in



the event that (i) the type or number of Connections that are connected to the Works and Adopted by the Adopting Authority (in whole or in part) changes from what was originally specified in the Tender or (ii) a Change in Law results in the Works no longer being lawfully permitted and / or determined by You to be installed on the Site as originally specified in the Tender, the Contract Price will be amended in order for Us to recover such amounts as We determine, in Our discretion and at all times acting reasonably, We incur as a loss as a result of the events described in this Clause 10.10 which impacts Our calculation of the original Contract Price. Such losses shall include (but are not limited to):

10.10.1 loss of profits as a result of lower asset values being payable by the Adopting Authority than originally envisaged by Us when compiling the Contract Price,

10.10.2 loss of anticipated savings as a result of the shared overhead, plant and materials costs applied to the original scope of Works, and

10.10.3 any costs associated with designing an alternative and / or reperforming any obligations which have already been performed hereunder,

and any amounts ascertained under this Clause 10.10 shall be added to the Contract Price.

10.11 Where:

10.11.1 non-performance of Our obligations under the Contract cannot be remedied by a Change, or

10.11.2 You reject a Variation Notice (and any differences between the parties are not able to be resolved pursuant to Clause 10.5.2), then

10.11.3 We shall be entitled to terminate the Contract immediately pursuant to Clause 14 and, for the avoidance of doubt, Termination Costs shall be payable.

Miscellaneous

10.12 Where a Variation is (or is likely to be) required because of a Client Change or Change in Law You must provide Us with reasonable notice to plan in good time. Where Plant is already ordered, manufactured, or being manufactured, or any work done or drawings made that require to be altered or are no longer required, You shall be liable for the Cost for such Plant and/or alterations.

10.13 For the avoidance of doubt, while every reasonable effort is made for certainty in respect of the Contract Price, the Tender (including in respect of any Off-Site Works) is based upon a desktop assessment, site survey and a set of standard industry assumptions. In many respects We rely on information provided by You, a Network Operator, and other third parties. From time to time, the allowances and assumptions made in Our design and Tender may require alteration and any such alteration (regardless of the cause) shall be treated as a Variation. This may include, without limitation:

10.13.1 where in the case of work underground or work involving excavation where the actual condition and any obstructions of the ground are not stated, the route and ground conditions assumed in the Tender are not achievable and such conditions or obstructions could not reasonably have been identified (or the extent of their impact on the Works identified) in information provided to Us for the purpose of the Tender, and which would have not



been reasonably foreseeable at the date of the Contract to a properly qualified and competent design and build contractor acting as an RPO (it being understood that the Works shall not be undertaken on contaminated land unless expressly set out in the Tender);

- 10.13.2 Your breach of Clause 4; or
 - 10.13.3 where there are (or are found to be) errors, omissions or discrepancies in drawings and any other written information provided by You, or
 - 10.13.4 the Plant specified in the Tender is not available; or
 - 10.13.5 a Network Operator or You, at any time, requires Us to make any change to the Works or the design of the Works or requires reinforcement works.
- 10.14 We shall not be in breach of Contract for any non-performance of Our obligations under the Contract during the period the parties are taking steps to agree a Change.
- 10.15 We shall maintain a record of all Changes and (on request) provide copies to You when reasonably required by You.
- 10.16 Any dispute between the parties relating to Changes shall be determined in accordance with Clause 18.

11. Assignment and Sub-Contracting

- 11.1 You shall not assign charge or otherwise transfer the Contract, in whole or in part, without Our prior written approval. We shall be entitled to assign the benefit of the Contract in whole or in part.
- 11.2 We shall be entitled to novate, charge or otherwise transfer any of Our rights and/or obligations under the Contract in whole or in part to any Affiliate by notice in writing to You. Within ten (10) days of receiving a notice from Us, You shall enter into a deed of novation in such form as We may reasonably require, with Us and an Affiliate taking or acquiring the whole or substantially the whole of Our interest in the Contract.
- 11.3 We may also subcontract (in whole or in part) performance of Our obligations under the Contract. Any such sub-contracting shall not relieve Us from any liability or obligation under the Contract.

12. Insurance

- 12.1 Without prejudice to any obligations under the Contract or otherwise at law, each party shall at their expense take out and maintain with insurers of good repute for the duration of the Works and until Adoption such policies of insurance as are required under Applicable Law and such other policies of insurance as are appropriate and adequate having regard to its obligations and liabilities under the Contract. Each party shall provide to the other on demand evidence of its compliance with this Clause 12.1.

13. Indemnity

- 13.1 Subject to Clause 13.2, You shall be responsible for and shall indemnify, keep indemnified and hold Us, LMAM and the Adopting Authority harmless from and against any Losses (including legal fees and expenses) suffered or incurred by Us, LMAM and/or the Adopting Authority in any way whatsoever arising (whether



directly or indirectly) out of or in connection with the Contract, including as a consequence where:

- 13.1.1 any information provided by You is incorrect, misleading (whether intentionally or otherwise), changed, varied or amended in any way,
 - 13.1.2 LMAM is required to carry out unplanned reinforcement of any part of the Authority's System as a result of Your Works,
 - 13.1.3 a Change in Law has occurred,
 - 13.1.4 You have acted negligently, or breached, or caused Us, LMAM or the Adopting Authority to breach, a statutory duty,
 - 13.1.5 subject to Clause 0 there is a delay in the completion or the Commissioning of Your Works that will form part of the Authority's System,
 - 13.1.6 there has been a breach by You of Your obligations pursuant to the Contract,
 - 13.1.7 there has been a breach of any warranty given by You under the Contract,
 - 13.1.8 a negligent or wilful act or omission has been committed by You, Your subcontractors or Your or their employees or agents,
 - 13.1.9 You not possessing the rights, titles and interests necessary to perfect the transfers and licences of IP Rights from You to Us set out in Clause 16,
 - 13.1.10 any disruption (howsoever caused) to, or failure of, Your Works or any part thereof,
 - 13.1.11 any breach by You of Data Protection Legislation; and
 - 13.1.12 any act or omission of You or Your subcontractors or Your or their employees or agents placing or causing Us to be in breach of the Asset Adoption Agreement.
- 13.2 You shall not be liable for Losses arising from Our negligence, and/or breach by Us of Our obligations under the Contract.

14. Termination and Cancellation

Termination

- 14.1 For the avoidance of doubt, once the Works (in whole or in part) have been Adopted by the Adopting Authority the expiry or termination of the Contract shall not affect (in any way) the Adopting Authority's ownership of, and rights in relation to, the Works.
- 14.2 We may immediately terminate the Contract by written notice to You if You:
- 14.2.1 abandon or otherwise plainly demonstrate an intention not to perform Your obligations under the Contract, or
 - 14.2.2 unreasonably suspend performance of the Contract requirements without reasonable excuse for a period of seven (7) days, or



- 14.2.3 fail to pay any sum due by the Final Date for Payment and remain in default for a period of fourteen (14) days after being notified in writing to make such payment, or
 - 14.2.4 are subject to a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010),
 - 14.2.5 commit a breach of health and safety rules or obligations,
 - 14.2.6 Clause 10.11 applies, or
 - 14.2.7 are in breach of Clause 21.
- 14.3 Either party may immediately terminate the Contract by written notice to the other if:
- 14.3.1 an Insolvency Event occurs, or
 - 14.3.2 the other party is in breach of any of its material obligations under this Contract and (if such breach is remediable) fails to correct or cause to be corrected that breach within thirty (30) days of receipt from the other of the notice of default or make or cause to be made provision for the satisfactory correction of such default within a reasonable time thereafter.
- 14.4 If the Asset Adoption Agreement is terminated for any reason, We may terminate the Contract by written notice to You.
- 14.5 Termination or expiry of the Contract shall not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.6 Upon termination of the Contract (howsoever caused):
- 14.6.1 You shall immediately be liable to Us for the Termination Costs,
 - 14.6.2 We shall make the Works safe,
 - 14.6.3 You shall make Your Works safe,
 - 14.6.4 each party shall promptly return (or allow the other party to collect at reasonable times and upon reasonable notice) any property of the other which is in its possession or control,
 - 14.6.5 at the option of the relevant party, return or destroy any of the others party's Confidential Information that it has in its possession or control (excluding any Confidential Information reasonably required to satisfy reasonable and lawful record-keeping requirements),
 - 14.6.6 each party shall provide all assistance reasonably required by LMAM to: (i) facilitate the smooth transition of the performance of the Works to any replacement contractor or replacement developer (as the case may be); and (ii) ensure the Adoption of the Adoptable Works which have been Commissioned as at the point of termination, and
 - 14.6.7 each party shall enter into a contract on similar terms to this Contract with the replacement contractor or replacement developer (as the case may be) and procure an undertaking from the Landowner that any Adoptable



Works not yet Completed at the point of termination, including all Connections at the Site, will continue to be connected directly to the Authority's System.

Cancellation

- 14.7 Once a Contract is formed in accordance with Clause 2, it may not be cancelled without Our written consent. In the event We agree to a cancellation the Termination Costs are immediately due to Us.

15. Force majeure

15.1 Subject to Clause 15.3, neither party (the “**Affected Party**”) shall be in breach of the Contract to the extent its delay or failure to perform its obligations results directly from a Force Majeure Event, provided that the Affected Party:

15.1.1 notifies the other party of:

15.1.1.1 the facts and circumstances giving rise to the Force Majeure Event,

15.1.1.2 the obligations of the Affected Party that are the subject of the Force Majeure Event,

15.1.1.3 the steps that the Affected Party intends to take in order to avoid (or if avoidance is not possible, to minimise) the Force Majeure Event,

15.1.1.4 the expected duration of the Force Majeure Event,

(a “**Force Majeure Notice**”),

15.1.2 updates the information in the Force Majeure Notice at regular intervals, no less frequently than every forty-eight (48) hours,

15.1.3 uses all reasonable endeavours to avoid (or if avoidance is not possible, to minimise) the impact of the Force Majeure Event,

15.1.4 continues performing any obligations to the extent that such performance is not prevented by the Force Majeure Event, and

15.1.5 completes the full and proper performance of the obligations that are subject to the Force Majeure Event (save as to time of performance) as soon as reasonably practicable after cessation of the Force Majeure Event.

15.2 Subject to You first having complied with Clause 15.1, and Subject to Clause 15.3, You shall be entitled to an extension of time for performance of Your Works affected by the Force Majeure Event equal to the duration of the Force Majeure Event.

15.3 Notwithstanding Clause 15.1 and Clause 15.2 You shall not be excused for any failure by You to comply with Your obligations under Applicable Law, or for putting Us in breach of Applicable Law as a result of a Force Majeure Event.

16. Intellectual Property Rights

16.1 Ownership of IP Rights in the Documents shall remain vested in Us (or, if not owned by Us, Our licensors). Subject to the foregoing, as between the parties, any IP Rights vested in a party prior to the Commencement Date shall remain vested in that party, and any IP Rights created by a party during the performance of the Contract shall automatically vest in the party creating it.

16.2 You hereby grant to Us on a perpetual, irrevocable, non-exclusive, UK-wide, fully paid up and royalty free basis, a licence to use such IP Rights vested in You or licensed to You, in each case to the extent necessary to perform or receive the benefit of this Contract or to perform any obligation, or to receive the benefit of any rights, under any other agreement related to the Adoptable Works or for the use of the Adoptable Works as part of the Authority’s System. The licence You grant to Us under this Clause 16.2 shall be irrevocable because, amongst other matters, We may need to provide plans, drawings and other documentation to the Network Operator for the

purpose of Adoption and the licence You grant to Us shall also include the right for Us (and any of Our sub-licensee's) to grant sub-licences to the Network Operator, LMAM or any other third party for the purposes of or in connection with Adoption. You warrant that You have the right, title, interests, and any Consents necessary to grant the licences given in this Clause 16.2 and agree to do all things required to perfect such grant.

- 16.3 We hereby grant to You for the term of this Contract on a non-exclusive, UK-wide, fully paid up and royalty free basis, a licence to use such IP Rights vested in Us or licensed to Us, in each case to the extent necessary to perform or receive the benefit of this Contract. Our licence to You under this Clause 16.3 does not include the right for You to grant sub-licences nor the right to use or reproduce the Documents for any part of an extension of the Site (or for any other project or works other than the Works). We warrant that We have the right, title, interests, and any Consents necessary to grant the licences given in this Clause 16.3 and agree to do all things required to perfect such grant. We shall not be liable for any use of the Documents other than for the purposes for which they were prepared.
- 16.4 If at any time You are in default of payment of any fees or other amounts properly due under the Contract, We may suspend further use by You of the licence set out in Clause 16.3 above on giving fourteen (14) days' notice of the intention of doing so. Use of the licence may be resumed on receipt of such outstanding sums.

17. Limitation of liability

- 17.1 We shall not be liable to You for loss of profit or revenue, loss of use of equipment or associated equipment, loss of production or down time costs, loss of opportunity, loss of contract, loss of goodwill, the cost of obtaining any new financing or maintaining any existing financing or for any consequential or indirect loss.
- 17.2 Save in relation to death or personal injury caused by Our negligence or for any matter for which it is not permitted by law to exclude or limit its liability, and subject to Clauses 6.7.6, 6.8 and 17.5, Our aggregate liability arising under or in connection with the Contract (whether arising in contract, tort, by reason of indemnification, breach of statutory duty, equity or otherwise) shall not exceed an amount equivalent to the value of the Contestable Works as stated in the Tender.
- 17.3 Subject to Clause 6.8, You may not commence any legal action in respect of the Contract against Us following the expiry of six (6) years from the date of Substantial Completion or an earlier date agreed by the parties.
- 17.4 You shall not hold Our employees, officers, or agents liable in respect of any negligence, default or other liability arising from the delivery of the Works.
- 17.5 We shall have no liability for Losses incurred by You because of any delay to the commencement or completion of the Works, howsoever caused.
- 17.6 You confirm that You do not enter into the Contract in reliance on any oral representation, warranty or undertaking not fully reflected in the terms of the Contract and that no amendment, modification or substitution to the Contract shall be effective unless executed in writing by both parties.

18. Dispute Resolution

- 18.1 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

- 18.2 The parties shall endeavour, in the first instance, to resolve any dispute which does arise by direct negotiations between senior executives. The parties shall also give serious consideration to any request from a party to the dispute to refer the dispute to mediation if it cannot be resolved by direct negotiation.
- 18.3 Subject to the Site location either party may at any time refer any dispute or difference arising under the Contract to adjudication in accordance with the provisions of The Scheme for Construction Contracts (England and Wales) Regulations 1998 or Scheme for Construction Contracts (Scotland) Regulations 1998 (as applicable).
- 18.4 The adjudicator shall be either a person agreed by the parties or, on the application of the party who is referring the dispute or difference, an individual to be nominated by the President or Vice President of the Chartered Institute of Arbitrators.
- 18.5 If either party intends to dispute the adjudicator's decision it must serve a notice on the other party stating its intention to refer the dispute for final determination by way of court proceedings. If neither party serves such notice within twenty eight (28) days of the adjudicator's decision, the adjudicator's decision shall be final and binding on the parties.
- 18.6 For the avoidance of doubt, it is agreed between the parties that the adjudicator may, with the consent of all the parties to those disputes, adjudicate at the same time on related disputes under different contracts whether one or more of the parties is a party to those disputes.

19. Confidentiality

- 19.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five (5) years after termination or expiry of the Contract, disclose the Confidential Information of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 19.2.
- 19.2 Each party may disclose the other party's Confidential Information:
- 19.2.1 to its shareholders, employees, officers, representatives, contractors, subcontractors, actual or potential funders or acquirers of its business or advisers and to a Network Operator who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors, actual or potential funders or acquirers of its business or advisers or Network Operator(s) to whom it discloses the other party's Confidential Information comply with confidentiality obligations equivalent to this Clause 19, and
 - 19.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 19.3 Clauses 19.1 and 19.2 do not apply to Confidential Information which:
- 19.3.1 is or becomes publicly known other than by breach of the Contract, or
 - 19.3.2 can be shown to have been known by the receiving party before disclosure by the disclosing party, or
 - 19.3.3 becomes available to the receiving party otherwise than pursuant to this Contract and free of any other restrictions as to its use or disclosure.

- 19.4 No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 19.5 You acknowledge that the Adopting Authority operates within a regulated environment, which involves it handling information confidentially and complying with certain restrictions in relation to the disclosure of confidential information and You further acknowledge that information provided by the Adopting Authority or LMAM to Us or You for the purposes of the Contract may be subject to those restrictions. You consent to the Adopting Authority and LMAM using and disclosing its confidential information for the purposes of their main businesses, in compliance with their duties under Applicable Law.

20. Data Protection

- 20.1 For the purposes of this Clause 20, the terms “**Controller**”, “**Processor**” and “**Personal Data**” shall have the meaning prescribed to them in the Data Protection Legislation.
- 20.2 The parties agree and acknowledge that:
- 20.2.1 the sharing of Personal Data with each other may be required for the administration and performance of the Contract; and
 - 20.2.2 Personal Data received by a party under the Contract shall be used for the administration and performance of the Contract and not for any other purpose unless the receiving party has legitimate grounds as a Controller under the Data Protection Legislation.
- 20.3 The parties acknowledge that the factual arrangements between them dictates the role of each party in respect of the Data Protection Legislation. Notwithstanding the foregoing, both parties anticipate that for the purposes of this Contract, each shall be an independent Controller and the disclosure of Personal Data under this Contract shall be on a Controller to Controller basis. The parties agree that they will comply with the requirements of the Data Protection Legislation as it applies to Controllers.
- 20.4 Notwithstanding Clauses 20.2 and 20.3, the parties agree that if the circumstances surrounding the sharing of Personal Data under this Contract change, and We are a Controller and You are a Processor in relation to the same Personal Data, the parties shall enter into an agreement containing the mandatory clauses required to be in place between Controllers and Processors (and Sub-Processors) under Article 28 UK GDPR.
- 20.5 The provisions of this Clause 20 shall apply during the Contract and after its expiry or termination.

21. Compliance

- 21.1 Each party warrants that it has not done, and in performing its obligations under the Contract, it shall not do, any act or thing that contravenes the:
- 21.1.1 Bribery Act 2010,
 - 21.1.2 Modern Slavery Act 2015,
 - 21.1.3 Criminal Finances Act 2017, or



21.1.4 any other Applicable Law relating to anti-bribery or anti-money laundering or modern slavery.

21.2 Each party warrants that it shall have, maintain, and comply with throughout the duration of the Contract a policy designed to ensure compliance with Clause 21.1. Each party shall as soon as reasonably practicable notify the other in writing on becoming aware of any failure to comply with Clause 21.1.

22. General

22.1 Waiver

22.1.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

22.1.2 Failure or delay by Us to enforce (in whole or in part) any provisions of this Contract or exercise any right or remedy provided under the Contract or by law shall not be construed as a waiver of that or any other provision, right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

22.2 Rights and Remedies

22.2.1 The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

22.3 Severance

22.3.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

22.3.2 If any provision or part-provision of the Contract is deemed deleted under Clause 22.3.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22.4 Entire agreement

22.4.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

22.4.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract.

22.4.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

22.5 No partnership or agency

22.5.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22.5.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22.6 **Third party rights**

22.6.1 The parties acknowledge and agree that LMAM and the Adopting Authority shall on and from the Commencement Date be entitled to enforce its rights under the Contract against the Client or the Contractor (as the case may be).

22.6.2 Subject to Clause 22.6.1 and Clause 7.2, and without prejudice to the rights of the relevant Adopting Authority to Adopt, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 and/or Contract (Third Party Rights) (Scotland) Act 2017 (as applicable) to enforce any term of the Contract.

22.7 **Notices**

22.7.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

22.7.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or

22.7.1.2 sent by email to the address specified in the Tender.

22.7.2 Any notice shall be deemed to have been received:

22.7.2.1 if delivered by hand, at the time the notice is left at the proper address,

22.7.2.2 if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting, or

22.7.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 22.7.2.3, business hours means: 9.00am to 5.00pm Monday to Thursday and 9.00am to 4.00pm Friday on a day that is not a public holiday in the place of receipt. An email shall not be deemed to have been sent if the sender receives notification of the recipient being out of the office.

22.7.3 If in an emergency any communication is made orally with respect to health and safety, risk of damage to property or other assets or insurance matters, written confirmation of it must be sent by the relevant party to the other as soon thereafter as is reasonably practicable.

22.7.4 Notices under Clauses 14 or 21, notices of breach of Contract or the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution may not be served by email.

22.8 **Survival**

22.8.1 Any provision of the Contract explicitly or implicitly intended to survive termination or expiry of the Contract, including any necessary for their interpretation or enforcement, shall survive such termination or expiry.

22.9 **Governing law**

22.9.1 The Parties hereby agree that the Contract shall be brought in the courts where the Site is located and shall be governed by and construed in accordance with the laws of England and Wales or Scotland (as applicable and which will be determined with reference to the location of the Site) and both parties submit to the exclusive jurisdiction of the English or the Scottish courts (as applicable).

22.10 **Amendment to the Contract**

Notwithstanding clause 10, We shall (acting reasonably at all times) be entitled, at any time, by giving written notice to You to amend, supplement or update:

22.10.1 the Tender (all other schedules attached or referred to in the Tender),

22.10.2 the Acceptance Form,

22.10.3 these Conditions, and

22.10.4 any document incorporated by reference,

and the date on which such amendment, supplement or update takes effect shall be the date that the written notice to You is deemed to be issued and received in accordance with Clause 22.7.



Conditions B: Conditions for Water Connections

Conditions A: The Core Terms and Conditions shall apply to water connections in England and Wales except to the extent amended or expanded as set out in these Conditions B.

Definitions

Replacements

Delete the definition “**Upstream Network Operator**” and replace all references to “Upstream Network Operator” in the Contract to “**Incumbent Water Company**”.

Additions

Add new definitions, as follows:

“**Existing Main**” means that part of the Water Network to which the Self-Laid Main shall connect for the purposes of delivering supplies of potable water to Water Consumers.

“**Final Connection**” means the commissioning of the Self-Laid Main by means of the connection between that main and the Existing Main.

“**Income Offset Allowance**” means a payment made or a sum of money offset against infrastructure charges by the NAV or the Incumbent Water Company (as the case may be) to the Client in respect of new water connections.

“**Instrument of Appointment**” means the instrument of appointment as from time to time amended under section 8(1) of the Water Industry Act 1991 whereby the Secretary of State appointed LMWL as the undertaker for the areas described therein as from time to time applying.

“**NAV**” means a New Appointee Variation, being, in respect of a Site, a variation made by Ofwat to the Instrument of Appointment following an application by LMWL to Ofwat allowing LMWL to provide services to the Site.

“**Self-Laid Main**” means the new water main (including accessories as defined in the Water Industry Act 1991) to be constructed by Us as part of the Works intended to be Adopted.

“**Water Consumers**” means the person who consumes or it is intended shall consume the supply of water delivered or provided through the relevant Network Operator’s network.

“**Water Network**” means the Incumbent Water Company’s water supply assets.

Amendments

Amend the following definitions:

“**Incumbent Water Company**” by replacing the meaning with “ means the Network Operator (not being a party to the Contract) that owns and operates the Water Network, including the Existing Main”

“**Point of Connection (PoC)**” by replacing the words, “the Works shall be connected” with, “a supply of water can flow between the Works and the Water Network”.

“**Termination Costs**” by adding a final sentence, “Additionally, You shall repay to Us the amount of any Income Offset Allowance paid by or allowed for in the Contract Price by Us.”

“**Works**” by replacing the meaning with, “the works and services that are Our responsibility in connection with the provision of the Self-Laid Main required to serve the Site, as detailed



in the Tender to be carried out by Us in accordance with the Contract including any agreed Variation.”

Clause 2: Basis of Our Tender and Assumptions

Insert new clauses, as follows:

- 2.3 This Contract is based on the Self-Laid Main being Adopted by the Adopting Authority pursuant to a NAV. Upon return of your Acceptance Form, You agree to support the NAV application process by the Adopting Authority by:
- 2.3.1 providing a signed letter of support, in the form appended to the Tender, and
 - 2.3.2 any other information or documents which We or the Adopting Authority may reasonably require.
- 2.4 You acknowledge that the Adopting Authority cannot progress the NAV application process until all relevant information and documents have been provided. Failure to return and provide any information requested may result in delays out of Our or the Adopting Authority’s control.
- 2.5 You acknowledge and warrant that a physical connection should not, and warrant that it will not, be made to the Incumbent Water Company’s Water Network at any time before the NAV is granted to the Adopting Authority. You must notify Us, and We shall thereafter notify the Adopting Authority, of the intention to make such a connection. Failure to do so may result in an illegal connection liable to prosecution and/or the need for the connection to be removed.
- 2.6 Until such time as the NAV is granted, We reserve the right to revoke the NAV option. In this case:
- 2.6.1 the standard process for the Incumbent Water Company shall apply,
 - 2.6.2 We shall be entitled to adjust the Contract Price accordingly including (where applicable) make any adjustment to the asset value allowed for in Our Tender, and
 - 2.6.3 for the avoidance of doubt, We shall be entitled to any part of the Contract Price commensurate to the Works undertaken by Us prior to the NAV option being revoked.

Clause 4: Your Obligations

At Clause 4.8:

Replace, “the Adoptable Works are Commissioned” with, “the carrying out of the Final Connection and Adoption”, and

Add a new paragraph before the existing final sentence at Clause 4.8:

“You shall be responsible for the provision of all appropriate Land Transfer drawings and the completion of any Land Registry forms (and associated documents). Where You are unable to obtain any Land Rights required under this Clause 4.8, the Adopting Authority (or Incumbent Water Company, as the case may be) may at its sole discretion (a) elect to use its statutory powers to obtain Land Rights under the Water Industry Act 1991, (b) serve any notices on any relevant Landowners, and/or (c) negotiate rights of access. You shall pay the Adopting Authority’s (or Incumbent Water Company’s, as the case may be)



reasonable costs (including any professional fees and disbursements) incurred in obtaining the same.”

Clause 6: Adoption, Title, Risk and Defects

At 6.1.3, replace “the Adoptable Works will not be Commissioned” with “the carrying out of the Final Connection and Adoption will not occur”.

At the end of Clause 6.4 and before the full stop insert, “(including any compensation which may be payable by LMWL (or the Incumbent Water Company, as the case may be) for a loss of or failure to provide a water supply)”.

Clause 7: Land Transactions

At Clause 7.1:

Replace, “Works” with, “Self-Laid Main” at both places, and

Insert a new final sentence, “The parties acknowledge the Adopting Authority’s exclusive right to Adopt the Self-Laid Main is subject to the grant of the NAV.”

At Clause 7.2:

Replace “Works” with, “Self-Laid Main”.

Clause 8: Contract Price and Payment

Insert new clauses, as follows:

8.13 It is assumed that a suitable Point of Connection to supply the Site is available at or near the Site entrance and Our Tender assumes that certain charges shall be payable to the Incumbent Water Company for the Off-Site main connection to the Incumbent Water Company’s Water Network. These connection charges are payable to the Incumbent Water Company for the Point of Connection. You shall be responsible for payment of these charges. Once the Incumbent Water Company has provided a formal proposal for these works, this information shall be made available to You on an open book basis and must be paid by You within 14 days of receipt of an invoice from Us.

8.14 Infrastructure charges for water (being the charges payable for the connection of Premises to a water supply which have never on any previous time been connected to a water supply) are payable by You on a per plot basis. These charges shall be invoiced by Us and payable by You in accordance with any timescales required by the Adopting Authority to ensure payment to the Incumbent Water Company in good time. You shall pay to Us any such charges immediately on receipt of invoice from Us. In turn, these charges shall be paid by Us, on a pass-through basis, to the Adopting Authority. You shall provide (within five (5) days of being requested to do so) all information which may be required for the calculation of such charges.

Clause 14: Termination and Cancellation

At Clause 14.1:

Replace, “Works” with, “Self-Laid Main” in both places.



Conditions C: Conditions for Wastewater Connections

Conditions A: The Core Terms and Conditions shall apply to wastewater connections in England and Wales except to the extent amended or expanded as set out in these Conditions C.

Definitions

Replacements

Delete the definition “**Upstream Network Operator**” and replace all references to “Upstream Network Operator” in the Contract to “**Incumbent Wastewater Company**”.

Additions

Add new definitions, as follows:

“**Section 104 Agreement**” means the Adopting Authority agreement for the adoption of sewerage infrastructure substantively in the form prescribed by Ofwat in the WSC.

“**Technical Services**” means the services to be undertaken by Us set out more fully in the Tender in relation to the Adoption of Your Works on the Adopting Authority’s behalf, including without limitation:

- Technical approval of Your design pack of Your Works to be constructed and offered up by You pursuant to the requirements of an Asset Adoption Agreement,
- Carrying out inspections of foul sewers, surface sewers, surface water sewers, and/or sustainable drainage systems are referred to in an Asset Adoption Agreement (and which may include survey by closed circuit television and/or other internal survey methods), and
- any other services related to the Adoption of Your Works as may be required by the Adopting Authority, and
- in accordance with any specification, standards, and procedures which the Adopting Authority may require for Your Works to be Adopted.

“**Wastewater Network**” means the Incumbent Wastewater Company’s wastewater assets.

“**WSC**” means the code for agreements for water and sewerage companies operating wholly or mainly in England and which came into effect on 13 November 2017 as may be amended or updated from time to time.

The definitions for, “**Instrument of Appointment**” and “**NAV**” as set out in Conditions B shall apply.

Amendments

Amend the following definitions:

“**Asset Adoption Agreement**” replace the meaning with, “means the Section 104 Agreement”.

“**Incumbent Wastewater Company**” replace the meaning with “*means the Network Operator (not being a party to the Contract) that owns and operates the Wastewater Network*”

“**Works**” at the end add the words, “but excluding Your Works.”



“Your Works” amend to read, “means any works and/or activities for which You are responsible as detailed in the Asset Adoption Agreement (as the “Client” under that agreement).”

Clause 1.2: Interpretation

At Clause 1.2.7:

Insert “and Technical Services” after “Works”.

Clause 2: Basis of Our Tender and Assumptions

Apply Clauses 2.3, 2.4, 2.5 and 2.6 as set out in Conditions B, except to replace in each place they appear:

“Works” and “Self-Laid Mains” with “Your Works”, and

“Incumbent Water Company’s Water Network” with “Incumbent Wastewater Company’s Wastewater Network”, and

“Incumbent Water Company”, with “Incumbent Wastewater Company”.

Clause 3: Our Obligations

Delete Clause 3.1 and replace it with the following:

“Together with the Adopting Authority, We aim to make the Adoption of Your Works as simple as possible. We are authorised by the Adopting Authority to act on their behalf to undertake the Technical Services. We shall provide the Technical Services to You to the standard of an RPO and in accordance with the Contract, Applicable Law and in accordance with the reasonable instructions and requirements of the Adopting Authority. You must provide all reasonable assistance and cooperation which may be required to enable Us to provide the Technical Services (including without limitation the provision of any and all relevant wastewater records and documents, and at such frequency and times, as We or the Adopting Authority reasonably require on request) and any other services which the Adopting Authority may request or instruct that We provide on their behalf in respect of Your Works.”

Replace the text at Clauses 3.2.1, 3.2.3 and 3.2.4 with “Not Used.”

Clause 4: Your Obligations

At Clause 4.1:

Insert at the beginning of Clause 4.1:

“You acknowledge that You shall be required to, and agree that You shall, following the grant of the NAV, enter into an Asset Adoption Agreement directly with the Adopting Authority and shall procure that any Adjoining Owners shall also enter into the same (where applicable). You acknowledge that We shall not be a party to that agreement.”

Insert a new Clause 4.1.6:

“the Asset Adoption Agreement (and You acknowledge that You shall be subject to a number of warranties and general obligations in respect of Your Works and their Adoption under that agreement and Your non-compliance with the said warranties and obligations may prejudice Adoption of Your Works).”

Delete Clause 4.6 and replace it, as follows:



“You shall be responsible for gaining access to and possession of the Site as is required for the parties to meet their obligations under the Contract and without limiting the above shall provide the Client Notices within such timescales as may be required pursuant to the requirements of the Asset Adoption Agreement, or as We or the Adopting Authority may reasonably require, prior to the commencement of Your Works and give Us access to the Site on the dates required by Us during Normal Working Hours to carry out the Technical Services. You shall provide such roads and other means of access to the Site as may be required by Us.”

At Clause 4.7:

Replace “Works” with “Your Works” and insert “pursuant to the Asset Adoption Agreement” between the words, “required” and “for the carrying out”, and

Delete the sentence, “We shall procure any Consents necessary for the construction, installation, commissioning, execution, and operation of any Off-Site Works.”

At Clause 4.8:

Replace, “are Commissioned” with, “Adopted”, and insert the new paragraph set out in Condition B (replacing “Incumbent Water Company” with “Incumbent Wastewater Company”).

After “Works” insert “or Technical Services (as applicable)” at each place it appears at Clauses:

(a) 4.9.1, (b) 4.9.2, (c) 4.9.4, (d) 4.9.5, (e) 4.9.6 and (f) 4.9.7.

Clause 5: Starting and Completion

Replace with text at Clauses 5.1 – 5.6 with “Not Used”.

Clause 6: Adoption, Title, Risk and Defects

Delete and replace Clause 6.2, as follows:

“You undertake and warrant that You shall, at Your cost, perform any and all necessary obligations including any obligations incumbent upon You under and pursuant to the Asset Adoption Agreement to enable the Adopting Authority to obtain title to Your Works with full title guarantee free from any Encumbrances.”

Delete and replace Clause 6.3, as follows:

“Without prejudice to Clause 6.1, and subject to any contrary provisions within the Asset Adoption Agreement You acknowledge Your Works shall legally and beneficially belong to You until such title vests on Commissioning.”

Delete and replace Clause 6.4, as follows:

“You acknowledge that prior to Adoption, risk of loss or damage to Your Works shall be at Your risk and You must adequately maintain, protect and preserve Your Works until such time as Your Works are Adopted by the Adopting Authority. We shall undertake, as required pursuant to the Asset Adoption Agreement (or otherwise required by the Adopting Authority) inspections as part of the Technical Services and any replacement of parts of Your Works that are found to be worn, damaged or otherwise identified as requiring replacement shall be undertaken by You at Your cost. Any remedial action required by the Adopting Authority to Your Works immediately prior to Adoption shall be for You to undertake at Your own cost. “



Delete Clauses 6.5 to 6.18 and replace with new Clause 6.5 and 6.6, as follows:

“6.5 Other than expressly set out in the Contract, liability for Defects and other various warranties in respect of Your Works shall be set out within the Asset Adoption Agreement.”

“6.6 We shall have no liability or responsibility to You in any way whatsoever, including in respect of the design and/or implementation of Your Works.”

Clause 7: Land Transactions

At Clause 7.1:

After “do the Works” insert “or carry out Technical Services (as applicable)” where it appears.

Insert a new final sentence, “The parties acknowledge the Adopting Authority’s exclusive right to Adopt Your Works is subject to the grant of the NAV.”

Clause 8: Contract Price and Payment

After “Works” insert “or Technical Services (as applicable)” at each place it appears.

Apply Clauses 8.13 and 8.14 as set out in Conditions B, except to:

Replace “Water Company” with “Wastewater Company” in all places it appears,

Replace “Water Network” with “Wastewater Network”,

At Clause 8.13 specifically replace “Off-Site Main” with “sewer”, insert, “directly to the Adopting Authority” between “must be paid by You” and “within 14 days”, and

At Clause 8.14 specifically replace “water supply” with “public sewer” in both places it appears, replace “Us” with “the Adopting Authority” in the third sentence, and delete the fourth sentence.

Clause 9: Suspension

After “Works” insert “or Technical Services (as applicable)”.

Clause 10: Changes

Insert a new Clause as follows:

“10.17 For the avoidance of doubt, Clause 10 shall not apply to Your Works and You must not vary Your Works nor make any additional connections not shown in Your designs of Your Works without first obtaining the Adopting Authority’s written consent. We reserve the right to adjust the Contract Price because of any such agreed variations.”

Clause 14: Termination and Cancellation

At Clause 14.1:

After “Works” insert “or Technical Services (as applicable)” in the first sentence and delete the second sentence.

Replace the text at Clause 14.6.2 with “Not Used”.



Conditions D: Conditions for Heat and/or Cooling Connections

Conditions A: The Core Terms and Conditions shall apply to ambient networks and ground source heat networks except to the extent amended or expanded as set out in these Conditions D.

Definitions

Additions

Add new definitions, as follows:

"Bulk Supply Agreement" means an agreement between You and the Adopting Authority for the bulk supply of the Service to the Site in the Adopting Authority's usual form.

"Consumer Supply Agreement" means an agreement between a Consumer and the Adopting Authority for the supply of the Service in the Adopting Authority's usual form.

"Heat Pump System" means any heat pump unit and the ancillary equipment within a Property connected to the Authority's System.

"Property" (together being, the **"Properties"**) means each of the self-contained units for commercial or residential occupation forming part of the Site and intending to be connected to the Authority's System.

Clause 4: Your Obligations

Insert a new Clause 4.15, as follows:

"Subject to Clause 4.16 and to the extent permitted by Applicable Law, You warrant, represent and undertake that, insofar as it is within your power to do so:

4.15.1 You shall not permit, use, enable or facilitate the installation or use of any form of gas supply, any gas fired appliance (except appliances used for any purpose other than the generation or conveyance of heat or hot water supply of heating or hot water), any boilers, any electric storage heaters, any heat microgeneration equipment (including solar thermal panels and/or ground, water or air source heat pumps, excluding for the avoidance of doubt any Heat Pump System) or any other alternative central heating or hot water system for the supply of space and/or water heating to any part of the Site while the Service for such purpose is being (or is intended to be) available; and

4.15.2 the Site is not connected to any public gas distribution network, or any other district heat network."

Insert a new Clause 4.16, as follows:

"The restriction under Clause 4.15 shall not apply in relation to:

4.16.1 the provision of heating or hot water to any temporary buildings that are used for construction purposes, which means any structure installed on the Site and occupied as part of the construction process which is intended to be removed when construction ceases, including, without limitation, site offices, canteens and mess rooms, drying and changing rooms, rest rooms, wash rooms and toilets; and

4.16.2 the provision of heating or hot water by any temporary means by You in any circumstance where the Service is interrupted or suspended.



Insert new Clauses 4.17 and 4.18, as follows:

- "4.17 You shall enter into a Bulk Supply Agreement and provide a signed copy of it to the Adopting Authority. You acknowledge and agree that it is a condition precedent to Commissioning that You have entered into a Bulk Supply Agreement and provided a signed copy of the same to the Adopting Authority.
- 4.18 You shall provide a welcome pack (being the LMHL information booklet (as may be amended from time to time), which will be made available to You) to prospective Consumers and provide the Adopting Authority with all information in respect of the Consumer and property to be supplied with heat, all in accordance with your obligations under the Bulk Supply Agreement. You shall use best endeavours to procure that a Consumer registers with the Adopting Authority for the purpose of entering into a Consumer Supply Agreement with the Adopting Authority."